



The Greenwood Encyclopedia of

LGBT ISSUES WORLDWIDE

Edited by Chuck Stewart

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THE GREENWOOD ENCYCLOPEDIA OF
LGBT Issues
WORLDWIDE

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LGBT Issues
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VOLUME I

Edited by
Chuck Stewart

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CONTENTS

<i>Set Preface</i>	xi
<i>Acknowledgments</i>	xiii
<i>Advisory Board</i>	xv
<i>Editor and Contributors</i>	xvii

VOLUME 1

The Americas and the Caribbean

Introduction	3
Belize	13
Bolivia	25
Brazil	37
Canada	49
Chile	73
Colombia	89
Ecuador	107
El Salvador	115
Guatemala	125
Haiti	135
Honduras	141

Jamaica	151
Mexico	199
Nicaragua	213
Panama	241
Paraguay	249
Trinidad and Tobago	257
United States	263
Uruguay	289
Venezuela	299

Asia and Oceania

Introduction	307
Australia	317
Bangladesh	333
Cambodia	347
China	355
Hong Kong	375
India	391
Indonesia	403
Japan	419
Malaysia	439
Mongolia	447
New Zealand	459
Singapore	475
Taiwan	487
Thailand	505

Vietnam	523
Volume Index	537

VOLUME 2

Europe

Introduction	3
Andorra	13
Austria	23
Belarus	35
Belgium	49
Bulgaria	65
Croatia	79
Czech Republic	101
Denmark	111
European Union	123
Finland	147
France	163
Georgia	177
Germany	191
Greece	203
Hungary	219
Ireland	235
Italy	251
Kyrgyzstan	269
Moldova	277
The Netherlands	289

Norway	305
Poland	321
Portugal	337
Romania	347
Russia	357
Slovenia	373
Spain	393
Switzerland	413
Turkey	427
United Kingdom	439
Volume Index	453

VOLUME 3*Africa and the Middle East*

Introduction	1
AFRICA	
Botswana	11
Cameroon	23
Egypt	29
Ethiopia	41
Ghana	47
Kenya	55
Liberia	69
Morocco	75
Namibia	87
Nigeria	97

South Africa	113
Tanzania	123
Tunisia	129
Uganda	135
Zimbabwe	147
THE MIDDLE EAST	
Iran	163
Lebanon	175
Saudi Arabia	193
<i>Volume Index</i>	225
<i>Selected Bibliography</i>	233
<i>Set Index</i>	241

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SET PREFACE

The Greenwood Encyclopedia of LGBT Issues Worldwide is a multivolume set presenting comprehensive, authoritative, and current data related to the cultural, social, personal, and political experiences of lesbian, gay, bisexual, and transgendered (LGBT) people. The set encompasses more than 80 countries with each volume covering major populated world regions: Africa and the Middle East, Asia and Oceania, the Americas and the Caribbean, and Europe. Volumes are organized regionally and then alphabetically by country (including Hong Kong and the European Union, the latter because of its importance to European laws) with chapters that reflect LGBT geopolitical and historical context and follow a broad outline of topics—Overview of the country, Overview of LGBT Issues, Education, Employment and Economics, Social/Government Programs, Sexuality/Sexual Practices, Family, Community, Health, Politics and Law, Religion and Spirituality, Violence, and Outlook for the 21st Century. Under these topics, contributors explore a range of contemporary issues including sodomy, antidiscrimination legislation (in employment, child adoption, housing, immigration), marriage and domestic partnerships, speech and association, transsexualism, intersexualism, AIDS, safe-sex educational efforts, and more. As such, the set provides an unparalleled global perspective on LGBT issues and helps facilitate cross-national comparisons.

The term *LGBT* was chosen for this encyclopedia as a shorthand, yet inclusive, notation for the class of people who experience marginalization and discrimination perpetrated by heterosexual norms. In the late 19th century, the word *heterosexual* was invented to denote abnormal sexual behaviors between persons of the opposite sex. Ten years later, the word *homosexual* was invented for the same purpose of medicalizing same-sex behaviors and psychology. Many people found it offensive to categorize their lifestyle as pathology. They also thought that the emphasis on sex restrictive in describing their experiences and, instead, created and used the term *homophile* or *Uranian*. By the mid-20th century, the word *gay* came into common usage. As the gay political movement took roots in the 1950s and 1960s, it became apparent that, in the eyes of the public, gay women were invisible. In response to that phenomenon, many gay organizations changed their names to include women, as in—“lesbian and gay” or “gay and lesbian.” Still, bisexuals, the transgendered (which includes transsexuals, transvestites, and intersexed people), and those questioning their sexual orientation believed that “lesbian and gay” was not inclusive enough to describe their experiences and challenged the status quo.

By the 1980s and 1990s, more gay organizations modified their names to include their moniker. However, a backlash occurred with many groups because the names became un-wielding. At the same time, radical street organizations, such as Queer Nation and ACT UP, appropriated the epithet *queer* and embraced its shocking value. This is a common practice by people who are marginalized and discriminated against to defuse the power of hateful words. Further, academia appropriated the word *queer* since it was a concise term denoting all persons outside heteronormative power structures. Still, many community organizations resisted the attempts to include *queer* in their names but rather stuck to some version of lesbian, gay, bisexual, and transgendered (LGBT). In the chapters, readers will encounter many variations of *LGBT*. Sometimes this will be written as “gay community,” “lesbian and gay,” LGBT, queer, or other terminology. The word usage reveals much about the community’s level of understanding concerning LGBT issues.

Contributors were chosen based on their expertise in LGBT issues and knowledge of their country. Every effort was made to find contributors who live, or have lived, in the country in question. This was important, as gay people are often a hidden minority not easily quantified. Some contributors are from countries where gay people are routinely rounded up and killed. Contributors from these countries have taken great personal risk to participate in this encyclopedia and we commend their courage. Each contributor provides an authoritative resource guide that strives to include helpful suggested readings, Web sites, organizations, and film/video sources. The chapters and resources are designed for students, academics, and engaged citizens to study contemporary LGBT issues in depth for specific countries and from a global perspective.

CHUCK STEWART

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This project took more than two years to complete. Locating experts on LGBT issues, especially for the smaller countries or in countries where it is dangerous to be gay, was a monumental task. In working with the contributors, I was struck by their dedication to making the world safe for all people. They are much more than just writers; they are people interested in changing the world to make it a better place. They understood that the first step toward reducing heterosexism and homophobia is to educate the public on LGBT culture and issues. To that end, they were eager to participate—even if they faced language difficulties or possible persecution from their governments. I commend each writer for the courage to be part of the solution toward overcoming sexual orientation bias. I hope this encyclopedia will further their vision.

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THE AMERICAS AND THE CARIBBEAN

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INTRODUCTION

THE AMERICAS AND THE CARIBBEAN

Lesbian, gay, bisexual, and transgendered (LGBT) people have endured a long struggle for acceptance and equal rights in the Americas. Only recently has there been significant progress in some geopolitical locations toward full equality. Still, there are many countries where the mere existence of gay people is perceived as a threat to the status quo and they face daily acts of discrimination and violence.

Very little is known about the gender or sexual roles of the indigenous cultures (or original inhabitants) of the Americas, though there are legends of transsexual gods and characters who were neither male nor female but both and who were pivotal in creation myths. Anthropologists have determined that many indigenous groups—Incas, Mayans, and native groups of North America—found value in people who did not conform to standard gender roles. Sexuality and gender roles were often ambiguous and fluid. The thought of disposing of someone who did not behave in a clearly male or female capacity, but somewhere in between, was to deny the spirit of the individual and the value the person brought to the survival of the group. One term used to describe these individuals is *two-spirited*. The American indigenous cultures not only tolerated but approved of two-spirited persons and often held them in high esteem. To apply the modern term *homosexual* or *gay* to these cultures is not appropriate, as the sexual and gender arrangements in these societies were very different from those of the modern West.

The colonization of the Americas by Spain, Portugal, the Netherlands, France, and England and the influx of African slaves radically changed the attitudes and beliefs of the indigenous people. The bi-polar ethics promulgated by Christianity did not allow for sexual or gender ambiguity, and two-spirited persons became marginalized and persecuted. Reports from many Christian explorers displayed shock at the ease with which indigenous people crossed gender and sexual roles. It was not just two-spirited people that shocked Europeans, but homosexual behavior must have been prevalent since many of the reports back to Europe characterized the indigenous people as “savages” and “sodomites.” It was this characterization that justified, in the minds of Christians, the right to use force to enslave and decimate the indigenous people. Ultimately, Christian Europeans largely obliterated

the religious beliefs and cultural values of the indigenous people and forced them to convert to Christianity.

The African slave trade also had a major impact on the Americas. Precolonial Africans were much more accepting of gender and sexual diversity. This is a pattern seen throughout the world and throughout history. Societies based on subsistence living tend to accept people the way they are born without question. The survival of the community requires productive work from all members. It would make no sense to exclude members who help support the community. Also, it is not rational for a community that lives in constant fear of starvation to insist on exclusive heterosexual behaviors, since this would lead to overpopulation. Sexuality in these cultures is much more fluid with most of the population not engaging in exclusively heterosexual or homosexual behaviors or relationships.

Africans were also considered to be “savages” and “sodomites” by European slaver traders. By bringing Africans to the Americas, a power hierarchy was established that placed white Europeans at the top, mixed-race people next, the indigenous people third, and black Africans at the bottom. Although slave owners forced their slaves to embrace Christianity, a small number of slaves resisted and continued to practice their native religions—usually in secret. It is these religions that evolved over time to become Voodoo. Voodoo is important in the discussion of LGBT people in the Americas because many gay people in the Caribbean and countries surrounding the Caribbean have sought sanctuary in gay-friendly Voodoo.

In the late 19th century, the seeds of the modern gay liberation movement were planted in Germany and influenced early sexologists in the United States. Eventually, this led to the formation of the first gay liberation organizations in the United States; they rapidly expanded after the Stonewall Riots of 1969 in New York City. Now, there are gay activists groups in virtually every corner of the North and South American continents, including the Caribbean.

Through a half-century of academic research, community organizing, and political activism, gays and lesbians have won most rights, placing them on equal legal footing with heterosexuals in Canada and a few states within the United States; this includes the right to marry a same-sex partner. However, even with these hard-won rights, lesbians and gay men often face discrimination in housing, employment, the military, and child adoption. There continues to be a significant negative social status related to being nonheterosexual. The progress toward equal rights for transsexuals and the intersexed is significantly behind those for lesbians and gay men.

Most countries of Central and South America are still in the middle stages of obtaining equal rights for lesbians and gays. Here, the sodomy statutes have been challenged and sometimes overturned, and LGBT activists are now working to obtain antidiscrimination protection related to employment and housing and overcoming heterosexism and homophobia through education. They are also seeking domestic partnership or civil union privileges. There is still much work to be done to overcome centuries of Christian oppression.

Some countries, such as Haiti, Jamaica, Trinidad and Tobago, and Paraguay, are in the earliest stages of gay civil rights. Under constant threat of violence, a handful of gay activists are working almost in secret to secure the most basic level of civil rights to stop the violence perpetrated against them by the populace and police, and to counter the negativity promoted by the Catholic Church and other religious organizations.

SEXUAL AND RELATIONSHIP ARRANGEMENTS IN MACHISMO CULTURES

Latin America consists of approximately 37 countries located between Mexico and Cuba, in the north, to the southern tip of South America. The primary languages in these countries are Spanish and Portuguese. Catholicism is the dominant religion, and it directly influences governmental policy and impacts cultural norms.

It is impossible to discuss LGBT culture and politics in Latin America without a clear understanding of machismo culture.

In machismo cultures, men dominate the top of an elaborate hierarchy with women and children subservient to men. Men are considered the head of the family. Women are expected to be homemakers and raise children. Male children often hold a higher status than the wife, and female children hold the lowest strata within the family. In sex, the man dominates the encounter, actively penetrates his wife, and focuses on his orgasm. The wife, who is penetrated, is considered weak and passive and her needs during sex are inconsequential.

Violence is one of the hallmarks of the machismo culture. These societies tacitly approve men keeping their women and children compliant through violence. Further, men are allowed, if not expected, to have outside sexual relationships to prove their virility. In an obvious double standard, if a wife is found to have engaged in outside sexual relationships, a man has the unspoken approval to beat his wife and, in extreme cases, engage in honor killings.

In this context, this encyclopedia explores the experiences of transvestites, transsexuals, gay men, and gay relationships.

Male transvestites are men who dress as women and “pass” (as a woman) to varying degrees. They are typically homosexual, but not necessarily so. Transvestites are universally despised in machismo cultures. Male-to-female (MTF) transsexuals are equally despised and discriminated against. Regardless of whether they have had surgery to conform to their new gender role or not, their daily experiences as women are fraught with danger and persecution. Machismo men cannot understand why another man would give up male privileges to act and look like a woman. Transvestites and MTF transsexuals are looked down on in society and face severe job discrimination. Many resort to working in the sex industry as prostitutes or engage in illegal activities, such as selling drugs. Customers can act with impunity toward transvestites and MTF transsexuals because authorities often ignore crimes committed toward this underclass. As such, many men who consider themselves heterosexual seek out sex with transvestites and preoperative MTF transsexuals as a way of having sex with men without their partner being a true man. In the machismo man’s mind, he is not gay because he is not having sex with another man, but with a lower-class woman.

Many machismo men have sex with other men (who look and act as men) as long as they penetrate the other man (i.e., performs the “man’s role”). By doing so, these men do not self-identify as gay. This is such a common phenomenon that sex researchers have created the category of “men who have sex with men” (MSM), since these men identify as heterosexuals rather than homosexual or gay.

In machismo culture, power is ascribed to the one who penetrates (also called the “active” or “top”), rather than those who are penetrated (also called the “passive” or “bottom”). Since women are penetrated, they are considered passive and of lower status than men. Men who allow themselves to be penetrated

during sex are viewed with scorn and ridicule because they have given up the power associated with being a man and have reduced themselves to the level of powerless women.

As can be imagined, machismo culture has severe implications for men who discover they are sexually attracted to other men. They have grown up hearing a constant barrage of epithets and slurs against gay men and now realize they, too, are gay. The common solution is to stay closeted and marry, have children, and secretly engage in sex with other men. Of course, the closet carries deep negative psychological implications for the man and those around him. The thought of being openly gay is scary in heterosexist and homophobic societies, since the risk of rejection by family and friends is almost certain and physical harm is very possible, and the idea of living with another man seems confusing since the need to play gender roles forces adaptations that are completely foreign to their psyche.

In recent years, the Latin countries have seen a surge in young gay men who live their lives in the open, almost in defiance of the cultural norms. This is a fairly recent development. Transvestites and MTF transsexuals historically have been the ones who shunned (or, some would say, flout) societal expectations to live the life they want. It takes courage to live as such, and many pay a dear price, from physical assaults to police intimidation and killings. The surge in openly gay young men has been a challenge for the machismo cultures. These men are not weak, passive, or playing a woman's role. It is these men who are most responsible for the growth in the Latin LGBT community and political organizing in Latin America.

Women, particularly lesbians, fair poorly in machismo culture. Women are supposed to be married, desire children, and be subservient to men. Since wives are not supposed to work outside the home, they often lack marketable skills to support themselves financially. Not all women live with men. In all societies in the Americas, a large number of families are headed by single women who are either divorced or widows. When a woman seeks employment outside the home, she faces subtle or not-so-subtle discrimination and often has to settle for lower-paying jobs. A woman who discovers that she is a lesbian is faced with a number of choices. She can marry, have children, stay closeted, and live a life of quiet desperation with possible clandestine sexual relationships with other women, but if she is found out, she could be exposed to violence from her husband and an indifferent, if not hostile, governmental system. If she chooses to live as a single woman, she will confuse her family and friends and be exposed to constant sexual advances from men (advances that are so aggressive as to verge on assault or rape). If she declares her lesbianism and/or lives openly with another woman, most likely her family and friends will cease to admit to knowing her and she will still face constant sexual aggression from men who will not respect her homosexuality. It is these women, mostly young, open lesbians, who are instrumental in political and community organizing in Latin America on LGBT issues.

OVERVIEW OF LGBT ISSUES

Sodomy

In the quest for gay rights, the first step is to challenge antisodomy statutes. Sodomy has a wide range of definitions. To generalize, sodomy involves sexual behaviors that deviate from cultural norms. With the colonization of the Americas

by Christian missionaries and zealots, the cultural norms approved sex between married couples only and restricted it to this sort of relationship. In some states of the United States and some of the Latin countries, statutes are still in effect that criminalize all kinds of sex outside of marriage. In other states and other countries, sodomy is defined exclusively as sex between men. Sometimes it is limited to anal penetration, while other times it must involve men under the age of consent. Not surprising since patriarchy still dominates in the Americas, sex between women is often not included in the sodomy statutes and is legally ignored.

Regardless of the exact details defining sodomy, the mere existence of anti-sodomy statutes makes homosexuality inherently illegal. By association, this opens the door for societal and governmental abuse of homosexuals. Antisodomy statutes still exist in Jamaica and Trinidad and Tobago. The existence of these laws makes community and political organizing very dangerous. In these countries, a handful of activists are taking great personal risk to overturn the antisodomy statutes, though the Internet has provided methods of getting information to the LGBT population in ways that reduce individual risk. This is a pattern seen across the globe. For countries where it is dangerous to organize and demonstrate for LGBT rights, the Internet is facilitating the spread of information without the organizers having to live within the boundaries of the country.

Nicaragua is an example of a country in Latin America that once had anti-sodomy statutes, saw them removed by a socialist revolution, but then experienced a subsequent conservative revolution that reinstated the statutes. A change in government in 2007 resulted in the revocation of Nicaragua's antisodomy statutes; this has facilitated a boon in LGBT community organizing.

Antidiscrimination Statutes and Violence

Eliminating antisodomy statutes is the first step toward ensuring safety for LGBT persons. There is not much a gay person can do if he or she, as a classification, is deemed illegal. Not only do these statutes prevent LGBT persons from forming deep relationships with their significant other, they are also prevented from organizing to advocate or the overturning of antisodomy statutes; in effect, they are unable to gainers for equal rights.

The second step toward ensuring safety for LGBT persons is to seek equality with heterosexuals and to reduce societal violence. Ecuador, El Salvador, Guatemala, Nicaragua, and Panama are examples of countries that do not have antisodomy statutes, yet are still dangerous for LGBT people. The antigay culture created by Christian beliefs and reinforced through machismo violence clearly demonstrates that these cultures need to go beyond simply eliminating laws that make the acts illegal. Instead, these cultures need to become proactive and make it safe for all their citizens to form relationships, interact with the community, and be safely employed.

In cultures that are not so antigay, the need for antidiscrimination statutes is not as pressing. Uruguay is an example of a Latin country that overturned its antisodomy statutes in 1934 and, decades later, granted homosexual couples virtually the same rights as heterosexual couples (in 2007, except for marriage and the right to adopt children). Antigay violence in Uruguay is minimal, and this has reduced the apparent need to pass antidiscrimination statutes. As the culture became less antigay, it was able to grant virtually all rights to LGBT people.

Canada is at the forefront of gay rights in the Americas. Its sodomy statutes were eliminated in early 1980s and many of the provinces and cities have also enacted their own antidiscrimination statutes to provide protection for LGBT people in housing, the community, and in the workplace. In 2005, Canada became the fourth country in the world to approve gay marriage. This does not mean the struggle for equal rights is over there, since some Canadian fundamentalists still voice strong religious objections to gay rights.

The United States has a weaker central government with regards to civil rights than Canada. Each state controls its own antidiscrimination statutes. Currently, most of the LGBT population is protected in housing, public accommodations, and employment through a patchwork of local city and state antidiscrimination statutes. Even with a few of the states granting same-sex marriages, there is still a need for antidiscrimination statutes, considering that, in some areas, the level of violence (antigay hate crimes) is increasing each year.

Marriage and Child Adoption

The existence of same-sex marriages is not conceivable in the minds of many Latin Americans. and most Latin American countries ignore the possibility of such arrangements. Honduras, for example, specifically prohibits same-sex marriages. LGBT activists are still struggling with overcoming overt discrimination and see same-sex marriage as an issue to be addressed decades from now. Uruguay and Mexico (in two of its states) are the exception and have extended domestic partnerships (or civil unions) to LGBT people, but without the benefit of full marriage. No Latin American country allows same-sex couples to adopt children.

The federal government of the United States does not specify the conditions of marriage, and instead regards marriage as a function of the states. At the federal level, a Defense of Marriage Act (DOMA) was enacted to allow states to ignore same-sex marriages performed in other states. Conservatives and religious fundamentalists believed that this was needed to stop the spread of, what they considered to be, immoral behavior. Subsequently, most states (37 in the fall of 2009) have modified their constitutions to define marriage as a contract between one man and one woman. These modifications came about as a backlash to the possibility of same-sex marriages being approved in the early 1990s. Now that same-sex marriages have been approved in several states, it is expected that legal challenges will be mounted against the federal DOMA restrictions. By overturning the DOMA, the states will be open to internal challenges to their constitutional restrictions against same-sex marriages.

Adoptions are also a state function in the United States. Many states allow individuals and couples who are homosexual to adopt children. Florida is the only state to specifically deny homosexuals the right to adopt children.

Canada has no equivalent to the radical right and religious fundamentalists found in the United States. As such, in 2005, it approved full rights for LGBT people to marry and adopt children.

Education

Education is an important tool for overcoming prejudice against LGBT people. Many public schools systems in Canada and the United States have implemented educational programs that are inclusive of family diversity, including lesbian, gay,

bisexual, and transgendered people. These “rainbow curriculums” are typically fairly innocuous, only mentioning that families come in all types, including those with two mothers or two fathers. None of the curricula make explicit differentiations between heterosexuality and homosexuality. Still, religious conservatives often complain and are occasionally successful at having the curriculum retracted or modified. Similarly, pro-gay books are sometimes removed from school libraries.

Very few school systems in Latin America have attempted to implement an inclusive curriculum. Often, if the issue of homosexuality is broached, it is through sex education courses. Still, the Catholic Church takes great exception to presenting homosexuality as natural and value-free as heterosexuality. For example, in Uruguay, the school system adopted the ninth grade biology textbook *Listen! Learn! Live!* The topic of sex included a list of possible arrangements, including masturbation and sex with opposite- or same-sex partners. No other details were given, but the (Catholic) Conference of Bishops complained and eventually the book was pulled from public schools. Religious interference with public schools is an ongoing problem.

One of the major obstacles blocking access to information on homosexuality is poverty. Many Latin American countries are classified as third-world economies where the average household income is the equivalent of only a few hundred American dollars per year. Such poverty often prevents children from attending school and denies them access to books, computers, and the Internet. Particularly in the poor agrarian countryside, children have little chance to hear accurate information about homosexuality.

AIDS

AIDS has spread to every corner of the Americas and the Caribbean. It has been a devastating disease, infecting millions and caused widespread death and grief. Although it was first identified in the gay male communities of the United States, it now infects about the same proportion of heterosexuals as it does homosexuals. The major transmission routes are unprotected sex and/or the sharing of needles with infected partners.

Latin American countries are faced with many factors that have facilitated the spread of AIDS. First, most of these countries are poor—this prevents the dissemination of safe sex programs, hinders medical treatments for those who are infected, and reduces the availability of condoms. Catholicism is critical of birth control, including the use of condoms. Further, many men resist the use of condoms, as their machismo mind-set views the use of condoms as “unmanly.” Taken together, condom use rates in Latin America are extremely low with corresponding appallingly high rates of HIV infection.

Second, some of the Latin American countries, such as Colombia, Peru, and Bolivia, are heavy producers of illegal drugs. Some of the major transportation hubs for illegal drugs include Argentina, Brazil, Paraguay, Uruguay, and Venezuela. Drug use in these countries is extremely high because of drugs’ availability and low price. As such, there is a much higher use of needles for intravenous injections. The risk of infection is much higher for IV drug users because it involves the direct injection of a substance into the blood stream. There is a mind-set of extreme risk taking in people involved in illegal drug production and transportation, which often includes shooting up with possibly infected needles and engaging in risky sexual behaviors.

AIDS has been a double-edged sword for the gay community. Not only has it caused the death of two generations of gay men, it has also provided fodder for religious conservatives to characterize the gay community as diseased and sick. However, AIDS has forced communities to become more open about sex and to discuss homosexuality. AIDS has also become a rallying point for many organizations that would later evolve into gay rights advocates. The disease has forced many conservative communities to acknowledge and engage LGBT people for the first time.

Religion

Religious beliefs have been pivotal for the acceptance of LGBT people. Almost without exception, the indigenous people of the Americas (including the Mayas, Incas, and North American Native Americans) held very different concepts of gender and sex roles than those held by European explorers and conquerors. Often their gods were transgendered and their myths included stories of LGBT people helping the community. Human sexuality was very fluid in her region, and there was little concern about who had sex with whom. Same-sex sexual behaviors and relationships were quite common.

The invading European colonialists brought their views of Christianity to the Americas with the goal of indoctrinating and pacifying the indigenous people. Latin America was colonized by a virulent form of Catholicism that originated in the Spanish Inquisition. The underlying core value for Latin America is antigay Christianity that approves of the subjugation of indigenous people and women. However, centuries of internal strife—civil wars, government coups, capitalist interests, imperialist intervention from the United States, Germany, France, and others, drug wars, and more—have created a range of governments from the liberal-leaning governments of Mexico and Uruguay, to the extremely repressive regimes of El Salvador, Guatemala, Haiti, Jamaica, Paraguay, and Trinidad and Tobago.

Interestingly, some Christian leaders in the most virulently antigay Latin American countries claim that homosexuality is an import from the decadent Western world and, as such, should be condemned. This is part of the movement to reclaim indigenous cultures and recharacterize them as purely heterosexual. The irony of the situation is that these leaders represent Christianity—an import from Europe that decimated the indigenous people. Gay and lesbian activists in these countries are working to uncover the truth of their people in order to counter historical revisionism.

North America, in contrast, was colonized by a wide spectrum of Christian sects, including Catholics, Protestants, Quakers, and non-Christian religions. Both the United States and Canada were formed with the underlying concept of religious tolerance. These countries had their own brutality (such as state-sanctioned slavery and state-sponsored medical treatments to “convert” homosexuals), but their founding constitutions at least planted the idea of tolerance and respect for all people and religions. The long-term consequence of this idea of tolerance is that Canada approved same-sex marriage in 2005, and some of the states of the United States have also approved same-sex marriage.

Voodoo is a common religion found in the Caribbean and countries immediately surrounding the islands. Voodoo is based on the religions brought from Africa by slaves. The indigenous African religions accepted homosexuals and heterosexuals equally. Voodoo, particularly Haitian Voodoo, is gay affirming. Considering the

extremely negative treatment of LGBT people in Haiti, it is no wonder that so many gay people have found spiritual solace in Voodoo.

Transgendered People

People who cross-dress and pass as the other gender have existed in every culture throughout history. For women who become men (female-to-male, FTM), this behavior can lead to increased social and financial status. For men who become women (male-to-female, MTF) there is often a decrease in social and financial status. In many countries of the Americas, if a transgendered person is discovered to be transgendered, he or she faces a significant risk of being subjected to discrimination and violence.

As modern medicine has advanced to facilitate the surgical and hormonal treatments needed to achieve gender transformation, ethical questions about application of the new science and its costs are addressed. Some countries, such as Uruguay with universal health care, provide transgender treatment. In most countries, however, the cost for transgender treatment is borne by the recipient. As can be imagined, in poorer countries, the opportunities for transgendered persons to receive treatment are very limited. Often times this leads to dangerous practices. For example, it is common in Ecuador for transgendered persons to seek out non-medical personnel in an attempt to modify their bodies. Cooking oil or industrial silicone is injected with the hope of obtaining a desired shape. The use of these practices in unhygienic conditions has led to many botched surgeries, mangled bodies, infections, and death. Most of the severely antigay countries prohibit transgender operations.

Transgendered persons also challenge the practice of noting a person's sex on birth records, driver's licenses, marriage certificates, and other government-issued identification documents. Only a few countries, such as the United States, Canada, and Colombia allow this practice.

The Intersexed

Intersexed advocacy organizations have formed in Canada and the United States, but not in any of the Latin American countries. These groups advocate the cessation of surgeries commonly performed on newborn babies and children to make them conform to a particular gender. Intersexed groups believe these surgeries are potentially dangerous and unnecessary and that, instead, the family and public should be educated to accept intersexed people as they are. Only when a person has become of legal age, they say, should the decision to engage in treatment be made.

The legal rights of the intersexed have some recognition in Canada and the United States. There are no laws concerning intersexed people in Latin American countries. The intersexed are still considered a curiosity in much of the world and a possible bad omen in superstitious rural settings. Intersexed people face potentially hostile and dangerous living situations with no legal recourse.

OUTLOOK FOR THE 21ST CENTURY

In general, the outlook for LGBT rights in the Americas and the Caribbean in the 21st century looks good. It may take a few decades, but same-sex marriage will

probably be fully recognized throughout the United States. Likewise, some of the more liberal governments of Latin America will also approve same-sex marriage. In the meantime, antidiscrimination statutes will likely be passed in most of the countries throughout the Americas, providing some measure of safety for LGBT people.

Economics is a great leveler. For example, when an all-gay cruise ship tried to dock at the Cayman Islands in 1998, it was turned away by the Cayman government in response to local Christian groups who demanded that homosexuals be barred from entering. Hearing the news, Belizean officials contacted the tour company and invited them to Belize City as an alternative docking site, and the government suspended its Immigration Act that prohibited homosexuals from entering the country. Belize's clearly stated that they were more interested in the economic benefits of tourist dollars than keeping homosexuals out. Gay tourist dollars are an important source of income for many poor countries, and this indirectly influences local politics to be less antigay.

Economics, however, can also create greater intolerance. For example, every country that is involved in producing or transporting illegal drugs has virtually lost the rule of law. Without the stability gained from respecting the law, marginalized people experience much greater levels of discrimination and oppression. As long as drugs are illegal and the United States funds the "war on drugs," these countries will be dangerous for LGBT people. Also, the world is slipping into a deep financial recession. Already, it is reported that there is an increase in church attendance. Economic and environmental stressors push societies to become more fundamentalist in their core beliefs. LGBT people will need to form strong alliances with other human rights causes so as to not lose the gains for which they have so valiantly fought.

BELIZE

Caleb Orozco and Walter L. Williams

OVERVIEW

The Central American nation of Belize is one of the world's smallest nations in both size and population. It is only 8,867 square miles in area and has an estimated population of 311,480.¹ The area that is now Belize was originally part of the Mayan civilization, which stretched from Honduras to southern Mexico and the Yucatan peninsula. At its height, around the 12th century, this Native American culture was one of the world's most advanced civilizations. With a prosperous economy based on the farming of corn and other crops, Mayan city-states were able to support large populations and elaborate governing and priestly classes. Mayan knowledge of mathematics, astronomy, architecture, and city planning was superior that of Europe at that time.

Mayan people were also accepting of homosexual behavior. Their religion used penis symbols as a prominent part of their sacred motifs, and they had a belief that homosexuality was brought to humans by a god. When a boy reached adolescence, his parents frequently contracted with the parents of a younger boy whose son would become a "boy wife" for the teenager. The two youths remained together until the elder partner reached about age 30, when he was then expected to marry a woman, and the younger boy, who was by then an adolescent, became the husband of his own young boy wife. Young women believed a man was not suitable to be a good husband unless he had demonstrated that he could be both a good wife and a good husband during his



youth. Mayans, as well as Native Americans in general, commonly accepted same-sex eroticism. Especially notable were androgynous individuals, who were considered to have both the spirit of a man and a woman combined within one person. These “Two Spirit People” were considered to be exceptionally spiritual, and were often religious leaders and healers. Transgendered persons had a highly respected special role in Mayan culture. Since the coming of the Spanish, however, this traditional respect declined considerably among some groups of Mayan peoples, but among others homosexuality and transgenderism continue to be accepted.²

In recent decades, archaeologists have documented the ruins of over 5,000 Mayan cities. Major ruins that are known in Belize today, like Altun Ha, Caracol, Lamanai, and Xunantunich are examples of ancient cities that indicated the Mayans’ level of advancement as a people, but eventually military overspending, due to ceaseless wars between the various city-states, plus the expense of supporting large royal courts, became a burden on the people. When drought began due to climate change, the Mayan people revolted and eventually abandoned most of their cities. The area retained its large population, but most Mayans relocated to small villages where they depended on corn and other domesticated plants as their main food source.³

In the early 16th century, when Spain claimed all of Mexico and Central America as part of its empire, the Mayan people still followed their agricultural way of life. They would probably have been able to retain their independence, except for the fact that the Spanish introduced foreign disease pathogens to which the Native Americans had no previous exposure or immunity. Over the following century, Spanish conquistadors fought to subdue the Mayans and other Native Americans of the region, justifying their conquest partly with the complaint that the Indians were “sodomites” and therefore had no right to independence. Under Spanish control, a massive depopulation occurred. Demographers have estimated that 90 to 98 percent of the Mayan people died as a result of warfare and disease. Belize was largely depopulated.⁴

The great wealth that Spain extracted from Mexico was so vast that it attracted other Europeans to the area. Ships full of Mexican gold and silver left from the port of Veracruz for Spain, and the whole Caribbean Sea became a wild, chaotic place where Spanish fleets were attacked by English, Dutch, and French pirates. The Spanish, who stole from the Native Americans, became the victims of theft at the hands of rival Europeans. English pirates established a base along the coastline of what is now Belize. Living in what were essentially all-male societies, and beyond the reach of English law, many of the pirates were involved in homosexual relationships with other pirates or with young boys. Pirate hangouts throughout the Caribbean had the reputation of being “dens of sodomy,” and trials of pirates who had been captured by the British Navy often focused on their homosexual behavior.⁵

Later, more permanent English settlers arrived and used the interior of Belize for harvesting wood. Though the Spanish used Native Americans as their chief labor force, the English brought in slaves from Africa as their main source of labor. As with the Native Americans, and indeed in most areas of the non-Western world, many of the African slaves came from societies that accepted homosexual behavior. Traditions of man-boy love and transgenderism were common in many areas of West and Central Africa, and no doubt some of the slaves secretly developed same-sex relationships. However, English law was strictly against what it called “sodomy” and Africans and Englishmen alike were put to death if convicted of violation

of the sodomy law. In Belize, as in its other colonies, the British government of the 1700s and 1800s was ruthless in its persecution of homosexuals.⁶

Though the area that is now Belize continued to be claimed by Spain, the English colony grew because forests in England had been depleted and there was a sharp demand for lumber for the construction of ships and for other uses in England. By stealing Mayan land and expropriating African labor, the English were able to establish extremely profitable wood harvesting operations and sugarcane plantations. Both the Mayans and the Spanish fought back against this English intrusion, and there were perennial battles. In 1798, an English force composed largely of African slaves decisively defeated the Spanish at the Battle of St. George's Caye. Still, the area under English control remained quite small. Due to the influence of the English abolitionist movement, the British government ended slavery in the 1830s and established the West African colony of Sierra Leone as a place of return for freed slaves. Only a small number of the freedmen actually returned to Africa, and Belize's freed slaves remained in Belize. This history explains why the Belize of today is an English-speaking enclave of people, mainly of African descent, situated on a small slice of the Caribbean coastline in Central America where the majority of the population is Native American and Spanish-speaking.

In the early 19th century, both Mexico and Central America declared their independence from Spain. The independent nation of Guatemala laid claim to the area of Belize, but the British held onto it despite repeated conflicts with Mayan and Guatemalan opponents. In the mid-19th century, Mayan people in Yucatan began a major revolt against Mexico with the goal of establishing a separate Mayan nation. This revolt opened an economic opportunity for English settlers in Belize who made great profits selling arms and ammunition to the Mayan rebels. In 1862, the British Empire took advantage of chaos in the United States, which was preoccupied with its own civil war, to declare the area the Crown Colony of British Honduras.

After the collapse of the Mayan revolt in Mexico, many Mayan rebels moved to the northern part of British Honduras. The British government welcomed the refugees as a way to increase the population of the area. The incoming Mayan farmers expanded the agricultural sector of the economy just as the English cut back on their harvesting of wood. The British Empire had recently taken over more territory in Africa, and they now focused on the development of African mahogany harvesting instead of Belizean timber. Later, from the 1970s to the 1990s, more Mayans took refuge in Belize as Guatemala's military government became very oppressive.⁷

Thus, the population of the colony took on the multiracial character that marks Belize today. The largest ethnic group, called "Mestizos," not Spanish, in Belize, lives mostly in the rural areas and towns and is of mixed Spainard and Native American descent. The next largest group, called "Creoles," is mostly urban and is wholly or in part of African descent. In addition to the Creoles there are the Garifuna (formerly known as the Black Caribs) who are descended from African slaves but intermarried with indigenous inhabitants of the Caribbean islands. About 10 percent of the population is wholly Mayan in descent. Together, these groups of African and/or Native American descent constitute about 90 percent of the population. The remaining are a mix of Euro-Americans (including a community of German-speaking Mennonites), East Asians, South Asians, and Arabs.

As intermarriage rates increase with each generation, and ethnic identities become more complex or disappear into a general Belizean identity.

The official language of Belize is English, which is part of the heritage of being a British colony, and English is taught in the schools, but Mayan and Spanish are also spoken. In addition, a local Creole lingo that is a mixture of African and English words and grammar is also common. Many people are trilingual, effortlessly switching languages even within the same sentence.

In the mid 20th century, as the British government converted its colonies into independent members of the British Commonwealth and decided to give independence to British Honduras. Full autonomy was granted in 1964, and the country's name was changed from British Honduras to Belize. Guatemala, however, refused to recognize the independent nation of Belize, and there were conflicts over the location of the border between Guatemala and Belize. In the 1970s, Guatemalan military forces occupied part of Belize. It was not until 1991 that Guatemala gave up its claims and recognized Belize's independence.⁸

OVERVIEW OF LGBT ISSUES

There is little controversy in Belize regarding LGBT issues because a national discourse on gay rights and the legalization of same-sex marriage is still in the embryonic stage. The discussion currently is in terms of framing human rights and finding mechanisms to apply already written concepts of human rights that exist in the Belize constitution. There is no controversy surrounding gays in the military or instituting reparative therapy into the mental health system, as these institutions historically have not been discriminatory. Openly gay advocates are allowed to participate in public gatherings and speak freely without warnings and harassment. The former Office of the Prime Minister has recognized sociocultural attitudes as a problem in addressing homophobia, and some leaders in the mass media acknowledge self-censorship as a problem in covering LGBT issues.

EDUCATION

Given the government's fiscal constraints and history in education, Belize has long depended on a partnership with church missionary organizations as a means of paying for the education of its youth. The government itself provides free textbooks to students, pays for free lunch programs for primary school students, and provides widely available scholarships for high achieving high school and tertiary students with financial need. There are religious organizations that hire teachers and pay for part of their salaries. Because each sponsoring church effectively controls the teachers, much of the ideology taught to students is biased in that religion's favor.

In the church-affiliated schools, sex education is very limited. These schools typically promote the "ABC" approach: be "A," Abstinent until marriage, "B," Be faithful to the marriage partner, and use "C," Condoms in all other situations. For gay people, such heterocentric education excludes specific information on safer sex techniques for same-sex partners. Sex education efforts undertaken in the schools are often censored completely or to a great extent, and vary greatly within the school system. In addition, there is an evolving approach from within certain religious groups that discourages condom use on the basis that condoms are not

100 percent effective. A number of religious groups find it offensive that women should take responsibility for their sexual and reproductive health. These trends are of considerable concern, as the HIV infection rate continues to climb in Belize. This was a worrisome issue as far back as 1999 when the First Lady of Belize testified before a United Nations Committee that “Belize’s current health policy was based on the hope that young people would not become sexually active.”⁹ A committee of experts concluded that “it was alarming that schools were in the hands of the Catholic Church, while Belize was in dire need of a liberal sex-education policy for young people, and for condom distribution to prevent the further spread of HIV/AIDS. The Government should network with liberal Catholic groups—present in other countries—which had found ways to remain faithful while addressing realities requiring action. Such groups could help tackle the difficult task of opening the Catholic Church to the needs of girls and women.”¹⁰

Finally, the school system has no anti-bullying policy, therefore students who are subjected to homophobic bullying have little recourse in the religiously oriented schools. Since Belize is a patriarchal society that prizes masculinity, very few young persons have the courage to complain about homophobic words or attitudes; they simply remain silent or bear the brunt of their experience in silence.

EMPLOYMENT AND ECONOMICS

The total gross domestic product (GDP) of Belize in 2006, according to the World Bank, was US\$1.217 billion. The annual inflation rate was around four percent. Agriculture, especially the cultivation of sugarcane and tropical fruits, has been the mainstay of the economy, but agricultural output fluctuates from year to year. Coastal fishing and shrimp farming have also been both profitable and lackluster in varied years. Tourism is a major source of revenue for Belize, as Americans and Europeans flock to Belize’s beautiful white sand beaches and tropical rainforests. One in four Belizean adults is employed in tourism-related work. Manufacturing, especially of sugar products and beverages, is growing, but the main expansion of the economy in recent years has been led by the growth in services and by new discoveries of petroleum found in the country. Overall though, the economy of Belize remains mixed from year to year. In 2006, the employed labor force was 102,233, with about three-fourths of all adult males and about 40 percent of all adult females participating in paid employment. The unemployment rate was 9.4 percent, and about 39 percent of children below age 18 were living in poverty. The rate of impoverishment in the southern rural district of Toledo was far higher than the rest of the country, at 44 percent.¹¹ There are no statistics focused on the employment and economic status of LGBT people in Belize.

SOCIAL/GOVERNMENT PROGRAMS

In 2005, the Belizean national government spent \$US1.2 million, or 1.87 percent of the nation’s GDP, on the military. Almost 1,400 troops comprise the Belize Defense Forces, not counting the additional personnel of the Belize Coast Guard, which is operated under the Ministry of Home Affairs. There is no law excluding homosexuals from the military, and thus there has been no controversy surrounding the presence of gay and lesbian soldiers. In addition to the national military, local police departments deal with crime and security issues. In the 1980s, the

government attempted to establish a national intelligence agency, but there was such an outcry against it that the idea was dropped. The police depend on community patrols, surveillance, Interpol information, informants, a private sector-based hotline for reporting information about unsolved crimes that, and general phone calls made by the public. The Belizean national government provides rudimentary social security benefits to the elderly, and has been testing a national health insurance plan. Recently, the government started a program for Belize's rural development, a project being funded to support micro-enterprise development projects. The government also has a charitable fund that it uses to provide subventions to organizations like the Salvation Army and other nongovernmental organizations (NGOs) that serve the poor and the indigent.

SEXUALITY/SEXUAL PRACTICES

Belizean society features a mixture of traditional Native American and African acceptance of sexual diversity overlaid with homophobic European Christian attitudes of suppression. This mixture of opposites results in a society that has what Belizeans commonly call a "culture of love," with very easy-going attitudes toward sex coupled with the opposing idea that sexual activities are sinful. Both homophobia and acceptance exist in Belizean society. Super-masculine, self-defined Creole "thugs" and Spanish machos alike may look down on feminine males, but cross-dressing males wearing makeup may have it easier to be themselves in the northern part of the country. A new term of self-definition, "Skittles," named after a multicolored candy that reminds some people of the internationally recognized gay rainbow flag, is coming to be adopted by more openly gay men.

FAMILY

Mayan families consist of extended networks of kin living together and contributing economically to each other's support. People of African and European descent, on the other hand, tend to live in nuclear families that are restricted to parents and their children with perhaps one or two elderly grandparents as well. Though statistics are lacking, it seems that most LGBT people live with their parents or siblings, or with a partner of the opposite sex if they have felt social pressure to marry heterosexually. Only a relative few LGBT people live with a same-sex partner.

COMMUNITY

Most homosexuals in Belize are not politically active and seem to have little desire to do more than attend entertaining social events or use Internet chat rooms to find friends or sexual partners. Some LGBT people are quite prominent in the nation's AIDS education efforts, and some of them have been trying to organize LGBT people around the country, including those in Belize City.

HEALTH

This problem of drugs has contributed to HIV infections. As a consequence, Belize has the highest HIV/AIDS rate in Central America. The first recorded case

of HIV infection in Belize was in 1986, and in the second quarter of 2007, the Ministry of Health recorded that there were 4,035 persons in the country infected with HIV or AIDS and that 587 persons were taking antiretroviral (ARV) medications. It is not known how many of these infections are from the males who have sex with males (MSM) population. As of 2007, there were no statistics available from the Ministry of Health on the MSM population in Belize, allegedly due to a software design problem in the data collection system. Epidemiologists at the Ministry of Health say that every effort is being made to seek out a practical solution, but they also say that data collection for the MSM population is expensive. The government health service does not have specific programs or services specifically for gay men, lesbians, bisexuals, or transgendered people. Their approach to health care generally makes the LGBT population invisible in the system. This process makes it difficult to understand how the AIDS epidemic is affecting the population.¹²

At present, the United Belize Advocacy Movement (UniBAM) is the only advocacy organization that exists by MSM for MSM and LGBT overall issues to be represented on the National AIDS Commission Policy and Legislation Committee. This committee is currently reviewing laws to make the national policy on HIV/AIDS more effective, and is in the embryonic stages of developing a legislative framework. The activists in UniBAM are conscious of their responsibility to ensure that MSM are not ignored in the development process. Beyond this, the national HIV/AIDS policy has several principles that have been derived from international human rights documents. Specifically, Article 1 of its Human Rights Declaration emphasizes the principle of nondiscrimination and acknowledges that males who have sex with males are a part of the marginalized population that is vulnerable to HIV infection. Also, in the country's Global AIDS Fund Plan, there was a commitment to reach at least 1,000 MSM persons in the project, but it never happened. This effort is ongoing, and the Pan American Social Marketing Organization and UniBAM continue their work in HIV prevention education, service delivery to persons living with AIDS, advocacy, and research.

POLITICS AND LAW

Belize has a democratically elected constitutional government, with a generally efficient and service-oriented governmental tradition. The laws are administered fairly and impartially. There are, however, two laws that impact homosexuals in a discriminatory manner. First, the Belize Criminal Code Chapter 101, Revised Edition 2003 states, in section 53: "Every person who has carnal intercourse against the order of nature with any person or animal shall be liable to imprisonment for 10 years." This law is a direct result of British colonial policies, which criminalized same-sex sexuality.

While the "carnal intercourse" law would seem to have the potential to be discriminatory against homosexuals, the Attorney General's office of the government of Belize defines carnal intercourse strictly as the insertion of a penis into an anus. This law applies equally to male-female couple and male-male couples. According to the prosecuting attorney for the government, there are no cases where adult homosexual couples who engage in consensual anal intercourse in private have been prosecuted; this provision is kept in the criminal code as deterrence for rape and other nonconsensual sexual activity.

Because the law strictly defines “carnal intercourse” as the insertion of a penis into an anus, no other sexual behavior is criminalized among consenting adults over the age of 16. As a result, no sexual interaction between two females is a crime in Belize, nor is oral sex a crime, whether it is between a male and a female, a male and another male, or a female and another female. Therefore, even though Belize retains a sodomy law, the actual legal situation for same-sex couples is much more lenient than in many countries around the world.

The only exception to this leniency is regarding children below age 14, where oral sex and even mutual masturbation are criminalized. Even sex play between two children is theoretically against the law, though actual prosecution of minors for willing sex does not occur. This law seems not to be of much deterrence in actual behavior, since a 1999 survey of Belizean youth by a UCLA researcher indicates that the average age of first sexual intercourse for Belizean youth is 12 years old.¹³

The second law that is discriminatory against homosexuals is a provision in the Immigration Act, Chapter 156, Revised Edition 2000, Section 5.-(1), which equates homosexuals with prostitutes. Section 2 (3)(e) lists the following persons as being prohibited from entering the country: “any prostitute or homosexual or any person who may be living on or receiving or may have been living on or receiving the proceeds of prostitution or homosexual behavior.” Though this law is discriminatory, the seriousness with which it is interpreted is indicated by a significant event that occurred in 1998. A cruise line based in the United States sponsored an all-gay cruise in the Caribbean and attempted to dock at the Cayman Islands. When the government of the Caymans found out that it was a gay cruise, officials refused to let the ship dock at the harbor. The ship then headed back to sea, and there was a flurry of news reports. When Belize officials received a call to dock, they replied with a supportive attitude, which was dramatically different from many other Caribbean governments that refused outright to allow a cruise ship full of gay passengers to dock on their shores. To allow these passengers to enter the country, Belize’s government “suspended” that section of the aforementioned law on immigration.¹⁴ This incident and the fact that no gay or lesbian tourists have reported being refused entry at Belizean border crossings show that this law is not taken seriously. Because of this positive response by the government, several gay-themed cruises have included Belize in their recent itineraries and there have been no negative incidents. Though the discriminatory immigration law provision has not been repealed, it seems to be a dead letter.

Given the nonenforcement of the antihomosexual immigration provision and the “carnal intercourse” law, the potential for LGBT rights in Belize is quite good. Except for these two archaic laws, there are few laws that need to be repealed. For example, since Belize has no law against gay service personnel in the military, there is no need for a campaign to repeal it. Belize has thus been able to avoid controversy, in contrast to the huge conflict regarding gay and lesbian troops in the U.S. armed forces. Taking all of these realities into account, Belize has the most lenient laws of almost any developing nation.

RELIGION AND SPIRITUALITY

The biggest event in Belizean gay history of the 20th century has been the publicity generated by the 1998 gay cruise ship landing. When it landed in Belize

City, a small band of about 200 fundamentalist Christians, led by evangelical Pastor Rodney Gordon, showed up to express their disapproval. They chanted homophobic slogans, waved Bibles and placards, and threw rocks at the disembarking tourists, but the police effectively prevented further violence, and the remainder of the experience in Belize was positive for the gay and lesbian tourists. What is most significant is that the major media supported the government officials for trying to increase tourism in Belize and criticized the protesters for harming Belize's struggling tourist industry. Most people in Belize seemed to accept the same-sex couples from the cruise ship, or at least just ignored them, but some went out of their way to show a friendly welcome.

This incident is the only recorded occasion where religious intolerance in Belize took the form of a public action. The Catholic Church in Belize, in sharp contrast to Vatican officials, has encouraged tolerance within the context of its seven social Catholic principles. In Belize there has been no coordinated effort to encourage antigay oppression. On the other hand, gay activists in Belize are wary of Christian antigay movements in other parts of the Caribbean, particularly Jamaica and Trinidad, which have actively opposed human rights legislation processes. Some fundamentalist Protestant Christian groups have been developing a strategic plan for the Caribbean region. Since this is a new development, it is too soon to know what impact their actions will have on Belize.

The area where the Christian churches are having the most significant impact in Belize is within the schools, in cooperation with the government (see the "Education" section above).

This government-church alliance has meant an increased influence of religious organizations in Belize. Since those whose family backgrounds are from Mexico or the Spanish-speaking nations of Central America typically identify as Roman Catholic, the Catholic Church is the most influential. The country's religious breakdown is: Roman Catholic 57 percent, Protestant 16 percent, Anglican five percent, Baha'i three percent, Hindu two percent, other 17 percent. Fundamentalist Protestant Christian churches in the United States have targeted the Caribbean area as a fertile field for converts and in recent years have sent many missionaries to Belize.¹⁵

There are many faith-based initiatives. For example, a recent program for dealing with HIV/AIDS was funded by UNICEF. There was one research project sponsored by the RAND Corporation to understand how such an initiative would work if it tried to incorporate the MSM population. They concluded in a non-hopeful manner that such faith-based groups are not open to dealing productively with such populations.

VIOLENCE

Though antigay violence is not a major factor in Belize, in 2006 and 2007 UniBAM documented a few cases of homophobic individuals harassing gay men, and a few murders and physical assaults. The main concern of gay activists in Belize is with certain sections of the media. The management of the radio station KREM, for example, has shown a pattern of homophobic views that have been expressed in its radio broadcasts. The national newspaper *Amandala* has allowed homophobic articles to be published that clearly promote myths about gay men and AIDS. One article in particular has been rebutted effectively by the Belize National AIDS

Commission and the Belize Red Cross, which have pointed out that such an untrue statement put at risk years of treatment and care of people living with AIDS, as well as the HIV prevention work being done in Belize.

OUTLOOK FOR THE 21ST CENTURY

As the first advocacy organization that deals solely with stigma for MSM and LGBT persons in Belize, UniBAM has led the way in accomplishing many firsts in the country. It printed the first publication on LGBT issues in Belize, called *Core Reports*, and has produced the first documentary film, titled *Not in My Family*. Its leaders have also gone on Belizean national television to discuss homophobia as a problem. UniBAM was the first organization from Belize to join a Central American MSM network and another regional network in the Caribbean, the Caribbean Forum for Lesbians and Gays (CFLAG). It also distributed the first Caribbean regional newsletter, *Free Forum*, from Trinidad.

UniBAM wants to address many issues. For example, there is no tradition in Belize of gay and lesbian parenting rights. Activists have not pressed this issue out of fear of a homophobic backlash from the government Human Resource Services, however, a report on gay and lesbian parents found that, while the system was cautiously open-minded about a gay father or a lesbian mother retaining custody of his or her biological child, adoption by a nonbiological parent's same-sex partner would be difficult. The report suggested that there was some insinuation that homosexuality might "rub off" on a child, and hence it was not suitable for a child to be adopted by a biological parent's same-sex partner. Still, the report noted that many of the social workers had at least one gay friend.

This report shows that, as is the case in research on homophobia reduction in other countries, a major factor is the personal relationships that people have with their openly gay friends, relatives, and coworkers. As more LGBT people in Belize come out of the closet to their families and friends, as openly gay and lesbian tourists and immigrants continue to come to Belize, and as the mass media covers gay issues more openly and fairly, the potential for improvement of the situation in Belize is high. Globalizing influences on Belize are awakening a new pride among LGBT people in the country.¹⁶

Some activists say that their efforts could be more effective if the numerous LGBT people involved in the tourist industry would exert their influence. Several hotels and guesthouses that cater to LGBT visitors have organized to promote Belize as a tourist destination for same-sex couples. Given the homophobia exhibited in many other Caribbean nations, Belize may have more potential for LGBT rights than any other nation in Central America and the Caribbean.

RESOURCE GUIDE

Suggested Reading

James Aimers and Caleb Orozco, "Skittles and Salad: The Emergence of Gay Identities in Belize," (paper presented at the annual meetings of the American Anthropological Association, Washington, D.C., December 2, 2007).

Web Site

Belize National AIDS Commission, <http://www.nacbelize.org>.

NOTES

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12. Belize National AIDS Commission, <http://www.nacbelize.org>.
13. Ibid.
14. DIVA magazine was launched in 1994 and remains Europe's biggest-selling lesbian magazine, offering readers 100 glossy pages of vital information. See www.divamag.co.uk.
15. "Facts and figures on Belize," *Encarta*, <http://www.encyarta.msn.com>.
16. James Aimers and Caleb Orozco, "Skittles and Salad: The Emergence of Gay Identities in Belize" (paper presented at the annual meetings of the American Anthropological Association, Washington D.C., December 2, 2007).

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BOLIVIA

Fabiola Fernández Salek

OVERVIEW

Bolivia is a landlocked country with a population of 9,524,569. At about 425,000 square miles, it is approximately the same size as California and Texas combined. Bolivia gained its independence from Spain on August 6, 1825. The constitutional capital of Bolivia is Sucre, but the administrative capital is La Paz.¹ As of mid-2009, Bolivia's current president was Evo Morales, a former leader of the coca growers union. He has gained worldwide notoriety for being, arguably, the first fully indigenous president of Bolivia (Bolivia has had mestizo heads of states in the past: Andrés de Santa Cruz and Isidoro Belzú).

As home to 39 ethnic linguistic groups, Bolivia has always been a very diverse country, but Spanish was its only official language from the time of its independence until the 1990s, when Aymara and Quechua were added as official languages.² According to Chapter 1, Article 5 of the New Bolivian Constitution, in addition to Spanish, all Bolivian native languages are considered official and at least one of them has to be used in a mandatory fashion according to the predominance in the region.³

Today's Bolivia was once part of the Inca Empire, which stretched across the Andean region. Consequently, a large fraction of the population is Quechua, direct descendants of the Incas. There is also a sizable group of Aymara in the highlands and valleys. The Aymara, who were conquered by the Incas, have historically occupied the territory extending from



the south of Cuzco to the northern highlands.⁴ In the eastern lowlands, the original inhabitants were small indigenous groups and tribes, such as the Guaranis and Tupis. According to the National Institute of Statistics, 30 percent of Bolivians are mestizo (mixed race), 28 percent are Quechua, 19 percent Aymara, 12 percent European, and 11 percent other ethnicities (only a small enclave in the area of Yungas is of African descent).⁵

Although early Bolivian colonists did not generally rely upon African slave labor, the indigenous population was subjected to *pongueaje*, or personal service obligation, a practice similar to indentured servitude. In 1952, an insurrection led by the Movimiento Nacionalista Revolucionario (MNR) and the Bolivian Workers Confederation (COB) culminated with the National Revolution of 1952. Víctor Paz Estenssoro and Hernán Siles Zuazo, both of whom later became president, were instrumental in creating profound social and political reforms—chief among them were land reform, the nationalization of the mining sector, and universal suffrage. Until 1952 the indigenous population did not have the right to vote—that right belonged only to nonindigenous, literate males. Bolivia now has compulsory suffrage for all citizens age 21 and over (or 18, if married).⁶

Bolivia's GDP in 2007 was 13 billion USD, and the annual per capita income was 1,300 USD. Bolivia's GDP per capita, adjusted by purchasing power parity, ranks 126th in the world, making Bolivia the poorest country in South America and the second poorest in Latin America, only ahead of Haiti.⁷ The military budget in 2006 corresponded to 2 percent of the GDP, placing Bolivia in the world's bottom third in military spending.⁸

OVERVIEW OF LGBT ISSUES

Issues of sexual orientation remain taboo in Bolivian society. Largely as a consequence of the AIDS epidemic, homosexuality and questions of gender have become public topics. This increased attention is due in part to social and medical programs funded by international organizations (e.g., U.S. Agency for International Development and the Pan American Health Organization).⁹

Advances have also been made on the legal front. Prior to 2007, the Bolivian constitution stated that individuals have equal rights, but there was no explicit mention of discrimination on the basis of sexual orientation.¹⁰ Article 14 of the new constitution, however, prohibits discrimination and imposes sanctions if discrimination is found to have taken place.¹¹ Same sex marriage is not allowed. The new constitution was approved amid controversy following repeated boycotts and in the absence of the opposition. On January 25, 2009, a nationwide referendum approved the New Constitution, which was enacted on February 7. At the center of the debate surrounding the new constitution is the explicit transfer of additional rights to the indigenous population, as well as the nationalization of Bolivia's natural resources.¹² Furthermore, Bolivia's new constitution explicitly states that marriage is legal only when contracted between a man and a woman. Although the Bolivian LGBT community has campaigned on behalf of same-sex marriage and same-sex civil unions, no progress has been made.¹³

The Bolivian military is opposed to the presence of homosexuals in its armed forces. Although Bolivia's constitution states that military service is mandatory for all men, the Bolivian military remains a very homophobic institution.¹⁴ In 2002, General Alvin Anaya, then General-in-Chief of the Armed Forces, stated that

“homosexuals are not useful in the army” and forbade their participation. General Juan Hurtado, Chief of the Bolivian Army, added that accepting gays in the army would introduce promiscuity among soldiers. Moreover, Óscar Guillarte, the Defense Minister, added that “the army is for men” and that it is “difficult to accept cases of homosexuality in the forces.”¹⁵

Bolivian psychologists adhere to the standards of the American Psychological Association, which removed homosexuality from its list of mental disorders in 1973, and the World Health Organization, which removed *sexual deviation* from its list of illnesses in 1991. Furthermore, there are no educational programs addressing the needs of the LGBT community, and its presence is not acknowledged by the state. Although the freedoms of speech and association are generally respected in Bolivia, public demonstrations by LGBT people have been scorned by the general public. Only very recently has an increase in LGBT visibility eroded existing hostility.

EDUCATION

In 2004, UNESCO estimated that 18.1 percent of Bolivia’s total government expenditures were allocated to education. This amount corresponded to 6.4 percent of its GDP.¹⁶ Bolivia’s public education system is free and state funding is mandatory.¹⁷ Article 79 of the new constitution states that the educational system must provide gender equality, the condemnation of violence, and the defense of human rights.¹⁸ Education on sexual orientation has been limited to the realm of HIV/AIDS programs, and there is no special funding for LGBT students. Furthermore, there are no education statutes against discrimination based on sexual orientation. No data is available regarding cases of discrimination.

EMPLOYMENT AND ECONOMICS

In 2006, the private sector accounted for 75 percent of Bolivia’s employers, and the public sector comprised the remaining 25 percent.¹⁹ Bolivian labor contracts are on an at-will basis, meaning that employers can dismiss employees and employees can resign from a position, as long as sufficient notice is given in both cases; the Bolivian job market is thus governed by the principles of a free market economy. Section Three, Article 46 of the new constitution states that every Bolivian has the right to a safe working environment without discrimination.²⁰

SOCIAL/GOVERNMENT PROGRAMS

Bolivia has no special government programs for LGBT people.

SEXUALITY/SEXUAL PRACTICES

One of the biggest factors contributing to the prevalence of high-risk behavior in the Bolivian LGBT community is closet homosexuality. Because homosexuality is shunned by Bolivian society, most gay Bolivian men lead double lives. Sexual encounters are often casual and anonymous and tend to occur in movie theaters.²¹

Homosexuals in Bolivia can be classified into three groups: *travestis*, *camuflados*, and *hombres*.²² *Travestis* (transvestites) are considered “easy women in the rough

part of town,” and are the only group that conforms to society’s homosexual stereotypes. *Travestis* fit the stereotypical role of the homosexual in Bolivian society, as they are the only visible homosexuals in conservative Bolivia.

Camuflados (camouflaged) homosexuals are men who “define their ‘femaleness’ in terms of a single sexual practice—the insertee role in anal intercourse.” Moreover, *camuflados* are further divided according to class: high class, or *jailonas* (which translates as “snobby rich girls”), and low class, or *bagres* (which equates poor *camuflados* with “catfish, scavengers who live of the dregs”).²³ Finally, *hombres* (men) “do not see themselves as homosexuals, nor are they seen as such within or beyond the *ambiente*’s boundaries.”²⁴ This means that they only would be identifiable when they visit locations frequented by gay clientele. They lead double lives and continue with the traditional male roles assigned to them in Bolivian society. They are usually married and have children or date women who ignore that they have mostly anonymous homosexual relationships on the side. Members of the *hombres* category do not consider themselves homosexual; rather, they constitute a dangerous group in terms of health. They are not categorized as homosexuals but as “men who have sex with men.” In fact, AIDS/HIV and other campaigns against STDs have adopted this terminology in order to avoid making explicit reference to homosexuality.²⁵

FAMILY

The composition of a typical Bolivian family is traditional. The “nuclear family” is at the center of nearly all family life. The 2002 Bolivian census reported that 69.3 percent of households were married bi-parental households, 13.2 percent were nonmarried bi-parental households, and 17.5 percent were single parent households.²⁶ No data is available for marriage and divorce rates in Bolivia. Although adoption laws in Bolivia do not explicitly prohibit adoption by homosexual couples, adopting couples must be married. Thus, adoption by homosexuals is effectively barred.²⁷

COMMUNITY

Gay and lesbian issues have never been at the political or social forefront in Bolivia, nor were they ever a part of public discussion.

AIDS and the notion of a “gay community” made a simultaneous debut in Bolivian society. Until then, *gente de ambiente* (people of the atmosphere, a term used by homosexuals to refer to themselves) were very isolated. Through modern media, the community in general has since become increasingly aware of gay movements throughout Latin American countries, most notably the Movimiento Homosexual de Lima, which has operated in the city of Cochabamba since the late 1980s. The first gay organization in Bolivia was Dignidad (ironically, it was the brainchild of a Roman Catholic priest from the United States). The group now has gained acceptance from the Bolivian Government. In 1994, 40 of its members participated in an AIDS prevention workshop alongside officials of the Ministry of Health. Also in 1994, close to 500 people participated for the first time in Gay Day, which was organized in Santa Cruz by UNELDYS (the Spanish acronym for Unity and Defense of Health), where the main event was the Miss Gay Bolivia pageant.²⁸

Since the institution of the Gay Pride parade, there have been several public incidents of homophobia. During the first parade, in 1995, many participants were simply arrested. In La Paz and Santa Cruz, throwing rotten tomatoes and eggs at the participants is the norm. In La Paz, tensions escalated on June 30, 2007 when a dynamite stick was thrown at a float prepared for the parade, severely injuring six people.²⁹ Still, the Gay Pride parade takes place in the major cities annually, typically on the last Saturday of June. Hundreds of people participate.

There are about 25 gay and lesbian organizations in Bolivia. The main LGBT organizations at the national level are Mesa de Trabajo Nacional de las Poblaciones Clave (National Working Table in Critical Populations) in La Paz, Cochabamba, Santa Cruz, and Tarija; Gays, Lesbianas, Travestis, Transexuales, Transformistas, Transgénero independientes, Homosexuales independientes (Independent Gays, Lesbians, Transvestites, Transsexuals, Drag Queens, Transgender); and Grupo lésbico TriLambda (Lesbian Group TriLambda).

At the regional level, there are many more LGTB organizations.

- In La Paz, Unión Asociación de Travestis de La Paz (Union of Transvestites of La Paz), or ATLP; Amigos Sin Fronteras (Friends Without Borders), or ASIF; Adesproc, Familia Galán (Galán Family); Colectivo Trans Las Divas (Trans Collective The Divas); and Familia Berbety (Berbety Family).
- In Cochabamba, Comité de Diversidades Sexuales (Committee of Sexual Diversity); Plataforma por las Diversidades (Platform for the Diversities); Unión de Travestis de Cochabamba (Union of Transvestites from Cochabamba), or UTC; Grupo Vida (Group Life); Cofradía Amigos por Siempre Virgen de Urkupiña (Friends Forever of the Urkupiña Virgin Confraternity); and Familia Prandy (Family Prandy).
- In Santa Cruz, Alianza GLBT Santa Cruz (Alliance LGBT Santa Cruz); Redcruz (Redcross); and Grupo Juplas (Group Juplas).
- In Tarija: A mi manera (Yacuibá) (My Way); GLBT del Sur (South LGBT); Familia Barzac (Barzac Family); and Grupo Diversidades Sexuales de Tarija (Sexual Diversity Group from Tarija).
- In Sucre: Colectivo GLBT (LGBT Collective) and Amanecer (Dawn).
- In Oruro: Imágenes (Images).³⁰

One of the most active LGBT groups is Galán Family. It is a volunteer group with 50 active members, most of whom are working professionals. Their aim is to educate Bolivians about sexuality and gender through theater, photography, and film. The group has a weekly radio show called “Trans Stage” on 101.7 FM radio. The Galán Family participates actively in the Gay Pride parade on the last Saturday of June.

The most visible lesbian group at the national level is the anarchist group Mujeres Creando (Women Creating). This group has been very active in the Bolivian political and social spheres and has gained visibility through a graffiti campaign defending women’s rights. The leaders of the group, María Galindo and Julieta Paredes, once a couple, became the first open lesbians in the country. Mujeres Creando maintains a community house, Virgen de los Deseos (Virgin of Desires), and over the last decade has produced television shows and staged happenings. It has also acquired a radio station, “Deseo” (Desire), 103.3 FM.

HEALTH

The new constitution states that health care is universal, free, and granted without any kind of discrimination. Since the public administration lacks enough resources to offer acceptable health services, only those who cannot afford private care choose public health services.

Before the AIDS epidemic, there was no organized gay community in Bolivia. The Ministry of Health diagnosed the first official case of AIDS in the country in 1985, and many sociological factors have since exacerbated the seriousness of the disease. First, an endemic problem in Bolivia is the male aversion to the use of condoms. Most males must be persuaded by women to use condoms. Second, misinformation regarding AIDS is widespread. Most people believe that HIV can only be contracted in high-risk populations (e.g., homosexuals and prostitutes). Finally, promiscuity among closeted gay men is socially acceptable and rampant.

In the late 1980s, the United States funded an AIDS prevention project directed at prostitutes in Santa Cruz. The focuses of the program were STD testing and education. In Bolivia, prostitution is legal, and prostitutes have to be tested for STDs every three months in order to maintain valid state registration. In 1993, a U.S.-based health worker expanded the *Alcance Gay* (Gay Reach) program to include the gay population and promote *sexo más seguro* (safer sex). Originally, the coordinator did not envision a gay organization because many homosexuals in Bolivia did not identify themselves as such.³¹ In March 1994, the organization rented a space that served as a sexual education and prevention center and where a gay support group, *Unidos en la Lucha por la Dignidad y la Salud* (United by the Struggle for Dignity and Health) quickly formed.³² The group held the first Bolivian Gay Day celebration on June 25, 1994 (though not without difficulty in obtaining a permit for the event) in order to promote AIDS awareness. For these reasons, in 1994, “it was becoming increasingly obvious in Bolivia that the words ‘gay’ and ‘AIDS,’ while not synonyms, were at least linguistic first cousins.”³³

POLITICS AND LAW

When Latin America was colonized by Spain and Portugal, sodomy was considered a heinous crime. Consequently, when colonists realized that the indigenous populations were more sexually open and less fixated on gender roles, Inquisition tribunals were quickly instituted.³⁴ After Bolivia gained its independence from Spain, these laws were stricken from the constitution. Bolivian law took as its model the Napoleonic Code and its more egalitarian principles. Bolivia’s independent constitution made no mention of sodomy laws.

The previous Bolivian Constitution was established in 1967, and was subsequently reformed in 1994, 1995, 2002, 2004, and 2005.³⁵ The new constitution limits the definition of marriage and civil unions to contracts between a man and a woman. Given that such constraints were not explicit in the prior constitution, such a definition is seen as a setback. Still, the new constitution is generally seen as more progressive, particularly due to its sanctions against discrimination on the grounds of sexual orientation. There are, however, no records or legal stipulations regarding bisexuals, transsexuals, or intersexuals. Current Bolivian law does not acknowledge their existence.

RELIGION AND SPIRITUALITY

Bolivia is a mostly Catholic nation (95%), and there is no separation of church and state.³⁶ Indeed, the church frequently intercedes in political conflicts.

Because Bolivian society is predominantly Catholic, most religious institutions do not welcome homosexuals. The Catholic Church still classifies homosexuality as a sin and thus will not accept homosexual members. Only homosexuals who repent of their sins are welcomed.

VIOLENCE

The incarceration rate in Bolivia is 7.8 per 10,000 individuals. Hate crime statistics are nonexistent (except for domestic violence) and therefore we cannot quantify the proportion of hate crimes directed toward the GLBT population.³⁷ Nonetheless, violence against homosexuals is the norm. Indeed, *maricones* (faggots) is the colloquial, pejorative term for gays used in daily discourse. The only visible gays are transvestites, who are frequently picked up and beaten. In fact, it is quite common for people who have been heavily drinking to say, “*vamos a patear maricones*” (“let’s go kick some faggots”). The police do not monitor this violence. On the contrary, the secrecy that surrounds homosexuality is often used by law enforcement agents to extort money from LGBT crime victims. Over the last decade, however, since LGBT people have become more visible, these abuses have gradually diminished.

OUTLOOK FOR THE 21ST CENTURY

Questions about the legitimacy of the new Bolivian constitution linger. On one hand, the new laws disallow discrimination on the basis of sexual orientation, but on the other, same sex marriage remains illegal.

The AIDS epidemic in Bolivia led to the creation of LGBT organizations that then entered the social and political spheres. This new level of visibility is slowly building a less biased view of homosexuality and generating tolerance across Bolivian society in general.

RESOURCE GUIDE

Suggested Reading

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- David William Foster, *Cultural Diversity in Latin American Literature* (Albuquerque: University of New Mexico Press, 1994).
- David William Foster, ed., *Latin American Writers on Gay and Lesbian Themes: A Bio-Critical Sourcebook*, intro. Lillian Manzor-Coats (Westport, CT: Greenwood Press, 1994).
- David William Foster and Roberto Reis, eds., *Bodies and Biases: Sexualities in Hispanic Cultures and Literatures* (Minneapolis: University of Minnesota Press, 1996).
- Dieter Ingenschay, ed., *Desde aceras opuestas: literatura-cultura gay y lesbiana en Latinoamérica* (Madrid: Iberoamericana Editorial Vervuert, 2006).
- Chris Girman, *Mucho Macho: Seduction, Desire, and the Homoerotic Lives of Latin Men* (New York: Haworth Gay and Lesbian Studies, 2004).

- Jonathan Goldberg, "Sodomy in the New World: Anthropologies Old and New," *Social Text* 29 (1991): 45–56.
- Jacobo Schifter Sikora, *Lila's House: Male Prostitution in Latin America* (New York: Haworth Press, c. 1998).
- Jacobo Schifter Sikora, *Public Sex in Latin Society* (New York: Haworth Press, 1999).
- Timothy Wright, "Gay Organizations, NGOs, and the Globalization of Sexual Identity: The Case of Bolivia," *Journal of Latin American Anthropology* 5, no. 2 (2000): 89–111.
- Timothy Wright and Richard Wright, "Bolivia: Developing a Gay Community—Homosexuality and AIDS," in *Sociolegal Control of Homosexuality. A Multi-Nation Comparison*, ed. Donald J. West and Richard Green, 97–108.

Video/Films

- American Visa*, DVD, directed by Juan Carlos Valdivia (2005; Bolivia. Mexico: Instituto Mexicano de Cinematografía [IMCINE], 2005).
After a Bolivian English teacher is denied a U.S. visa to be reunited with his son, he becomes involved in illicit activities to buy a visa. He is also romantically involved with a prostitute, Blanca, and befriends a gay man in the La Paz hotel while he waits for the visa.
- Dependencia sexual*, DVD, directed by Rodrigo Bellott (2003; Bolivia. United States; BoSD Films LLC, 2003).
Five interrelated stories of young men and women in Bolivia and the United States searching for their identity and sexuality. One of the protagonists presents a lesbian monologue. The other protagonist is an upper class Bolivian male student who is raped in the United States by male football team members.
- La Ley de la noche (The Law of the Night)*, DVD, directed by Diego Torres Cámara (2005; Bolivia: Diegofilms, 2005).
Kiki, an effeminate man, moves to a large city to have a better life as a drag performer, only to discover that discrimination and police extortion are the daily routine. Real transvestites and transgender people appear in the film.
- Jonás y la ballena rosada (Jonah and the Pink Whale)*, DVD, directed by Juan Carlos Valdivia (1995; Bolivia. Mexico: Conacite Uno, 1995).
Jonah has an affair with her young sister-in-law, Julia, who immediately is sent to the United States. There, she marries a drug lord; upon her return to Bolivia she resumes her affair and is killed. The director (Juan Carlos Valdivia) makes an appearance portraying Jonah's gay friend who is falsely accused by Julia of rape.
- Lesbianismo (Lesbianism)*, DVD, directed by Mujeres Creando (1999; Bolivia: Periodistas Asociados Televisión, 1999).
This performance was the first public display of female homosexuality in Bolivia. Julieta Paredes and Maria Galindo (co-founders of Mujeres Creando) embraced in the bed they just have set up. People passing by were given red roses and asked for their opinion of the scene.
- Mamá no me lo dijo (Mom did not tell Me)*, DVD, directed by Maria Galindo and Mujeres Creando (2002; Bolivia: VOSTF, 2002).
TV series with filming episodes that portrays different lifestyle choices: "La novia vendedora" (The Sale Bride), "El sueño la vendedora" (The Salesgirl's Dream), "La puta" (The Whore), "La india" (The Indian), and "La misa religiosa" (The Religious Mass).
- Sexo (Sex)*, DVD, directed by Rodrigo Bellot (2001; Bolivia. United States, 2001).
A short antipornography film showing lesbian nudity and frontal male nudity. Experimental winner of the 2002 PlanetOut.com Short Movie Awards.
- Vida Travesti (Transvestite Life)*, DVD, directed by Diego Torres Cámara (2006; Bolivia: AMA-Diegofilms, 2006).

Documentary in which a 25-year-old transvestite is interviewed about her life. A beauty queen who has won several beauty pageants, she denounces the abuses committed against her by the establishment.

Web Sites

Boliviagay, <http://www.boliviagay.com>.

Provides information, classified ads, and announcements to the gay community in Bolivia. Site registration is needed. Counseling and psychological help to LGTB and their families provided via e-mail (ayudapsicologica@boliviagay.com).

Estadea—Lesbianas de Bolivia, http://lesbianas_estadea.tripod.com.

Provides information to the Lesbian community.

Grupo Lambda, <http://www.boliviaLes.com>.

Organizations

ADESPROC (Asociación Civil de Desarrollo Social y Promoción Cultural) LIBERTAD GLBT, <http://www.libertadglbt.org>.

Promotes and protects the rights of homosexuals. Has a 24-hour helpline for AIDS, GLBT rights, gay, and lesbian issues. Offers workshops about GLBT civil rights and AIDS to institutions.

Centro de Estudios para la Diversidad CEDIV, estudio_diversidad@yahoo.com.

Discusses and studies sexual diversity issues.

Comunidad GLBT del Sur, Phone: +591.71868882, soloparavoz30@hotmail.com and glbtdelsur@yahoo.es.

Association for LGBT in Tarija, promotes LGBT rights and organizes events (e.g., Miss Gay Transexual Bolivia 2005).

Dignidad, <http://www.gaycochabamba@members.gayweb.com>.

Works to de-stigmatize homosexuality in Bolivia.

Movimiento Alternativo de Mujeres, yvidal@192.245.1218.unss.edu.bo.

Promotes women's and lesbian rights.

Mujeres Creando, <http://www.mujerescreando.org/>.

Promotes feminism, lesbian visibility, and women's and human rights in Bolivia through the "Deseo" 103.3 FM radio station, television programs, and publications.

Unidad y Defensa de la Salud (UNELDYS), Phone: +591. 3.336.5296 +591.3.332.6320.

UNELDYS (United in the Fight for Dignity and Health) promotes sexual and health education and LGBT rights.

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BRAZIL

Jen Westmoreland Bouchard

OVERVIEW

Brazil is the fifth largest country in the world by size and population. It is bounded on the east by the Atlantic Ocean with more than 4,577 miles of coastland. It also shares a border with most of the other countries of South America.

Portuguese is its official language, but Spanish, English, and French are also spoken. Eighty-eight percent of the population age 15 and older can read and write (88.4% of males, 88.8% of females).¹

When the first Portuguese colonists reached Brazil in 1500, they were shocked to find that many of the native inhabitants practiced sodomy, which was considered a sin according to Catholic Church doctrine. They were also surprised to discover that women participated in homosexual acts. The Catholic Portuguese population took great effort to reform these practices. The Portuguese also brought over five million Africans to Brazil during nearly four centuries of slavery. One group, the *quimbanba*, an association of homosexual fetishists from Congo-Angola, defied the Portuguese and continued to develop their practices in their new home, Brazil. Not surprisingly, the *quimbanba* horrified the conservative Portuguese colonists. During the Inquisition, lesbianism was outlawed and homosexual men were referred to as *mulher-macho* (“male woman”). After Brazilians gained their independence in 1832, a new constitution was put into place that, influenced by the Napoleonic Code, did not make



homosexuality illegal. To this day, the gay population of Brazil is free from legal persecution.

The myriad identities and lifestyles that make up the Brazilian LGBTQ population reflect Brazil's diverse history and culture. Brazil's population is approximately 169.8 million. The population breakdown is as follows: 0–14 years: 25.3 percent (24,554,254 males and 23,613,027 females); 15–64 years: 68.4 percent (64,437,140 males and 65,523,447 females); and 65 years and over: 6.3 percent (4,880,562 males and 7,002,217 females). The median age is 29 years.

OVERVIEW OF LGBT ISSUES

Brazil is home to one of the liveliest gay scenes in South America. Undoubtedly, Brazil's homosexual scene and LGBTQ politics have been influenced by both Western European and North American gay cultures.

The historically dominant Portuguese and Catholic value systems provided Brazil with specifications of normative gender and sexuality that still influence most Brazilian views on sex and power today. This perceived power difference between female and male roles can still be observed in the Brazilian homosexual community. *Bichas* are men who assume a passive role during sex, as opposed to those who penetrate (referred to as *bofe* or *machos*).²

Brazil's homosexual community came to prominence in 1978 with the publication of *O Lampião*, the country's first gay news source. This publication quickly became the most important source of information in Brazil's homosexual community. Shortly after the first issue was released, the country's first homosexual organization was founded, in 1979. The group called themselves Somos ("we are"). Soon, gay organizations began to appear around the country, including Atobá in Rio de Janeiro, Triângulo Rosa ("Pink Triangle") in Rio de Janeiro, Grupo Gay da Bahia, Dialogay in Sergipe, Um Outro Olhar ("Another Look") in São Paulo, The Dignity Group in Curitiba, Gay Group of Amazonas, Lesbian Group of Bahia, Nuances in Porto Alegre, and Arco Iris in Rio de Janeiro. Today, there are approximately 75 homosexual rights groups and associations in Brazil.

When Brazilian homosexual movements began to flourish in the 1980s, many lesbian and feminist voices were pushed aside. This extreme gender imbalance has inhibited lesbian movements from becoming as visible or heard as the country's myriad gay rights organizations. In 1995, the 17th International Lesbian and Gay Association's Conference was held in Rio de Janeiro. This marked a turning point for gays and lesbians working for equal representation within homosexual organizations.³

Each year, Rio de Janeiro hosts one of the largest Gay Pride festivals in the world. Throughout this lively week, Rio's LGBTQ community takes to the streets to celebrate and spread awareness of their sexualities and lifestyles. However, despite this large annual celebration, many Brazilian gays still face blatant discrimination, hate crimes, and limited employment opportunities on a daily basis.

EDUCATION

Since the turn of the 20th century, much progress has been made in the realm of LGBT education in Brazil. In 2004, the Special Secretariat of Human

Rights, along with the departments of Health, Justice, Women's Rights, and Racial Equality, launched Brasil Sem Homofobia (Brazil Without Homophobia), a movement dedicated to educating the nation about homosexuality in hopes of eradicating homophobia and the crimes associated with it. As a part of this nationwide initiative, Brazil's Ministry of Education has been training public school teachers how to discuss issues surrounding homosexuality in the classroom more effectively.⁴

Along these same lines, Project Watercolor sponsors LGBT education courses for public school high school and university teachers. The purpose of these courses is to provide a model for integrating LGBT education into curricula and to provide educators with the skills necessary to address questions surrounding these issues when they arise in class.⁵

Grupo Gay da Bahia has been a strong leader in gay rights education in Brazil. The group has published a comprehensive book on lesbianism in Brazil, and they continue to publish articles and pamphlets about the history of Brazilian homosexuals (including the story of the Luso-Brazilian "sodomites" who were persecuted during the Portuguese Inquisition). Grupo Gay da Bahia was the first nongovernmental organization (NGO) to support AIDS prevention education in Brazil (beginning in 1982). Around this time, they also published an HIV prevention pamphlet in Braille for the blind. In 1985, they led a national campaign to omit homosexuality from the list of "sexual deviancies" on the International Classification of Illnesses (according to the World Health Organization), and in the 1990s, the Grupo Gay da Bahia organized hundreds of community and university conferences and roundtable discussions on homosexuality and HIV/AIDS. The Grupo Gay da Bahia has also worked to prevent violence against homosexuals. The group's library holds the largest collection in the world of documents on killings and other acts of violence against homosexuals.⁶

EMPLOYMENT AND ECONOMICS

The Grupo Gay da Bahia provides counseling and support services to unemployed or underemployed demographic groups throughout the country. The group has indicated that most people who attend their meetings are blacks or *metizos* and between the ages of 15 and 25. The majority of attendees are transvestites and homosexuals who have had difficulty securing employment as a result of a lack of education or on account of their lifestyle. Likewise, lesbians who have faced discrimination or economic hardship as a result of their sexuality are encouraged to attend the meetings of the Lesbian Group of Bahia.⁷

Studies conducted by Grupo Gay da Bahia reveal that gay men and women are the principal victims of prejudice and employment discrimination in Brazil. Of those surveyed, the level of employment rejection was nearly 80 percent. In Brazil, the percentage of "out" gays and lesbians is less than five percent, even though homosexuals estimate that they make up 10 percent of the Brazilian population. The reason for these differences in statistics is that many homosexuals do not come out for fear of limited employment opportunities. In Brazil, out homosexuals (if employed) typically have a lower income level than their straight counterparts. Consequently, financial support for gay rights organizations, such as the Grupo Gay da Bahia, is not strong.⁸

SOCIAL/GOVERNMENT PROGRAMS

In the early 2000s, the Grupo Gay da Bahia launched a campaign to stop discrimination and unjust acts against homosexuals. Since this time, the organization has continued to work with government officials to put in place state-funded programs to protect homosexuals from discrimination and violence.

One such initiative is the program *Brasil sem Homofobia* (“Brazil Against Homophobia”), a national initiative developed to put a stop to violence against LGBTQ individuals. This federal program describes itself as a “national program for combating violence and discrimination against gays, lesbians, transgender people, and bisexuals, and for the promotion of the citizenship of homosexuals.” There is no other organization quite like this in the world. Part of the program’s mission is to educate certain Brazilian demographics (students, law enforcement, doctors, and corporate managers) about gay rights. The program also encourages members of the LGBTQ community who have experienced hate crimes to come forward, share their stories, and file complaints against their attackers so that these situations can be stopped.⁹

SEXUALITY/SEXUAL PRACTICES

Until the 1950s (and even still) in Brazil, people often thought that men who preferred to engage in sexual acts with other men were feminized or “women in male bodies.” These men still are referred to as *bichas*. Conversely, the men who penetrated “feminized men” were not considered homosexuals, but rather “real” men who engage in sexual intercourse with feminine men because actual women are, for some reason, not available to them. Thus, a man could maintain, or even augment, his sense of masculinity if he played the role of penetrator or *macho*. Therefore, if a man had sexual desires for a member of the same sex, he was given two very clear-cut choices: he could either be a *bicha* or a *macho*. Once determined, these roles were rarely undone or reversed.

In the late 1950s, certain men decided that they did not want to be pigeon holed into one type of sexual (or gendered) persona. They rejected the notion of constantly having to perform their sexuality (and thus, their genders). These changes (resistance to gender and sexual stagnation) were supported by the gay movements of the 1970s. Despite this sexual revolution of sorts, the culturally ingrained roles of the *bicha* and the *macho* can still be observed in everyday interactions. Simultaneously in Brazil, there has been an expanding trend of the masculinization of the homosexual male. Today in Brazil, many gay men lift weights at the gym, wear stylish yet masculine clothes, and maintain an affluent image and lifestyle.

Since the late 1990s, there have been several national initiatives introduced to promote the use of condoms in both heterosexual and homosexual communities. Because Brazilian men are generally uncircumcised (unless they have phimosis, a condition resulting in a tight foreskin that prevents the functioning of the penile glands), greater awareness is needed for the prevention of HIV/AIDS. Studies have found that cases HIV/AIDS occur more frequently in communities that are not circumcised when compared to those that are. As a result of the lack of circumcision, condom use is also more difficult for some Brazilian men. Because it is possible for the foreskin to get caught in the rolled part of the condom, many uncircumcised men find condoms unpleasant or even painful to use.¹⁰

FAMILY

Brazil is a mostly Christian nation, therefore many people regard homosexuality as contrary to family life, and there are myriad “pro family” and antihomosexual conservative religious groups throughout the country. One that has been making headlines lately is the National Vision for a Christian Conscience (VINACC). There have been many protests against this group that fights to preserve heterosexual, Christian religious values. Recently, VINACC was ordered by the court to remove billboards associated with their “In Defense of the Family” campaign, which stated “Homosexuality: God made them man and woman, and saw that it was good!” They were also forced to cancel a “homophobic” public demonstration during which they planned to encourage Christian family values vehemently.¹¹

Rio Grande do Sul was the first Brazilian state to permit civil unions between same-sex couples. The process is not technically considered “gay marriage,” but it is essentially the equivalent. The same-sex union act binds all judges and justices of the peace in the state to conduct civil unions between persons of sound mind, independent of their sexual orientation. It gives homosexual couples many of the same rights as those accompanying marriages regarding inheritance, child custody, insurance benefits, and state pensions. In 2005, a judge in Sao Paulo ruled that homosexual couples have the right to jointly adopt children.

COMMUNITY

One of the most vocal and organized gay rights groups in Brazil is The Grupo Gay da Bahia. In 1980, Luiz Mott, a new professor in anthropology at Federal University of Bahia, founded the group, which is the oldest and longest-lived gay rights group in the country. Mott has since written scholarly essays and books on homosexuality during the colonial period. In 1983, the Grupo Gay da Bahia registered as a nonprofit organization, and in 1987 it officially became a public service organization of the city of Salvador.

In 1976, *O Lampiao* (*The Lantern*) was founded. This was the country’s first gay news source and journal. Thanks to this portal of information, the homosexual movement was allowed to flourish in an organized manner throughout the country. The first documented homosexual rights group, Somos (We Are), was founded in Sao Paulo in February 1979. This was one of 22 organizations that were founded nationwide between 1976 and 1980. The principal accomplishments of these early gay rights groups were the abolition of the labels of “deviant” and “sexual invert” to describe gays and the involvement of scientists in promoting gay awareness. With this scientific support, gay rights groups were eventually able to effectively protest antigay discrimination and seek out significant funding for research on homosexuality in men and women. Since this time, these groups have also worked to put an end to homophobic acts of violence. Currently, there is a well-developed gay social scene in Rio de Janeiro and Sao Paulo and over 40 active rights groups throughout the country.

A recent initiative to combat violence against homosexuals was undertaken during Sao Paulo’s 2006 Gay Pride Festival (the theme of which was the eradication of hate crimes). The 2006 organizers claimed that Sao Paulo’s pride parade is the largest of its kind on earth. Each year, participants stream into Paulista Avenue for a week of rainbow flag waving, elaborate costumes, speeches, music, and social

action. According to police sources, the 2006 parade drew 2.4 million people, a vast increase from the 2005 count of 1.8 million. Though the festival's theme of hate crimes was rather somber, the event itself was extremely festive.

The 2007 Sao Paulo Pride festival drew over three million participants, as opposed to similar Gay Pride Festivals in New York and San Francisco that draw between 30,000–50,000 people and the World Gay Pride Celebration in Berlin (one of the largest in Europe), which drew 500,000 in 2006.

HEALTH

The year 1983 marked the death of the first Brazilian from AIDS. Since then, the HIV/AIDS epidemic has been a source of concern for the Brazilian homosexual community. The current adult prevalence rate for HIV/AIDS is 0.7 percent. There are 660,000 people living with HIV/AIDS in Brazil.¹² One of the reasons the HIV/AIDS epidemic grew so quickly in Brazil was a lack of HIV prevention information and education in the early to mid-1980s. Since this time, a number of government and social programs have been established in Brazil to educate the general population and serve those with HIV/AIDS. One such program is GAPA-BA (Support Group for AIDS Prevention in Bahia). GAPA-BA began by locating gay sites of contact and educating people in these areas. The organization selects people to reach out to the target gay population, ideally individuals whose ethnic and social backgrounds match those of the communities with which they will be working. HIV/AIDS prevention strategies focus on the social and cultural elements of homosexual behavior and the experiences of violence and exclusion. Through its work, GAPA-BA has managed to establish an information pathway to these gay sites and the communities that access them. They have also been successful in implementing educational programs that serve as a resource center for various homosexual communities.¹³

The Brazilian STD/AIDS Program is a branch of the Ministry of Health. In 2000, the organization implemented the Somos Project. Somos is designed to empower gay men by educating them about HIV/AIDS prevention and training them to educate others. They conduct regional training sessions in conjunction with other governmental organizations (health and social welfare departments and universities) as well as with various NGOs that deal primarily with AIDS education and civil rights activism.¹⁴

In August 2007, it was decided that Brazil's public health system would begin to provide free gender reassignment surgeries for qualified individuals. During the court proceedings that led to this decision, federal prosecutors from the state of Rio Grande do Sul argued that gender reassignment surgery should be covered under the constitutional clause guaranteeing that medical care is a basic human right. The regional federal court justified its ruling by stating that, from a biomedical perspective, gender reassignment surgery is a necessity. Individuals who are in need of this type of surgery and do not receive it are prone to bouts of depression, physical mutilation, or even suicide. Qualifying individuals must be at least 21 years of age and previously diagnosed as transsexuals by a psychologist. They must have no other personality disorders and must undergo a psychological evaluation that lasts a minimum of two years. Transsexuals make up just over 0.001 percent of the Brazilian population. Since 2000, nearly 250 experimental gender reassignment surgeries have been conducted at three Brazilian university hospitals.¹⁵

The Brazilian public health system offers free care to all citizens. This includes most routine surgeries. In addition, Brazil has begun to distribute free HIV/AIDS medications to those in need of them. However, as is often the case in countries with free health care, many medical facilities are poorly equipped and maintained. In addition, the long lines at such facilities mean that individuals who can afford medical treatment usually opt for private hospitals and clinics.¹⁶

POLITICS AND LAW

The Inquisition enacted the first recorded laws against homosexuality in Brazil in 1646. These laws prohibited lesbianism. In 1823, Brazil adopted a new set of laws that were based on the Napoleonic Code. Under these reforms, same-sex acts were no longer illegal.

Currently, no laws exist against consensual same-sex acts between adults over the age of 18. However, members of the Brazilian military who engage in homosexual acts can be sentenced to up to one year in prison. Antidiscrimination protection laws exist in the states of Sergipe, Mato Grosso, Minas Gerais, Santa Catarina, and Rio de Janeiro, and in the cities of Sao Paulo and Salvador. In the state of Rio de Janeiro, heavy fines are imposed on people or institutions found guilty of anti-homosexual discrimination. The state can also close establishments that deny any part of their services to homosexuals.

Brazil's population of 15 million homosexuals was once the country's most discriminated-against social minority. To combat this trend, the Forum of Gay Men, Lesbians, and Transvestites in Politics was formed in 1996. The goal of this group is to present political candidates (to represent homosexuals, who make up over 10 percent of the population). These elected homosexual municipal leaders work to secure legislation against homophobic discrimination, violence, and other social injustices facing the gay community. They have also worked to create human rights councils and organizations that provide sex education and community programs to control the spread of sexually transmitted diseases.¹⁷

RELIGION AND SPIRITUALITY

In terms of religious demographics, Brazil is relatively diverse compared to other South American countries. About 73 percent of the population is Roman Catholic, 15 percent is Protestant, 13 percent is Spiritualist, one percent practices *candomblé*, one percent is Bantu/voodoo, and eight percent make up the category of unspecified/no religious affiliation.¹⁸

Brazil's pro-homosexual political actions have caused many problems with the Vatican and the Organization of Islamic Conferences. They consider the support (and, on a more basic level, the simple recognition) of homosexuality to be an offense to most organized religions. This has made the relationship between homosexuality and religion quite tenuous in Brazil. Although there are no laws against homosexuality, most of Brazil is still informed by fundamental Christian values (which are traditionally antigay).¹⁹

However, the Episcopal Anglican Church of Brazil has demonstrated relatively progressive theological and moral views on homosexuality. In 1998, the Brazilian Anglican Church decided to host national forums on human sexuality in Rio de Janeiro. At these conferences, they discussed the scientific and moral issues

surrounding homosexuality in Brazil. The final report to come out of the conference states that sexuality is a gift from God and that individuals should be free to express their specific preferences with love and respect. This conclusion makes it quite clear that the Anglican Church believes that the privacy of its worshippers and members of the clergy should be respected. Thus, the requirement to expose one's sexual preferences as a prerequisite to ministry or service of any kind within the Church would violate this right to privacy.

Some Brazilians practice *candomblé* (and other Afro-Brazilian religions such as *santeria*). During *candomblé* rituals, participants are possessed by *orishas* (religious deities). These rituals involve animal sacrifices, healing practices, meditative drumming, and dancing. *Candomblé* is influenced by the African diaspora in Brazil, and draws inspiration from the Yoruba Orisha religion. Many members of this religion are homosexuals. There are reasons to believe that more people practice *candomblé* than is indicated by official census information. To compare, there are roughly 19,000 Catholic parishes in Brazil, whereas there are an estimated 12,000 informal *candomblé* temples in the city of Rio de Janeiro alone. In the *candomblé* religion, a great number of priests and priestesses are homosexual. Many homosexuals find the refuge and spiritual camaraderie they need within this sometimes hidden religious structure.²⁰

VIOLENCE

Between 1980 and 1998, over 1,600 gays, lesbians and transvestites were killed in Brazil, all of them victims of homophobic rage.²¹ Even though homosexual activists have made significant legislative advancements in this realm, the rate of hate crimes in Brazil has risen at an alarming rate. As is frequently the case, local governments turn a blind eye and do not effectively prosecute the perpetrators of such attacks. In fact, only a very small percentage of these killers and attackers have ever been brought to justice. Studies conducted by the Grupo Gay da Bahia show that fewer than 10 percent of those who commit violent crimes against homosexuals are ever punished for their actions.

Out of Brazil's 26 states, the one in which the most killings of homosexuals occurs is southern state of Sao Paulo (with approximately 24 reported killings per year). According to a study by the Grupo Gay da Bahia, Pernambuco state and the city of Brasilia are two of the most dangerous places in the country for homosexuals. These areas report the highest per capita rate of homosexuals killed through violent acts. In response to this crisis, scholar Luiz Mott published a book entitled *Epidemic of Hate*. In this book, he discusses the demographic make up of the perpetrators. Of those who are brought to trial, one-fourth are associated with the police force, and one-fifth are *michés* (individuals involved in homosexual prostitution). Mott claims that this extreme violence is the result of mild homophobia extending, over time, into complete hatred. The brutal killings by the *michés* reflect their own sexual identity crises. These individuals kill in response to their own feelings of hatred and guilt.²²

OUTLOOK FOR THE 21ST CENTURY

Brazil is one of the most supportive countries of homosexual rights and activism in the world. Proof of this widespread support can be seen in legislative action

such as the extension of the rights for same-sex couples to join as a union and to adopt children. In addition, the recent public health decision to offer free gender reassignment surgeries to qualifying individuals is a revolutionary pro-LGBTQ initiative. The fact that the state can (and has) shut down places of business for discriminating against homosexuals also speaks to the government's commitment to equal rights.

This is not to say that the road has been an easy one for Brazil's LGBTQ population. Movements such as the original Somos (1980s), Grupo Gay da Bahia (1980s-present) and the myriad other gay rights organizations in Brazil have worked hard to assure this kind of lifestyle for LGBTQ Brazilians. However, there is still much work to be done. LGBTQ Brazilians face rampant discrimination in the job market.

In addition, the violent killings of homosexuals that began in the early 1990s have slowed, but not ceased. The eradication of violence and discrimination will be the two major projects of Brazilian LGBTQ rights organizations as they continue into the 21st century.

As far as health issues are concerned, thanks to the numerous and widespread HIV/AIDS education programs in Brazil, the number of victims of this deadly disease has greatly decreased over the past couple of years. However, the next generation of both LGBTQ and straight youth must be educated to keep the country on its healthy path. It is certain that gay rights groups throughout the country will continue to oversee these education programs in conjunction with the Brazilian government. Queer Literature coming out of Brazil has reached an amazing level of popularity in Latin America and the United States. In addition, there are many scholars working within sociological perspectives on LGBTQ rights in Brazil. However, there is still much work to be done in these areas. It appears that Brazil will see more dynamic literature and scholarship emerging in the areas of Queer Literature and LGBTQ issues and rights in the future.

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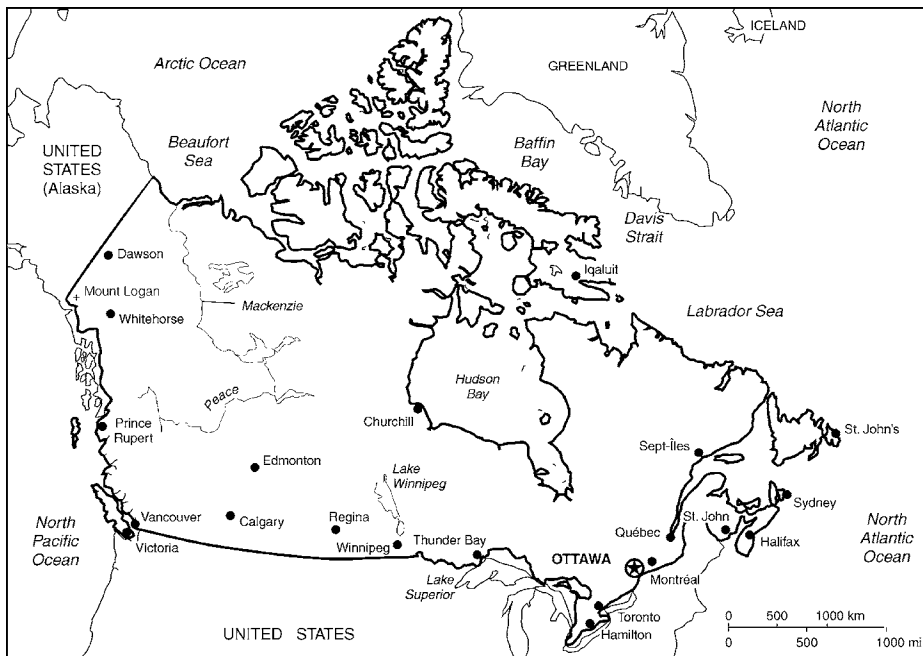
CANADA

*Line Chamberland, Martin Blais,
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OVERVIEW

Canada is the second-largest country in the world in terms of area, and has a population of 32 million people. It extends from the U.S. border in the south to the Arctic Circle in the north, and from Cape Race, the most easterly point of North America, to Vancouver Island in the Pacific. Its geography incorporates many different land formations, the most fresh water on earth, and thousands of different ecosystems in a variety of climate zones, including temperate rain forests and frozen tracts of tundra and ice.

Canada's constitutional, regional, demographic, and linguistic realities have shaped its response to the issue of gay and lesbian rights. Developed by Anglo-Saxons and built on the remnants of British North America (which itself was built



on the preexisting New France), Canada of the 19th century consisted of four provinces: Nova Scotia, New Brunswick, Quebec and Ontario. With the exception of French-speaking Quebec, the provinces were Anglo-Saxon entities that were also home to Scottish, Irish, and French minorities.

The extension of the Canadian Confederation to the Pacific coast in 1871 opened up vast tracts of land that were settled by immigrants from other European countries. The addition of Newfoundland completed the geographic development of Canada in 1949. The explosion of immigration from non-northern European cultures, which began in earnest in the 1950s, would eventually lead to the development of some of the world's most diverse and multicultural cities. In the 1980s, this immigration and demographic shift would also reduce Anglo-Saxon domination in the English-speaking provinces and have a significant impact on Canada's self-perception.

Canada is a federation, with powers divided between a federal government based in Ottawa, its 10 provinces, and three northern territories. Since the 1980s a new level of government has been emerging in the newly recognized jurisdictions of aboriginal nations, primarily in the north and the west of Canada. Provinces have exclusive jurisdiction in areas such as family law, as opposed to the federal government, which has exclusive jurisdiction in areas such as marriage and the criminal code. As a result, gay and lesbian rights have progressed at different paces in each of the provinces and territories.

Canada has two legal systems: the Common Law system, which operates in nine provinces and the three territories, and the Civil Code, which operates in Quebec. This has led to different activist cultures depending upon the different legal systems. In Common Law jurisdictions, courts have been used to overturn laws. In Quebec's more rigid Civil Code jurisdiction, however, judges cannot make laws like their Common Law counterparts can, and so political organizing has taken on a much more prominent role.

Canada is composed of an English-speaking majority and a large French-speaking minority, based primarily in Quebec. The "Quiet Revolution" in Quebec, which began in the 1950s and bloomed in the 1960s, allowed Quebec to free itself from the yoke of the Roman Catholic Church. This had a profound impact on the progression of gay and lesbian rights in Quebec and the province led the country in the extension of rights to gay and lesbian people in all areas of provincial jurisdiction with the notable exceptions of family law and education.

Canada is a liberal democracy that most often adheres to moderate/centrist political philosophies. There is no equivalent in Canada to the radical right-wing movement presently found in the United States. The New Democrat Party and the Bloc Québécois, both social-democrat and center-left, have exerted a pro-gay and lesbian influence on the other parties in the federal House of Commons. The Liberal Party, the most centrist of all federal parties, began supporting gay rights in the 1990s and adopted an inclusive Federal Marriage Act in 2004 after the law had been struck down in several provinces by the courts. The Conservative Party, born from the remnants of the moderate Progressive Conservative Party and the more right-wing Reform Party, has been the most reticent of all federal parties in terms of gay rights, but even it has tempered some of its more homophobic positions. New to power in 2006, the Conservatives' attempts to repeal the inclusive Federal Marriage Act were unsuccessful, and they subsequently declared same-sex marriage a nonissue.

OVERVIEW OF LGBT ISSUES

Since the late 1980s, Canada has become one of a select number of countries to eliminate all laws that discriminate against its citizens because of their sexual orientation. Since the late 1990s in particular, this evolution has led to full-fledged legal equality for gay, lesbian, and bisexual Canadians.

Canada enjoys a progressive reputation on an international scale. As early as 1977, the province of Quebec had become the first state to include sexual orientation as an explicit motive for anti-discrimination legislation in their Charter of Human Rights and Freedoms. In 1985, former Prime Minister Pierre-Elliot Trudeau established the Canadian Charter of Rights and Freedoms for the nation. The charter delineates the types of discrimination that are illegal in Canada. Although it does not explicitly include discrimination based on sexual orientation, interpretation of the charter by the courts is broad, and the Supreme Court of Canada ruled that sexual orientation is forbidden grounds for discrimination.

On July 20, 2005, to great media fanfare, Canada became the fourth country, after the Netherlands, Belgium, and Spain, to legalize same-sex marriage. In accordance with the Canadian Charter of Rights and Freedoms, the Civil Marriage Act (Bill C-38) stipulates that “marriage, for civil purposes, is the lawful union of two persons to the exclusion of all others,” regardless of the spouses’ gender.¹

Despite these favorable conditions, Canada has never explicitly condemned homophobic violence. LGBT people continue to be discriminated against in the workplace and other areas, and many Canadian schools also remain hostile environments for LGBT youth, many of whom report victimization and bullying.

LGBT people, especially women, continue to be marginalized by health care professionals and institutions, particularly in regard to service access and delivery. Also, the HIV crisis continues to affect gay men and gay male communities in Canada, and there is evidence from various parts of Canada that funding for prevention among gay men is less of a priority than it is for other populations.

The recent legalization of same-sex marriage in Canada raises several issues within Canadian LGBT communities. Legal claims from same-sex parents are gaining greater visibility. LGBT parents are also fighting to ensure that their children are not discriminated against in daycare, school, or elsewhere. The growing ethnic diversity of Canadian LGBT communities, as well as the specific problems experienced by transsexuals, bisexuals, and other sexual minorities, is also putting pressure both on LGBT support organizations and on Canada’s legal system.

EDUCATION

The Canadian constitution states that education is the sole jurisdiction of provincial and territorial governments. Therefore, there is no single portrait of what is happening in Canadian schools, but rather many portraits, each reflecting the experience of individual provincial and territorial initiatives. Some of these are pan-Canadian and originate primarily within the structures of the national education association, the Canadian Teachers’ Federation. Others have originated in provincial teachers’ federations (notably Quebec, Alberta, and British Columbia), and still others are rooted in community organizations that work directly with school boards and individual schools (as in Nova Scotia and Manitoba, for example).

Canadian schools are among the environments that have changed the least since discrimination on the basis of sexual orientation was formally outlawed. Gay, lesbian, and bisexual youth consistently rate their school environments as harsh and often unbearable. According to a survey of 1,100 students from the Montreal area conducted between 2006 and 2007, 80 percent reported having heard homophobic insults during the current school year and 31 percent said they have been directly targeted.² In response, some Canadian students have taken school discrimination cases to court.

In 2002, Marc Hall, a student in a provincially funded Catholic high school in Oshawa, Ontario, announced his intention of attending the high school graduation dance with his boyfriend. The Catholic school board intervened, forbidding him to do so. He was forced to seek an injunction from the Ontario Provincial Court, which ordered the school board to respect his Charter of Rights, as they trumped the right of a school to enforce a doctrine in a social context.

Two other landmark cases were heard in British Columbia. The first involved the Surrey School Board, which had ordered that LGBT-positive books be removed from school libraries in the district after receiving religiously motivated complaints from parents. This case went all the way to the Supreme Court of Canada, which ruled in 2002 that the books had to be replaced, stating that gay and lesbian students and same-sex parents had the right to have their lives protected and reflected in the school curriculum. The second decision involved a complaint to the Human Rights Tribunal of British Columbia made by a gay couple, Peter Cook and Murray Warren, charging the school curriculum did not address issues of sexual orientation. As the Tribunal was preparing to hear the case in 2006, the provincial government negotiated a settlement with the couple and ordered a thorough review of the curricula in the province, mandating that any homophobic content be removed. This resulted in the development of a new LGBT-positive curriculum, which has yet to be launched.

Young transpeople are also harassed at school, risk being rejected by their families and friends, and do not benefit from appropriate resources to help them.³ Significant damage is done to LGBT men and women in Canadian school systems. Psychological scars and wounds continue to exact a painful price long into adult life. If it is true that many LGBT people live in the closet for a significant number of their early years, unsafe school environments may force them to fortify their closets out of fear of discovery.

Confronting homophobia in Canada will never be more than a pipe dream available to certain adults in certain environments if Canadians do not tackle school laws, policies, and classrooms. Changing these environments will go a long way in reducing the negative effects of homophobia, as youth realize that there are options open to them if they are gay, lesbian, bisexual, or transgendered. The provision of school-mandated sex education programs has been shown to reduce suicides, attempted suicides, depression, bullying, and truancy. Community activists, allied educators, and health professionals are working to influence school environments. They work to change the attitudes of people who see their efforts as “promoting homosexuality” rather than reaching out to sexual minority youth and presenting them with possibilities. Promoting positive images of a future to gay, lesbian, bisexual, and transgendered youth may be the most efficient means of saving their lives, both literally and figuratively.

Two innovative programs should be highlighted here. The first, a community-based outreach program in Nova Scotia, The Youth Project, has had a major impact on the school system of that province. The program offers supportive services to lesbian, gay, bisexual, transgendered, and questioning youth, and policy development support for schools and school boards wishing to implement anti-homophobic and gay-positive environments. They have also instituted the Health Canada-funded program “Hear Us Out,” which aims to lend youth voices to the policy debates in the Health, Education, and Justice Departments of the Nova Scotian government. The second program, GRIS-Montreal (Groupe de Recherche et d’Intervention Sociale gaies et lesbiennes de Montréal), conducts sensitivity workshops in hundreds of Montreal-area schools, providing students the opportunity to interact with gay and lesbian young adults who talk about their lives. GRIS-Montreal has secured a great deal of media coverage by attracting well-known personalities as spokespersons to denounce homophobia.

Presenting same-sex relationships as valid relationships from the earliest grades is an essential component in any academic curriculum discussing family life or Canadian citizenship. Promoting cultural diversity, the respect of differences, and the rights of minorities breathes life into the Canadian Charter of Rights and Freedoms. Only one quarter of the schools that volunteered to participate in a recent study of the *Conseil permanent de la jeunesse* in Quebec had an antidiscriminatory policy in place, and in more than half of these cases, either the policy was not promoted or it did not have a specific method for handling complaints. A majority of schools did not offer any information or sensitization activities either to their staff or to parents. Two-thirds of the schools did offer activities to students, but on an irregular basis. Knowledge of resources and tools to help LGBT students is frequently lacking in Quebec’s schools.⁴

Some believe that a critical eye should be trained on professional schools, colleges, and universities in Canada in regard to homophobia, as, in the 20th century, hatred and rejection of gay and lesbian people often came forth in the teachings of medical, psychology, sexology, and psychiatry departments.

EMPLOYMENT AND ECONOMICS

Canada is one of the richest nations in the world. Its capitalist economy is founded on abundant natural resources supported by a highly qualified workforce. Commercially, Canada benefits from its close proximity to the United States, but it also distinguishes itself from its powerful neighbor through greater government involvement in the distribution of wealth.

In terms of employment, discrimination based on sexual orientation is prohibited by the human rights charters of all provinces and territories, and by the Canadian Human Rights Act, which applies to organizations under federal jurisdiction. Gay and lesbian victims of discrimination may use the courts to enforce the charters, but procedures are often long and complicated.

Unionization also offers a certain protection against employers’ arbitrariness. In Canada, 30 percent of the workforce is unionized. In the public sector, the workforce unionization rate is higher (72%) than in the private sector (17%).⁵ Facing pressure from their gay and lesbian members, major labor unions have actively supported legal and political battles for the recognition of same-sex couples and

same-sex parents. Nondiscrimination clauses have also been added to several collective bargaining agreements.

Despite the rights gained by workers, homophobia persists in the workplace. Discrimination in the form of discharge or job refusal is often disguised under false pretenses, which makes it difficult to expose. Gay and lesbian employees who do not have job security or union protection are the most vulnerable. The work environment is particularly homophobic in businesses where the workforce is predominantly male and where the organizational culture values traditionally masculine skills, such as physical strength or aggression. Many lesbians are victims of sexual harassment, whether or not they have come out in their workplace. Many gay and lesbian employees also experience other instances of discrimination based on gender, race, or other factors that impede their career advancement.

During the Cold War years, an antihomosexual security campaign was organized at the national level aimed at detecting and eliminating gays and lesbians who worked in the Civil Service, the Royal Canadian Mounted Police, and the military. As a result, many of these workers were fired or displaced. Scientists were asked to create a reliable method in order to detect homosexuals, often called "fruits." The "fruit machine," an experimental device comprised of a series of pseudo-scientific tests, never actually worked, as it was based on false assumptions.⁶ The security program was eliminated in the late 1960s, but this did not change the fact that open gays and lesbians could be discharged from the Canadian Army as late as 1988 for their sexual orientation. In 1992, this motive for discharge was declared to be contrary to the Canadian Charter of Rights and Freedoms. In spite of this, few military men and women risk coming out, and those who do expose themselves to the rejection of their peers, particularly in situations of physical proximity, and other forms of ostracism.⁷

Large Canadian cities such as Vancouver, Toronto, and Montreal promote gay tourism. Montreal hosted the first World Outgames in July 2006, a sporting and cultural event that also included an international conference for the advancement of gay, lesbian, bisexual, and transgender rights. The first North American Outgames were held in Calgary in April 2007. It is ironic that the conservative province of Alberta, the last to include sexual orientation in its Charter of Rights when it was forced to do so by a Supreme Court of Canada ruling in 1998, is now trying to draw gay tourists to the beautiful scenery where the popular gay-themed movie *Brokeback Mountain* was filmed.⁸ Some major Canadian companies such as Air Canada are also making efforts to attract the gay market with publicity spots aimed at these consumers.

SEXUALITY/SEXUAL PRACTICES

Far from over, the HIV crisis continues to affect gay men and gay male communities in Canada. Evidence from various parts of Canada shows that gay men are tiring of the prevention message, even though studies indicate that 75 to 80 percent of gay men in Canadian cities practice safer sex.

In many ways, the HIV/AIDS epidemic and its implications are more complex than ever before. A new relationship with HIV appears to have emerged within the gay community, both in Canada and in other parts of the developed world, in which gay men seem to have established survival strategies in regard to HIV infection.

On a societal level, gay men quickly became aware that the government had pigeon-holed all gay issues, health needs, and struggles as HIV issues. By 1985, in Canada, it became impossible to talk about any other health issue when addressing the health of gay men. Because lesbians were perceived to be at low risk for HIV infection, their health issues rarely became part of the public discourse. Gay and lesbian communities are now waging a battle to have policymakers address the broader health issues that affect their communities, as the links between physical health, mental health, and sexual health become increasingly clear.

One of the consequences of reducing gay male health issues to the sole issue of HIV infection was to reduce gay men to the epidemiological category of men who have sex with men (MSM). This category, designed to track the HIV infection among a high-risk population, became the new blanket term to identify gay men. Since 2006, gay men have invested a lot of energy in reassigning the MSM term as an epidemiological category and to advocating for the reappearance of “gay men” as an identity category to be used in all other situations. At the same time, gay men have had to advocate with policymakers, the HIV community, and AIDS service organizations within Canada in order to not fall off the radar as a priority population in HIV prevention and care initiatives.

Canadian MSM account for approximately 50 percent of all cases of HIV infection.⁹ Prevalence rates of HIV infection among Canadian MSM average from 7 to 14 percent, depending on the survey and location.¹⁰ A Montreal ARGUS study showed that approximately one quarter of HIV-positive MSM do not know they are infected.¹¹ HIV infection among gay men is mostly attributed to unprotected anal intercourse with sexual partners of positive or unknown HIV status. For example, rates of Canadian MSM having unprotected anal intercourse with at-risk partners over a six- to 12-month period are estimated to range from 20 to 40 percent. Recent Canadian studies have linked this lack of sexual protection to a number of factors, including: intoxication during sex (particularly with poppers, crystal meth, and ecstasy), the number of partners; finding sexual partners on the Internet, in bathhouses, or in public venues, personality traits such as sexual sensation seeking and sexual compulsivity, relationship status, and the quest for intimacy.¹²

HIV-positive gay men have had to remind the broader gay community not to exclude them from their prevention efforts and to strive to build a community that is more inclusive of HIV-positive gay men and their experiences. Reports from across Canada indicate that most young gay men have never knowingly met an HIV-positive gay man. Clearly this is problematic, as HIV-positive gay men feel they are unable to speak of their status within their own community. Compounded with the increasing, yet limited, efficacy of treatments, most gay and bisexual men do not even notice the presence of HIV-positive men in their environment. This has only exacerbated the misconception that HIV has become a less serious problem for gay men. Added to this is the increasing number of gay men in relationships where at least one person is HIV positive.

Lack of Attention to Women’s Health Issues

One of the most negative consequences of limiting gay health issues to the issue of HIV is that there has been virtually no discussion of lesbian health issues in Canada. Because lesbians are at a much lower risk for HIV infection, their physical and mental health needs have been totally neglected in research and policy. One

could hypothesize that this neglect is caused by mainstream and LGBT media coverage of the gay male community as it confronted rabid homophobia, HIV phobia, and the sickness, dying, death, and grieving over those who passed away. This has been exacerbated by the fact that, as Canada moves increasingly into health promotion and population-health-oriented models of caring for gay men, it has not yet begun to address the health needs of lesbian and bisexual women.

Federal and Provincial Gay Health, Lesbian Health, and Gay and Lesbian Health Agendas

Both the HIV/AIDS activist movement and the women's health movement have helped to channel energy and focus expertise on the health needs of LGBT people. LGBT practitioners, consumers, and their allies across Canada have designed and implemented practices specifically addressing gay-positive health care and social services. Gay-positive health centers, counseling resources, and advocacy organizations specifically addressing LGBT health have emerged as a result of the work done by the LGBT community and community organizations. Most notable among them is the establishment of GayWay in Vancouver, which offers health and social services to gay and bisexual men in the Greater Vancouver area. Action Séro-Zéro of Montreal, the largest HIV prevention organization in Canada, has changed its mandate and its name in order to reflect its gay health approach more accurately. In some instances, provincial and federal governments have participated in the development of policy and practice initiatives.

Bisexuals

Studies on bisexuality in Canada do not generally distinguish between homosexual and bisexual behaviors, thereby making it difficult to make in-depth comparisons. Indications from recent epidemiological and qualitative studies highlight the patterns that are specific to bisexuals. A review of the literature on bisexuality in Quebec indicates that people who identify as bisexual appear more likely to display a high level of psychological distress and suicidal thoughts.¹³ Risk-taking with regards to HIV/AIDS is also significant among bisexual men.

Qualitative studies conducted among bisexual men and women show that many of them are resilient in the face of psychosocial difficulties, but prevention strategies regarding STDs and HIV/AIDS remain a problem.¹⁴ Issues of love, sexuality, and relationships, which differ for heterosexual and homosexual relationships, have an impact on preventive strategies. A study of affective modalities in bisexual relationships is essential for understanding resistance to effective STD and HIV/AIDS prevention.

Intersexuals

Increasingly, intersexed people are denouncing medical viewpoints that consider the states of intersexuality as a series of pathologies or disorders of sex development. They consider it a violation of human rights to impose treatment on children that will "normalize" their body appearance, and reclaim their right to affirm their own sex identity without medical or government interference. The Canadian arm of Organisation Intersex International promotes an annual intersex solidarity day every November 8, in commemoration of the life of Herculine Babin, who

committed suicide at age 30. Babin (Saint-Jean d'Angély 1838–Paris 1868) stands as one of the earliest documented cases of an intersexual person. Considered a girl and raised as such until age 22, Barbin was legally redesignated as male after she was discovered to have the physical attributes of both male and female.¹⁵

FAMILY

While figures on same-sex unions have been included in the Canadian census since 2001, data from Statistics Canada's 2006 census are the first to attest to the popularity of the well-publicized state of gay marriage. The portrait drawn is undeniable: 7,460 same-sex couples, or 16.5 percent of the 45,350 couples who declared themselves homosexual, had the legality of their union recognized by Canada. Their counterparts (37, 890 couples) declared themselves to be in common-law relationships.

Whether in marriages or common-law unions, same-sex couple declarations are most often concentrated in major urban centers. Montreal, Toronto, and Vancouver alone include 83 percent of Canadian declarations. The high number of declarations in major Canadian cities is partly attributable to their significant gay and lesbian communities.

Family Projects

In Canada, gay and lesbian family projects can result from the intentions of an individual or a couple. Couples who want to have a child can do so biologically (e.g., through natural or artificial insemination or a family project with a friend) or have recourse to adoption. Canadian regulations regarding adoption fall under provincial jurisdiction. This provincial issue also extends to regulations regarding the adoption of one spouse's child (or children) by his or her partner. According to Statistics Canada's 2006 census, 16.3 percent of lesbian couples and 2.9 percent of gay male couples declared having custody of at least one child born from a family project or a previous heterosexual union.¹⁶

While the choice of parental candidates for the adoption of Canadian children is done through regional authorities, the authorities in children's native countries regulate the international adoption of children by same-sex Canadian couples. Throughout Canada, several organizations and associations offer advice and assistance to gays and lesbians in their parental endeavors, including the LGBT Parenting Network (Ontario), the Lesbian Mothers Support Society (Alberta), and the LGBT Family Coalition (Quebec).

Seniors

According to recent Canadian studies, gay and lesbian seniors are less likely to resort to social and health services than their heterosexual peers, as they are more apprehensive about the treatment they will receive in public institutions. Many are reluctant to reveal their sexual orientation, either because they anticipate negative reactions from their peers, relatives, or caregivers, or because they are accustomed to being discreet due to past discrimination.¹⁷ Now that the first baby-boomers are reaching retirement age, seniors' residences will have to welcome these new seniors, who are often more openly gay than the previous generation. If a home

for gay seniors in Canada does not yet exist, it will not be long; projects for gay and lesbian senior residences are being developed in Montreal and Vancouver.¹⁸

COMMUNITY

Canadian LGBT activism has played a major role in the growing consciousness of LGBT realities and in the development of full-fledged legal equality for gay and lesbian citizens.

The adoption of the Charter of Rights and Freedoms has resulted in an important shift in the Canadian lesbian and gay movement. While LGBT activism had been aimed at visibility and the fight against homophobia, a number of organizations have leaned on the Charter to lead legal and political fights. Founded in 1986, a mere year after the Charter became effective, Egale Canada has been at the forefront of the equality-seeking efforts ever since.

Gay and lesbian pride festivities are celebrated annually in cities across Canada, and Vancouver, Toronto, and Montreal hold specifically exuberant Gay Pride celebrations, which are important events during which community groups and gay-friendly associations congregate. Although the event is covered as a festive occasion, many Canadians still cringe at the idea that sexual orientation is something to be proud of.

Canadian homosexual activism has tried to present a united front, often at the expense of minority groups, such as lesbians or LGBT people of color. Long marginalized under the imperative of cohesiveness, these groups organized amongst themselves in the latter years of the 20th century in order to confront their specific challenges. Members of organizations such as the Multimundo Coalition in Montreal and Salaam Canada in Toronto receive support that could, in many cases, be found neither in their ethnocultural communities nor in LGBT groups targeting broad membership.

The turn of the century has also seen the Internet change the meaning of LGBT community, with the rise of online communities and resources. Most organizations have Web sites and some operate entirely via the World Wide Web, playing a major role in reaching out to gays, lesbians, and bisexuals living in rural areas and small communities where they are often isolated and where there are frequently no local LGBT social networks.¹⁹

HEALTH

To this day, there are many Canadians who not only remember being institutionalized by health care professionals for simply expressing same-sex attraction, but also remember undergoing therapies or treatments designed to cure them of their “unnatural” and “unhealthy” predisposition, all the while facing stigma and isolation initiated by the health care system. While explicitly oppressive practices such as aversion therapy and electroshock therapy are largely a thing of the past, the underlying prejudices at the root of these practices are still apparent in today’s health care system.

Although the definition of homosexuality as pathology has changed over the past 30 years, health care workers and institutions continue to marginalize LGBT people, especially women, particularly in relation to service access and delivery. At best, the health care and social services system has attempted to create neutral

institutions based on the ideological belief that care must be accessible to all, regardless of sexual orientation, and that health care services are best situated when they are developed with no special interest group in mind. However, based on the experiences of LGBT people, this lack of attention to sexual orientation can be harmful, particularly in an environment that continues to be marked by homophobia and heterosexism. What results is a system like the one currently in place, in which, at its worst, the health of many LGBT people is compromised because of oppressive practices, and at its best, LGBT people are simply invisible and their particular needs are not taken into consideration. Given these experiences, it comes as no surprise that LGBT people have a particularly mistrustful, apprehensive, and/or problematic relationship with health care institutions and professionals. It is also no surprise that, until recently, LGBT people have had virtually no say in matters regarding health care policies, health promotion, or disease prevention.

Due to prejudice and the invisibility of the LGBT population, most health care professionals currently know very little about LGBT experiences with the health care system or the issues that LGBT people and their families face in accessing and using community health care services. Many transsexual and transgender people in Canada deplore the lack of access to adequate services, as well as the lack of knowledge of health care workers regarding issues of transsexuality. Without this knowledge, it becomes impossible to address oppression, adapt existing services, or develop new services that more appropriately address the unique health care needs of the LGBT population.

POLITICS AND LAW

In Canada, while homosexuality as such was not punishable, several sections of the Canadian Criminal Code were used to repress homosexual behavior since its creation in 1892. Crimes of buggery, gross indecency, and indecent assault on a male are some of the most notable examples. Until its abrogation in 1987, the law on gross indecency was the one most frequently used against male homosexuals. This law incriminated sexual behavior between two male adults, whether consenting or not, and regardless of whether the acts occurred in a private or public place. Canadian legislation also punished assaults that involved two men and those committed by a man against a woman.

Lesbians seem to have been relatively forgotten by penal law. The situation changed with the revision of the Criminal Code in 1954; thereafter, everyone could be accused of gross indecency or indecent assault. Although researchers found only one documented case of indecent assault by a woman against another woman, municipal by-laws regarding nuisance and similar offences could be used to harass lesbians and women cross-dressing as men in the public sphere.²⁰

According to the new criminal laws adopted in 1954, those who committed the crime of indecent assault (abrogated in 1983) could be put on a list of sexual psychopaths and incarcerated for an undetermined period of time. The inclusion of sodomy and gross indecency in the sexual psychopath law demonstrates that Canadian lawmakers considered homosexuality a danger to the community.

Beginning in 1969, the decriminalization of sexual acts committed in private was initiated with the creation of a law authorizing sexual behavior between individuals of the same sex when they involve two consenting adults over 21 years of age. As for the crime of buggery, secularized in 1988 by the term “anal intercourse,”

it was judged to be unconstitutional by the Courts of Appeal of Ontario (1992), Quebec (1998), and British Columbia (2003) for being discriminatory against homosexuals. Since April 2004, the Canadian Criminal Code has punished homophobia rather than homosexuality; Sections 318 and 319 emphasize that hate based on sexual orientation is considered an aggravating circumstance in the commission of an offense.

Canadian and Provincial Charters

In 1977, with its Charter of Human Rights and Freedoms, the province of Quebec became the first state in the world to explicitly protect LGBT people against discrimination associated with sexual orientation. This law only applied in areas of provincial jurisdiction. On a federal level, Section 3 of the Canadian Human Rights Act was first judged to be unconstitutional in 1992 by the Ontario Court of Appeal because it did not include sexual orientation as a motive for discrimination.²¹ The Supreme Court of Canada ruled on Alberta's Individual Rights Protection Act in the *Vriend* ruling in 1998. By that time, all provinces had included sexual orientation as a prohibited motive of discrimination in their Charter.

Recognition of Same-sex Spouses

Paving the way for the legalization of same-sex marriages, a 1999 ruling by the Supreme Court of Canada included same-sex couples in *de facto* unions. Several provincial court rulings authorizing same-sex marriage followed. Before the federal law on same-sex marriages was passed on June 28, 2005, eight of the 10 provinces and one of the three Canadian territories, comprising 90 percent of the population, already recognized this type of union.²² Passed with a majority of 25 votes, Bill C-38 defines civil marriage as "the lawful union of two persons to the exclusion of all others" without regard for the sex of the spouses. Affixed on July 20, 2005, the Royal Assent made Canada the fourth country in the world to legalize same-sex marriage.

Adoption

The recent visibility of same-sex families has led Canadian lawmakers to examine the recognition of new family structures. For example, in January 2007, the Supreme Court of Ontario allowed for the legal recognition of three parents (two mothers and a father), after the case was initially rejected by the local courts.

The right granted to gay and lesbian couples to marry does not, however, significantly alter their right to start a family, as jurisdiction in this matter lies with the provinces. Furthermore, it is the provincial governments that determine the rules for adoption. However, refusing to allow a same-sex couple to adopt a child because of their sexual orientation would most likely contradict the Canadian Charter of Rights and Freedoms.

The situation is somewhat different in Quebec because the Civil Code also allows parental projects "involving assisted procreation." This has resulted in Quebec having transformed the presumption of paternity into presumption of parenthood, applicable to all married couples and those in civil unions. Unlike their counterparts in Ontario, however, gay and lesbian couples in Quebec cannot use surrogate

mothers if they wish to have a child; if they do, the Civil Code will not recognize the contractual agreement.

Transsexual People's Rights

Transsexual individuals are exposed to harassment, violence, and several forms of discrimination, particularly in public places and the workplace. They often do not have access to non-gender-specific facilities, such as public restrooms. Those who work in the sex trade are criminalized and inadequately protected in prison environments.²³ Several associations are now demanding the explicit inclusion of gender identity or gender expression in the provincial and federal human rights charters in order to provide transsexual and transgender people with clear legal recourse in their fight against the many forms of discrimination of which they are victims. Such an addition would also facilitate the resolution of many legal problems in the application of laws and regulations that make reference to the binary categories of male and female. Currently, only the Northwest Territories have adopted laws that protect the rights of transsexual individuals. In Quebec, a 1998 ruling established that it is forbidden to discriminate on the basis of sex, including transsexualism, as well as the transition process. In 2002, male to female transgendered person Micheline Montreuil obtained the right in the Quebec Court of Appeal to have a feminine first name added to her birth certificate.²⁴

RELIGION AND SPIRITUALITY

According to the 2001 census, almost three quarters of Canadians identify their religion as Roman Catholic (43%) or Protestant (30%). Other major religious denominations include Eastern Orthodox Christianity, Judaism, Islam, Buddhism, Hinduism and Sikhism. Sixteen percent of the population declares itself to be nonreligious.²⁵

Many sects of Christianity, Judaism, and Islam disapprove of homosexual conduct on the basis of moral grounds and broad interpretation of religious texts. Most churches officially disagree with the new laws recognizing same-sex couples and same-sex parents, but many religious leaders do not share their point of view. While the conservative Interfaith Coalition on Marriage and Family, composed of four religious groups, expressed its opposition to the legalization of civil marriage for same-sex couples and tried to obstruct the process, the United Church, the Unitarian Church, and most reform Jewish congregations have been open to the idea of gay marriage.²⁶

In many large Canadian cities, the Metropolitan Community Church welcomes LGBT people to their congregations. The church blessed thousands of same-sex unions before the legalization of civil marriage for same-sex couples in 2005 and continues to do so. The Metropolitan Community Church of Toronto, the largest MCC congregation in Canada, played an active role in the fight for gay marriage in Ontario, issuing legal proceedings in order to protect its rights to religious freedom and to celebrate same-sex marriages.²⁷

The United Church, to which close to 10 percent of the Canadian population belongs, encourages discussion of the inclusion of LGBT people in its congregations, the meaning of marriage, and the diversity of modern couples and families.²⁸ Because of its decentralized structure, parishes are invited to take an independent

stand on issues related to homosexuality and the celebration of weddings between two people of the same sex. Several parishes openly welcome LGBT people and some offer spirituality groups that are specifically targeted to LGBT people.

Discussions and debates are also taking place in other churches. The Anglican Church of Canada is deeply divided on the subject of allowing active gays and lesbians to become clergy members, and on the subject of blessing same-sex unions. Within the Catholic Church, priests have denounced the official positions of church authorities regarding gay marriage and denying access to priesthood for gay men.²⁹ The Vatican's inflexibility on a number of issues relating to sexuality and the family has led to a massive abandonment of Catholic religious practice in Quebec. The reception that LGBT people receive in Catholic congregations varies from one parish to another.

Movements such as Real Women and Équité Famille, inspired by the religious right, continue to denounce the gay lobby. They accuse the lobby of jeopardizing the natural order of the heterosexual couple and causing irreparable damage to children educated in same-sex families. Real Women of Canada, an antifeminist organization, is currently accusing gay activists of going into schools in order to promote homosexuality among children and youth under the false pretext of fighting homophobic violence and harassment in schools.³⁰

First Nations

Some LGBT people of First Nations origin claim to have a distinct identity as two-spirited people. In several Native cultures, people who held both masculine and feminine attributes were once considered to belong to a third gender that completely integrated the essence of the Great Spirit. While these ancestral figures were once honored, today they have practically disappeared as a result of colonization and forced Christianization. In addition to living with poverty and racism, two-spirited people are marginalized both in Native communities and in Caucasian LGBT communities. They are therefore particularly vulnerable in terms of their physical, sexual, and mental health. For the past two decades, independent organizations for two-spirited people have been offering adapted programs and services, notably for HIV-AIDS.³¹

VIOLENCE

Since the establishment of the Canadian Charter of Rights and Freedoms in 1985, Canada has earned an international reputation for its progressive attitudes. Section 15 of the Charter states the grounds on which discrimination is illegal and reads as follows: "Every individual is equal before and under the law and has the right to equal protection and benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, color, religion, sex, age or mental or physical disability."³² The Canadian judicial system has always recommended a broad interpretation of the Charter to include provisions for similar forms of discrimination, including sexual orientation.

Nevertheless, hundreds of Canadian men and women are assaulted or killed every year in homophobic incidents. It is difficult to draw a Canada-wide portrait of the situation, or even monitor its evolution, since the majority of police records rarely indicate the motive behind an assault or murder, as it cannot be assumed

until proven in court. As a result, Canada's large urban centers have minimal data associated with hate crimes or no real statistics at all.³³

In reality, Canada does not have any explicit laws aimed at countering homophobic violence. The Criminal Code provides for the possibility of increasing a prison sentence in cases of hate-motivated crimes, but the application of this law is irregular and is left to the discretion of local judicial authorities.³⁴ In 2004, Canada's House of Commons adopted Bill C-250, aimed at amending the Criminal Code section that deals with hate propaganda, in order to include sexual orientation as illegal grounds for discrimination. In doing so, it theoretically broadened the legal protections granted by the Criminal Code to include individual victims of homophobic violence.

LGBT people, and individuals perceived as sexual minorities, are still the target of hateful words and acts, ranging from simple teasing to brutal murder.³⁵ Douglas Janoff, a criminologist, examined approximately 350 incidents of homophobic violence in Canada. An analysis of these incidents shows the extent to which brutality is used in the perpetration of homophobic violence; more than three-quarters of the incidents involved some form of physical violence. Furthermore, it also suggested that a victim of gay-related homicide is more likely than other victims to die due to the number of severe injuries covering a large part of his body.

Lesbians

Lesbians in Canada are exposed to a different type of violence than gay men. While gay men are more often victims of physical violence involving intimidation, threats, assault, and injury, lesbians tend to experience a more insidious form of violence.³⁶ According to a recent study on homosexuality and the workplace, 15.7 percent of lesbians reported having been harassed or the victim of undesired heterosexual advances in their work environment. Furthermore, lesbian sexuality is often rendered invisible by the instigators of homophobic violence and by the women themselves. Many Canadian lesbians choose not to discuss their sexual orientation in one or more spheres of their lives, and might not display affection for their partner in public or private due to their fear of antilesbian harassment. Many lesbians also pay particular attention to the way they present themselves physically.³⁷

In addition to homophobic, lesbophobic, and transphobic violence, sexual minorities in Canada must also face the issue of domestic violence, which sometimes takes place in LGBT relationships.³⁸ It is difficult to determine the prevalence of this form of abuse in Canada. According to studies on the subject, both lesbians and gays are reluctant to report partner violence, out of fear of perceived or actual homophobia. A 2005 Statistics Canada report³⁹ indicates that the rate of spousal violence among gays and lesbians was twice the rate of their heterosexual counterparts (15% versus 7%), but cautions readers to interpret the results carefully, as they rely on self-reporting (for both violence episodes and sexual orientation). Lesbians in particular grapple with the combined effects of sexism and homophobia and may fear they will not be believed if they disclose the gender of their abuser.

Although presenting important similarities to heterosexual domestic violence, violence among same-sex couples may include specific abusive behaviors, such as threats to reveal a partner's sexual orientation or threats to jeopardize custody of a partner's children, particularly in the case of lesbians.

LGBT organizations stress the importance of addressing relationship violence within same-sex couples. In Quebec, the *Centre de solidarité lesbienne* (formerly the *Groupe d'intervention en violence conjugale chez les lesbiennes*) offers training opportunities to hospital staff and crisis organizations workers. A few organizations across Canada provide information and resources targeting gay or bisexual men, such as Violence in Gay Male Relationships (VIGOR) in Calgary, Alberta.

OUTLOOK FOR THE 21ST CENTURY

Since the late 1990s Canada has emerged as a leader in defending the rights of LGBT people. At the same time, if recent legal advances such as the legalization of same-sex marriage demonstrate the significant gains that have been made, they also point to some important gaps.

Canada has not yet introduced legislation that explicitly protects citizens who are victims of homophobic violence and harassment, leaving LGBT people to fight for themselves in court. For example, a 2005 British Columbia Court of Appeal decision ruled in favor of Azmi Jubran, a student who filed a human rights complaint against his school district on the grounds that he had been discriminated against and harassed because of his perceived sexual orientation. The Human Rights Tribunal found the school district responsible for the discrimination, and ruled that it should have provided all students, including Jubran, with a safe educational environment. Many Canadian employers saw this decision as opening the door to an increased responsibility for offering a safe work environment.

Canada's population is ethnically diverse. In 2001, close to 20 percent of Canadian citizens were born outside of the country. Canada is also one of the few countries to grant refugee status on the basis of discrimination against sexual orientation. Canadian LGBT communities therefore include people from many different ethnocultural backgrounds, many of whom have paid the price of racism and homophobia. Their specific needs in terms of integration and access to social services still need to be recognized and considered, both by their LGBT community and by members of their own cultural communities.⁴⁰

Even though the Canadian legal system has had to recognize and enforce equality for all citizens according to the requirements of the Canadian Charter of Rights and Freedoms, it seems that social advances sometimes struggle to keep pace with advances in legislation.

RESOURCE GUIDE

Suggested Reading

- Irène Demczuk and Frank W. Remiggi, eds., *Sortir de l'ombre. Histoire des communautés lesbienne et gaie de Montréal* (Montreal: VLB éditeur, 1998).
- Michel Dorais, *Dead Boys Can't Dance: Sexual Orientation, Masculinity, and Suicide* (Montreal: McGill-Queen's University Press, 2004).
- Ross Higgins, *De la clandestinité à l'affirmation. Pour une histoire de la communauté gaie montréalaise* (Montreal: Comeau and Nadeau, 1999).
- Gerald Hunt and David Rayside, *Equity, Diversity, and Canadian Labour* (Toronto: University of Toronto Press, 2007).

- Paul Jackson, *One of the Boys: Homosexuality in the Military during World War II* (Montreal: McGill-Queen's University Press, 2004).
- Douglas Victor Janoff, *Pink Blood: Homophobic Violence in Canada* (Toronto: University of Toronto Press, 2005).
- Gary Kinsman, *The Regulation of Desire: Sexuality in Canada*, 2nd ed. (Montreal: Black Rose Books, 1996).
- Sylvain Larocque, *Gay Marriage: The Story of a Canadian Social Revolution* (Halifax: Lorimer, 2006).
- Vivian K. Namaste, *C'était du spectacle! L'histoire des artistes transsexuelles à Montréal, 1955–1985* (Montreal: McGill-Queen's University Press, 2005).
- David Rayside, *Queer Inclusions, Continental Divisions: Public Recognition of Sexual Diversity in Canada and the United States* (Toronto: University of Toronto Press, 2004).
- Nathalie Ricard, *Maternités lesbiennes* (Montréal: Éditions du remue-ménage, 2001).
- Michael Riordon, *Eating Fire: Family Life on the Queer Side* (Toronto: Between the Lines, 2001).
- Michael Riordon, *Out Our Way: Gay and Lesbian Life in the Country* (Toronto: Between the Lines, 1999).
- Alvin Schrader and Kristopher Wells, *Challenging Silence, Challenging Censorship: Inclusive Resources, Strategies and Policy Directives for Addressing Bisexual, Gay, Lesbian, Trans-Identified and Two-Spirited Realities in School and Public Libraries* (Ottawa: Canadian Teachers' Federation, 2007).
- Miriam Smith, *Lesbian and Gay Rights in Canada: Social Movements and Equality-Seeking, 1971–1995* (Toronto: University of Toronto Press, 1999).
- Mark Tewksbury, *Inside Out: Straight Talk from a Gay Jock* (Toronto: Wiley, 2006).
- Tom Warner, *Never Going Back: A History of Queer Activism in Canada* (Toronto: University of Toronto Press, 2002).

Videos/Films

- Anatomy of Desire*, DVD, directed by Jean-François Monette and Peter Tyler Boullata (1995; Montreal: National Film Board of Canada/Bare Bone Films, 1995). Documentary examines how science and social politics have shaped notions of homosexuality through history.
- D'ici et d'ailleurs*, DVD, directed by Nada Raphaël (2007; Montreal: Electrochocks Productions, 2008). Explores the lives of nine lesbian women of color living in or around Montreal.
- End of Second Class*, DVD, directed by Nancy Nicol (2006; Toronto: Intervention Video, 2006). Through the voices of three couples from Quebec, Ontario, and British Columbia, as well as key activists, to trace the story of the struggle for the right to marry, a battle won in 2005.
- Eye on the Guy: Alan B. Stone and the Age of Beefcake*, DVD, directed by Philip Lewis and Jean-François Monette (2006; Montreal: Films en vue 2006). Film explores the little-known world of physique photography through the work of one of its most creative figures, Alan B. Stone, who took erotic photographs of men and ran an international mail-order business from his Montreal basement.
- Forbidden Love: The Unashamed Stories of Lesbian Lives*, DVD, directed by Aerlyn Weissman and Lynne Fernie (1992; Toronto: National Film Board of Canada, 1992). Documentary wherein 10 Canadian women talk about being lesbian in the 1940s, 1950s and 1960s.
- In Other Words*, DVD, directed by Jan Padgett (2001; Vancouver: National Film Board of Canada, 2001). Documentary with interviews with gay, lesbian, and transgendered teens. Name-calling and homophobic language are common verbal put-downs among young people, but many adults feel uncomfortable responding.

- In The Flesh*, DVD, directed by Gordon McLennan (2000; Vancouver: National Film Board of Canada, 2000). Provocative documentary challenges the rigid conventions about gender labels through the stories of four transsexuals.
- Little Sister's vs. Big Brother*, DVD, directed by Aerlyn Weissman (2002; Vancouver: National Film Board of Canada, 2002). Documentary showing how Little Sister's Book and Art Emporium, a pioneering gay and lesbian bookstore in Vancouver, took on the government's customs office that had seized thousands of gay-themed books and magazines at the border, claiming the material was pornographic.
- Mommy Mommy*, DVD, directed by Sylvie Rosenthal (2007; Quebec: Rezolution Pictures, 2007). Video follows a lesbian couple from Quebec on their quest to create the family they've always dreamed about.
- Open Secrets*, DVD, directed by José Torrealba (2003; Montreal: National Film Board of Canada, 2003). Documentary traces how the Canadian Armed Forces dealt with homosexual behavior among soldiers during and after World War II. A group of veterans break their silence after more than 60 years.
- Politics of the Heart*, DVD, directed by Nancy Nicol (2005; Toronto: Intervention Video, 2005). Documentary portrait of lesbian and gay families who reshaped the cultural and political landscape of Quebec, by fighting for recognition of their relationships, families, and homoparental rights.
- Prisoners of Violence—Same-Sex Partner Abuse*, VHS, directed by Cal Garingan (2003; Vancouver: National Film Board of Canada, 2003). Documentary showing how same-sex partner abuse tends to be unreported, due to the victims' isolation and society's misconceptions about the issue.
- Prom Queen: The Marc Hall Story*, DVD, directed by John L'Écuyer (2004, Hamilton, Ontario: Wolfe Video, 2004). Television movie telling the story of Marc Hall, a Canadian gay teenager whose legal fight to bring his boyfriend to his Catholic high school prom made national headlines in 2002.
- School's Out*, DVD, directed by Lynne Fernie (1996; Toronto: National Film Board of Canada, 1996). Documentary with TEACH (Teens Educating and Confronting Homophobia) members talking about their lives and their classroom visits, provoking discussions about homophobia and sexism in today's school yards.
- "Susan," *Skin Deep* (Episode 31, "Susan"; Toronto: Inner City Films/Being Human Productions, 2002). Susan, a 48-year-old transsexual, discusses the issues raised by her transsexuality and her efforts to bring her body into congruence with what is going on in her mind.
- Sticks and Stones*, DVD, directed by Jan Padgett (2001; Vancouver: National Film Board of Canada). Documentary where children between the ages five and 12 vividly describe how it feels to be teased when their families do not follow traditional gender roles. They talk about why bullies engage in name-calling and what they think should be done about it.
- Stolen Moments*, DVD directed by Margaret Westcott (1997; Montreal: National Film Board of Canada, 1997). Documentary covers three centuries of lesbian history, from the unique lesbian cultures of Amsterdam, Paris, and Berlin to the more recent North American meccas of Montreal, Vancouver, New York, and San Francisco.
- Two-Spirited/First Stories—vol. III*, DVD, directed by Sharon A. Desjarlais (2007; Vancouver: National Film Board of Canada, 2007). Documentary of the empowering story of Rodney "Geeyo" Poucette's shattering encounter with prejudice and his journey to overcome it.
- Why Thee Wed?* DVD, directed by Cal Garingan (2005; Vancouver: National Film Board of Canada, 2005). In 2003, British Columbia became the second Canadian province to recognize same-sex marriage. This film introduces the eight couples who challenged the law in court and offers diverse perspectives on what it means for gay and lesbian couples to walk down the aisle.

Web Sites

2spirits.com, <http://www.2spirits.com>.

Designed to inform Aboriginal two-spirited people about health and care programs.

AlterHéros, <http://www.alterheros.com>.

Facilitates the integration of gay, lesbian, bisexual, and transgendered youth by informing and educating people about LGBT issues.

Canadian Federation for the Humanities and Social Sciences, <http://www.fedcan.ca/english/issues/sexual/queerprograms.cfm>.

A list of queer programs offered in Canadian universities.

Canadian Rainbow Health Coalition, <http://www.rainbowhealth.ca>.

National organization that addresses various health and wellness issues encountered by LGBT people.

Family Pride Canada, <http://www.uwo.ca/pridelib/family>.

National online resource center for queer parents and families.

Gay Canada, <http://www.gaycanada.com>.

Community-based information network for gays, lesbians, and bisexuals.

International Day Against Homophobia, <http://www.homophobiaday.org>.

Tools and information about the International Day Against Homophobia, a rallying event held on every May 17th.

Intersex Society of North America, <http://www.isna.org>.

Premier resource for people seeking information and advice about intersexuality.

Transgender Health Program, <http://www.vch.ca/transhealth>.

Aims to bring together transgender people and loved ones, health care providers, health planners, and researchers to work on improving transgender health services in British Columbia.

TransParent Canada, <http://www.transparentcanada.ca>.

Support network for parents of transexual children.

Organizations

Action Séro Zéro, <http://www.sero-zero.qc.ca>.

Montreal-based community organization that offers gay and bisexual men, as well as men who have sexual relations with other men, a variety of free services in the areas of health promotion as well as in the prevention of HIV/AIDS and blood-borne and sexually transmitted infections.

AIDS PEI, <http://www.aidspei.com>.

Dedicated to creating supportive environments for people living with HIV/AIDS, increasing public understanding of the impact of HIV/AIDS, and reducing the incidence of HIV/AIDS on Prince Edward Island.

Canadian Aboriginal AIDS Network, <http://www.caan.ca>.

Coalition of individuals and organizations that provides leadership, support, and advocacy for Aboriginal people living with and affected by HIV/AIDS.

Canadian Aids Society, <http://www.cdnmaids.ca>.

National coalition of over 125 community-based AIDS organizations.

Canadian Lesbian and Gay Archives, <http://www.clga.ca>

Organization whose primary mandate is to collect and maintain information related to gay and lesbian life in Canada.

Coalition for Lesbian and Gay Rights in Ontario/Coalition pour les droits des lesbiennes et personnes gaies en Ontario, http://www.web.net/~clgro/home_cat.htm#top_of_page.

Organization composed of groups and individuals who are committed to working toward feminism and bisexual, lesbian, and gay liberation by engaging in the

public struggle for full human rights, by promoting diversity and access, and by strengthening cooperative networks for lesbian, gay, and bisexual activism.

Coalition des organismes communautaires québécois de lutte contre le sida, <http://www.cocqsida.com>.

Brings together Quebec-based community organizations involved in the fight against AIDS in order to encourage the emergence and support of a collective approach.

Conseil québécois des gais et lesbiennes (Quebec Council of Gays and Lesbians), <http://www.cqgl.ca>.

Bringing together approximately 30 organizations, this council plays a leadership role in defending the rights of LGBT people.

Egale Canada, <http://www.egale.ca>.

National organization that advances equality and justice for lesbian, gay, bisexual, and trans-identified people, and their families.

Fondation Émergence, <http://www.fondationemergence.org>.

Promotes the development and enrichment of LGBT people and their inclusion in society and fights against prejudice. Also supports the mission of Gai Écoute, an active listening telephone service for people who have questions or concerns regarding sexual orientation.

HELPING OUT, <http://www.helpingout.ca>.

Managed by the Rainbow Resource Centre and works toward an equal and diverse society free of homophobia and discrimination by encouraging visibility and fostering health and self-acceptance through education, support, resources and outreach.

LAMBDA Institute of Gay and Lesbian Studies, <http://www.ualberta.ca/~cbidwell/cmb/lambda.htm>.

Promotes research into lesbian and gay issues and lifestyles for the purpose of public education.

LGBT Parenting Network, <http://www.fsatoronto.com/programs/lgbtparenting.html>.

Provides resources, information, and support to LGBT parents and their families.

LGBT Family Coalition of Quebec/Coalition des familles homoparentales du Québec, <http://www.familleshomoparentales.org>.

Bilingual group of LGBT parents and future parents having fun together with their children, exchanging information, sharing resources, and advocating for the legal and social recognition of LGBT families.

Multimundo Coalition, <http://ca.groups.yahoo.com/group/Coalition-MultiMundo>.

Brings together community organizations and individuals from Montreal who work with LGBTQ people from different ethnocultural communities.

PFLAG Canada, <http://www.pflagcanada.ca>.

Organization that provides support, education, and resources to parents, families, and individuals who have questions or concerns about sexual orientation or gender identity.

QAQY/Quebec Alliance of Queer Youth, <http://www.rejaq.coalitionjeunesse.org>.

Brings together community organizations and student associations that work with young LGBT people questioning their sexual orientation, and their allies, throughout Quebec.

Salaam Canada, <http://www.salaamcanada.com>.

Muslim-identified organization dedicated to social justice, peace, and human dignity through its work to bring people closer to a world that is free from injustice, including prejudice, discrimination, racism, misogyny, sexism, homophobia, and transphobia.

SOY Toronto, <http://www.soytoronto.ca>.

Community development project designed to improve the lives of lesbian, gay, bisexual, transsexual, and transgendered youth in Toronto through the active involvement of youth and adult communities.

Trans Alliance Society, <http://www.transalliancesociety.org>.

Provides forums and resources to assist in the personal development of its members and support services for the trans-community.

Voices of Positive Women, <http://www.vopw.org>.

Provincial, community-based nonprofit organization directed by and for women living with HIV/AIDS in Ontario.

Xpressions, <http://www.xpressions.org>.

Social and support organization dedicated to serving the larger transgender community.

NOTES

1. Civil Marriage Act, S.C. 2005, c.33, Canadian Legal Information Institute, <http://www.canlii.org/en/ca/laws/stat/sc-2005-c-33/latest/sc-2005-c-33.html> (accessed July 14, 2009)

2. G. Émond and J. Bastien-Charlebois, "L'homophobie: pas dans ma cour!," GRIS-Montreal 2007, http://www.gris.ca/_images/imagesfr/document/F_rapport_recherche_LR.pdf (accessed September 1, 2007), p. 66.

3. J. Goldberg, et al., "Caring for Transgender Adolescents in BC: Suggested Guidelines, Transgender Health Program," TransHealth 2006, <http://www.vch.ca/transhealth/resources/careguidelines.html> (accessed September 1, 2007).

4. L. Fournier, *Sortons l'homophobie du placard... et de nos écoles secondaires* (Quebec: Conseil permanent de la jeunesse, 2007), 49–79.

5. Statistics Canada. "Unionization, Ottawa," <http://www.statcan.ca/english/freepub/75-001-XIE/comm/fact-2.htm> (accessed February 1, 2008).

6. G. Kinsman, "The Canadian Cold War on Queers: Sexual Regulation and Resistance," in *Love, Hate, and Fear in Canada's Cold War*, ed. R. Cavell (Toronto: University of Toronto Press/Green College Thematic Series, 2004), 108–32; G. Kinsman, "National Security as Moral Regulation: Making the Normal and the Deviant in the Security Campaigns Against Gay Men and Lesbians," in *Making Normal: Social Regulation in Canada*, ed. D. Brock (Toronto: Thomson/Nelson, 2003), 121–45.

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CHILE

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OVERVIEW

Officially named the Republic of Chile, this South American country is made up of a long, narrow stretch of land between the Pacific Ocean and the Andes Mountains, bordered on the north by Peru, on the east by Bolivia and Argentina, and on the south by the Drake Passage. In addition, it possesses insular territories in the Pacific Ocean, such as the Juan Fernández Archipelago, Sala y Gómez Island, Desventuradas Islands (“Unfortunate Islands”) and Easter Island (located in Polynesia), with a total surface area of 291,830.9 square miles.

Chile also claims sovereignty over 482,727.1 square miles of Antarctica, stretching from Chile’s southern tip to the South Pole. This claim was halted, but not renounced, with the country’s signing of the Antarctic Treaty. Due to its presence in South America, Oceania, and Antarctica, Chile defines itself as a tri-continental country.

Chile had an estimated population of 16,598,074 in 2007. According to the latest national census undertaken in 2002, the population was 15,116,435, of which 7,447,695 were male and 7,668,740 were female. Due to improved living conditions, the life expectancy of Chileans (which is the highest in Latin America) increased to 77.74 years for the period from 2000 to 2005. The ethnic composition is a relatively homogenous, mostly white mixture. Some 70 percent of Chileans practice Catholicism, with 15.14 percent identifying as Evangelicals, 1.06 percent as Jehovah’s Witnesses, 0.92 percent as Mormons, and 0.13 percent as Jewish; 8.3 percent of the



country defines itself as atheist or agnostic, while 4.39 percent claims to follow some other religion.

Pre-Hispanic cultures constitute a clear minority in Chile, a fact that contrasts with the large presence of indigenous populations in the cultural centers of Peru and Mexico. During the Colonial Period and after the first century of independence, the indigenous population experienced slow population growth and did not develop a strong cultural or economic center. As a result, the indigenous population was not able to garner significant cultural weight. The great contribution of this small, narrow country to the rest of the continent is, without a doubt, the development of a historically strong democratic republic, which, from the first independence movements until the latter portion of the 20th century, has proved itself a nation anchored in democratic principles for more than 150 years. Recently, this progress was severely interrupted by the political-economic crisis that brought forth the dictatorship of Augusto Pinochet Ugarte (1973–1990). Because of this difficult experience, the country has endured a slow process of recovering its historic memory and reinstating and modernizing its republican traditions. Currently, Chile has solidified its position through political and institutional reconstruction.

In recent decades, Chile has exercised significant leadership in the economic course of Latin America, despite lacking a large economic or geographic footprint. With high growth levels, a progressive reduction of unemployment, high export levels, and improvement by all macroeconomic indexes, the country has been able to pay all of its external debt, optimally situating itself in the international market. These sound economic practices have been amply rewarded by international institutions. Nevertheless, Chile has not managed to overcome certain persistent hurdles, such as economic inequality and a constant preoccupation with ecological deterioration.

Chile was traditionally considered a frugal country. Its inhabitants liked to be called “the English of Latin America,” and such self-consciousness can be seen in their clothing, customs, diction, and sobriety when expressing emotion. However, this did not inhibit, especially in the 1950s and 1960s, the influence of modernizing currents from around the world. The country’s largest cities, especially Santiago de Chile (its capital), had a nightlife that emulated Paris and Europe in general; a discreet Bohemia was another part of the city culture, which permitted certain levels—while small—of alternative sexual expression. More promising were the changes associated with the sexual revolution that began to appear by the end of the 1960s. Nevertheless, the military coup (in 1973), of conservative cloth and strongly influenced by Spanish Francoism, ended all those movements. The *noche santiaguina*—Santiago’s nightlife—was put on hold for several years during the prolonged state of emergency that was imposed upon the Chilean population. This repression of alternative expression began to change little by little even before the fall of the military government.

OVERVIEW OF LGBT ISSUES

During the Pre-Columbian age, homoeroticism was considered in many different ways by the indigenous peoples that inhabited the territory that would later become the Republic of Chile. The Mapuche people (the original majority culture) considered sexuality to be equal between men and women; therefore an effeminate

man would not lose any social privilege, power, or status, simply because being a man was regarded no differently than being a woman. The *machis* (Mapuche shamans) of ancient times were usually men adorned and dressed with characteristically feminine elements, given that spiritual power was associated with the female gender. According to some investigators, the *machis* were *weye* (a term for “homosexual” in Mapudungun, the language spoken by the Mapuche) and practiced passive pederasty, accompanied by youths who performed the active role; others consider that the idea of the *machis* as homosexuals or pederasts came forth when the Spanish conquistadors arrived in Chile and attempted to understand the attitudes of the *machis* from their own perspective (completely different from that of the Mapuche). In the Inca Empire, which dominated a large part of north and central-northern Chile, homosexuality was associated with concepts of a religious and sacred character and was common practice; even lesbian relationships were met with approval.

With the conquest of Chile by the Spanish Empire (starting in 1541) and the advent of the colonial regime, homosexuality was prohibited as it was in the Metropolis following the precepts of the Catholic Church. In Chile, however, the Inquisition was not the agency charged with punishing such crimes, but rather the royal tribunals and the bishopric did this. In 1612, after his expeditions during the War of Arauco, Governor Juan de la Jaraquemada felt compelled to return to Fort Angol in order to judge and sentence six soldiers accused of sodomy and treason to burning at the stake. The influence of Christian morality also affected the indigenous cultures: the majority of the *machis* were replaced by women, and even centuries later, Claudio Gay (a French naturalist who lived and worked for many years in Chile), would describe the “Indians of Chile” who, despite their belligerence, only imposed the death penalty on those guilty of “sodomy and witchcraft.”

Subsequently, by virtue of the cultural influence associated with the process of colonization, homosexuality is now widely considered a taboo subject within Chilean society, which is characterized as conservative even when compared to other Latin American countries. This attitude is reflected in Chilean private life, which became accustomed to covering dark aspects with silence and “a thick veil.”²¹ For example, the existence of homosexuals within Chilean families was justified with expressions that seemed to make clear that the uncle would never be married, since he was so shrewd, solitary, or difficult to please.

For a large portion of Chilean history, homosexuality was legally prohibited, yet specific methods of repression were not designated. The main exception was the persecution of homosexuals during the first government of Carlos Ibáñez del Campo and the passing of the “Law of Antisocial States” (*Ley de Estados Antisociales*)² of 1954 that specifically targeted the homeless, the mentally insane, and homosexuals.

After a slight opening to the subject during the years of the socialist government of Salvador Allende (1970–1973), the dictatorial repression that followed imposed a general and implicit crack-down on homosexual activities. Pinochet’s conservative Catholic government severely deterred any incipient gay or lesbian collective organizations. Nevertheless, the same liberal economic model that was implemented during those years began to receive a heavy dose of varied cultural influences from the United States. As a result of the weakening authoritarian structures of the 1980s, progressive cultural advances were made in searching for a transition to democracy. For example, the artistic duo formed by Francisco Casas and

Pedro Lemebel (The Mares of the Apocalypse, or “Las yeguas del Apocalipsis”) carried out numerous artistic performances from 1987 to 1995 that helped generate a movement that was meant to politicize several points that had not yet been represented in the national agenda: principally homosexuality and HIV/AIDS. All of this began as common street performance and became more formal later on. The unrest was born of a perspective amply integrated into the fight for human rights that was already taking shape in the country on other fronts.

Little by little, organizations began to emerge. Toward the end of the 1980s, the Chilean Corporation for the Prevention of AIDS (Corporación Chilena de Prevención del SIDA) was born, providing a space for organizing and resisting the dangerous and still largely unknown disease. Several homosexuals came together through this organization and later went on to create the Workshop for Civil Rights (Taller de Derechos Civiles), which in turn became the Unified Movement of Sexual Minorities (Movimiento Unificado de Minorías Sexuales, abbreviated as MUMS). Their intention was to integrate gays, lesbians, transvestites, and transsexuals as they pushed for political consideration for Chile’s minority populations. In 1991, the Homosexual Liberation Movement (Movimiento de Liberación Homosexual, abbreviated as MOVILH) was born, which has led diverse fights against gender discrimination. One fundamental achievement of these groups was the passage of a legal motion to repeal antisodomy laws in 1998. Concretely, Article 365 of Law 11.625 (1954) of the Chilean Penal Code was altered, which had criminalized homosexual relations even between consenting adults.

The campaign directed by MUMS has a wide vector of projection, seeking to integrate the fight for equal rights for sexual minorities with other important processes in Chile’s cultural development in recent years: the feminist movement, the ecological movement, NGOs, and so on. On the one hand, these agencies are engaged in a continuous effort to help the citizenry develop a mature and respectful attitude toward sexual minorities, and on the other, to raise awareness within the LGBT community of its own rights.

The emergence of social movements, the aforementioned legal alteration, the progressive coming out of well-known actors in Chile’s cultural life, the acknowledgement by mainstream media of the rights of sexual minorities, and the representation of gay characters on some telenovelas (for example, *Machos*, in 2003) are all factors that have helped many men and women to overcome the fears they had previously suffered due to the stigma of their sexual orientations. Each day more people dare to make their sexuality visible; encounters between gays have progressively emerged from the underground to the socially secure spaces offered by discotheques, pubs, and other meeting places, which have also become less isolated or ghettoized and now facilitate meetings that take place among all different members of society. In addition, families have shown an increased tendency to accept family members with different sexual orientations. At the same time, cultural perception, especially in the major cities, seems to show a more permissive attitude toward the formation of new familial structures that allow same-sex couples to live comfortably with social stability. At times, Chilean public opinion has been surprised by the presence of sexual diversity in institutions where it previously would never have been imaginable, such as the case of two policemen who publicly denounced having been expelled from the force for their same-sex relationship in 2007.

With the emergence of active movements against the discrimination of sexual minorities, institutional violence has diminished; there is now less exclusion, less

arbitrary detention of homosexuals, less destruction of public meeting places, and fewer tragic attempts on the lives of gays (like the arson of the nightclub Divine in Valparaiso in 2007, which cost the lives of 20 people). Nevertheless, new scenarios of resistance are being faced by sexual minorities, namely neo-fascist nationalist movements that, from time to time, attack individuals for their sexual orientation (especially targeted are the transgender and homosexual communities). This problem is complicated and has roots in movements principally derived from Europe, which are followed by some Chilean citizens (mainly young people) who want to cleanse society of what they consider “scum”: Peruvian immigrants, homosexuals, followers of certain trends or fashions, music, and the like.

The fight for sexual diversity has not been accompanied institutionally by the Catholic Church or by any other churches in Chile. Christian organizations, while in former days were clearly defenders of human rights in Chile, and had assumed a clearly recognized state of protagonism, have not known how to handle the issue of sexual diversity, perhaps because they feel trapped by certain doctrines. Even so, small groups of believers have been formed outside of those social groups previously mentioned. This is the case of one Christian group, known as the Gay and Lesbian Ecumenical Community (Comunidad Ecu mica Gay L sbica, abbreviated as CEGAL). A group of Mormon homosexuals also exists.

EDUCATION

Dating back to the 19th century, Chile has relied on an education system that has grown gradually more extensive and has lowered the rates of illiteracy to a minimum. Currently, every Chilean citizen must complete at least 12 years of formal education, a requirement that makes access to education thoroughly inclusive. The levels of education that are administered in the country include the following: kindergarten, primary school, middle school, and high school. Primary school spans eight years and middle school spans four. Once registered in middle school, the majority of students opt to continue their studies in technical schools or at universities. The access to secondary education has been generalized such that society is no longer able to offer sufficient employment to its well-educated majority. This forces many people, especially youth, to spend a large portion of their professional careers performing jobs for which they were not trained.

During the last few decades, and as a result of the phenomena associated with globalization, the nature of Chilean education has undergone notable transformations, passing from a traditional formal education (influenced by the European Enlightenment) to the incorporation of a new concept of education. Currently, rather than developing knowledge, Chile has seen a generalized tendency to establish competencies or skills; specific abilities rather than generalized knowledge are now considered the best preparation for life in society. These tendencies have been promoted by the educational reform movement that has materialized in Chile in recent years. This movement has had its share of detractors and is a constant source of public debate.

In 2006, the penguin revolution³ (*revoluci n ping ina*), a prolonged and widely supported protest movement, began from within Chilean classrooms. Students from ages 14 to 18 occupied secondary schools, carried out prolonged strikes, and demanded the renovation of the Constitutional Organic Law of Education (*Ley Org nica Constitucional de Educaci n*). The result of this movement was the

formation of a wide-ranging government commission to study the case. People from across the social spectrum were invited to participate. In addition, the general population became aware of the youth movement that had seemed lethargic in the postdictatorial era.

The history of sex education in Chile can be divided into a few distinct periods. Until 1960, it was governed by university professionals and especially focused on areas such as biology and natural sciences. Between 1960 and 1970, the Ministry of Education created the Committee for Family Life and Sexual Education (Comité de Vida Familiar y Educación Sexual), which proposed and operated the Program for Family Life and Sexual Education (Programa de Vida Familiar y Educación Sexual); this functioned until 1972. From that time until 1990, NGOs developed a sustained but mostly isolated presence in education. The state followed a few proposals made by the Catholic Church, which incorporated a type of sex-education heavily influenced by their specific value-system by way of religious education. Beginning in 1990, increased levels of teen pregnancy and AIDS begin to be taken into consideration. Programs were then organized in order to respond to these problems. One important milestone was the First National Meeting for Sexual Education (Primer Encuentro Nacional de Educación Sexual). From this meeting emerged the “Declaration of Lo Bernechea” (Declaración de Lo Bernechea), which emphasizes the urgent need to implement a policy of sexual education at the national level. Urged by this declaration, in 1993 the “Policy of Sexual Education for the Betterment of the Quality of Education” (Política de Educación en Sexualidad para el Mejoramiento de la Calidad de Educación) was enacted. After this, the Conversations about Emotion and Sexuality (Jornadas de Conversación sobre Afectividad y Sexualidad, abbreviated as JOCAS), become a point of contention in 1995.

The government’s concern for sexual education seeks to integrate dialogue, support the overcoming of sexual issues, and to avoid irresponsible sexuality that could result in the contraction of diseases or undesired pregnancies. Still, it is clear that the government could improve by incorporating emerging issues such as adolescent parenting, gender identity, sexual orientations, and other topics that are still not included in the content or methodologies of sexual education in Chile.

Without a doubt, the current scholastic environment and the vicissitudes of daily life provide an occasion for public and scholarly debate, in the form of school children who publicly declare their lesbian or homosexual orientation, or teachers who are exonerated for openly recognizing their sexuality. In such debates, official positions (more prone to accept sexual diversity) are confronted by more conservative sectors, particularly the Catholic Church, which insists that the state impose a revision of progressive ideologies on sexual education.

EMPLOYMENT AND ECONOMICS

Chile has experienced many economic changes in recent decades. After the implementation of a mixed-Keynesian economic model at the beginning of the 1930s, the first three years of the 1970s—under the government of Salvador Allende—attempted to implement a markedly statist and socialist economic model. During these three years, and following a general improvement in the economic conditions of the working class, a crisis came about that brought the most difficult moments of its economic history: shortages and inflation of up to 1,000 percent,

which, among other factors, set off a chain reaction that provoked strong social discontent encouraged by certain politicians and right-leaning economists. Many attributed this crisis to the ineptitude and utopianism of the leftist government; others believed that it was due to the scarce support and open economic boycott of wealthy citizens, especially those who had begun to withdraw their wealth from the country before the socialist president could effectively install his government. Nevertheless, Allende's government did manage to nationalize Chilean copper, the principal source of wealth for the country, which had been—until that moment—mostly in hands of international businesses. The nationalization of copper is of similar political and economic importance to Chile as the 1938 Law of Nationalization of Petroleum (*Ley de Nacionalización del Petróleo*) was to Mexico during the Cárdenas administration. After the economic-institutional crisis, a coup d'état imposed market stability by implementing the neo-liberal economic model of Milton Friedman. Numerous Chilean economists who had been educated in Chicago brought back to the country a model that, supported by the sternly authoritarian military government, was basically applied without restriction. The costs were high in the initial period: the dismantling of national industries (as a result of strong external competition), high indices of unemployment, and periods of internal crisis resulting from the country's vulnerability to international avatars (e.g., when faced with the oil crisis of the second half of the 1970s). During the mid-1980s, the country began to reap the benefits of the free market: sustained growth, low inflation rates, overcoming unemployment levels, raising the quality of life, accelerating growth in the real estate market, etc. From the 1990s on, democratic governments have followed with the same economic system while adopting some social policies meant to address levels of inequality, diminish levels of extreme poverty, reinforce social security systems, implement public health programs, and so on.

The free market economy has, without a doubt, benefited the Chilean population and even immigrant populations (Argentines, Peruvians, Bolivians, and even some Europeans) that have seen in Chile a place of opportunity. Immigration has also brought new social problems that require more dynamic social and educative policies for the sake of nondiscrimination. Chile, a country of immigrants, was accustomed to the influx of Europeans (Basques, Spaniards, Italians, Croatians, and Germans mostly), yet as early as the 19th century immigration resulted in conflict. These conflicts have recently become more acute with the arrival of men and women from neighboring countries. A reality has begun to emerge that had not previously been recognized in a country of supposed "hospitable traditions" (as described by writer Gabriel García Márquez when he received the Nobel Prize), that of the existence of a certain latent xenophobia in a large portion of society and virulent in some extreme sectors. The same people who act out against transgendered and homosexual individuals are those who sometimes attack men and women of foreign nationalities.

Another difficulty brought by the free market economy is related to the exploitation of natural resources, especially in the forests of southern Chile; water contamination by the salmon industry; and increasing erosion in previously fertile areas. Energy needs have resulted in a substantial development of hydroelectric energy and, as a consequence, a need to create new power centers in territories previously occupied by indigenous communities. Political problems have come as a result of conflicts with the indigenous peoples, and became more evident in the 1990s during and after the celebration of the "Fifth Centenary Celebration of the

Discovery of America.” This event sparked a growing political and sometimes violent demand for reparation of violated civil rights, a problem that is probably only just emerging and may present many problems for Chilean society in the future.

In regard to labor, Chile is a country that, driven by principally nonreligious governments, has progressed in the field of nondiscrimination. Every day more progress is made toward the incorporation of the handicapped, women, and other minorities into the workplace. Nevertheless, due to Chile’s neo-liberal economic model, companies are ultimately responsible for deciding whom to contract. This has meant a highly mobile labor market with subcontractors, continual firings, and a lack of job security in many ways. While the Chilean worker had traditionally taken pride in working at the same company for his or her entire career, now changes of profession are frequent; there is less loyalty to a specific company or even a specific career, since necessity forces many people to change jobs in order to make ends meet.

In 2007, a widespread debate was waged within the Catholic Church when some of its bishops proclaimed that it was no longer sufficient to think of a minimum wage, but rather an ethical wage. This brought many to think that the market itself should not coldly define what a man or woman should earn in order to live. Instead, a moral, social, and labor awareness should assign to each man and woman the economic retribution that corresponds to his or her efforts. In addition, social security, social wellbeing, retribution, and recognition for good performance should also be taken into account.

In terms of sexual discrimination, a politically correct discourse does exist that emphasizes that no one should suffer employment discrimination for his or her sexual orientation. It is evident that many institutions apply these criteria to their daily operations, yet there are exceptions, apparently for other motives. There are men and women who lose their jobs for being gay or lesbian. Sometimes the notion that “each individual can have his or her sexuality, as long as it is lived out in private” is brought up, which implies a double standard for social behavior; everyone should be able to live their life in private, but gays cannot invite their partners to a company dinner party, comment on who went with them on vacation, place a picture of the person they love on their desk, or let their supervisor know that they are depressed or downhearted because of the death or illness of their partner. This means that discrimination acts socially through more subtle instruments that are by no means less cruel. Faced with this situation, the homosexual community, accustomed to publicly denying its sexuality, oftentimes accepts to live a progressive process of coming out of the closet: first to friends, then to family, and later to other trustworthy individuals. Better times still await those men and women who want to live their lives without hiding their sexuality at work, at home, or in public.

When cases of workplace discrimination based on sexual orientation come to the public’s attention they are always a cause for debate. Examples of policemen, secondary school teachers, judges, or members of social institutions are, generally, those that draw public scrutiny through the mass media. The discussion is normally carried out in terms of the probable incompatibility between the public role fulfilled by some professionals and the sexual orientation that they espouse. In all of these public discussions, remarkably, it is the younger generations that most strongly critique discrimination, which shows a significant turn in Chilean culture, one that has seen notable changes even regarding the existence of different

sexualities within family life. In fact, a gay person might often feel more comfortable discussing his or her sexuality with nieces, nephews, or younger siblings than with his or her own parents.

SOCIAL/GOVERNMENT PROGRAMS

In general, government policies meant to systematically promote nondiscrimination of the LGBT community have been related to the diverse departments of Chile's government even when there is no specifically designed internal program. In this way, the problems associated with the rights to sexual diversity have crossed over to different areas: justice, education, and health, to name a few. The most prominent area has been health care, which has decided to include HIV/AIDS treatment in the program known as Universal Access with Explicit Guarantees (*Acceso Universal con Garantías Explícitas*, abbreviated as AUGE). This consists of an integral health system that would benefit all Chileans and take into account all types of diseases, including the most dire and most expensive, in their different stages without discriminating by age, sex, economic disposition, place of residence, or health coverage. In addition, the government has supported different HIV/AIDS prevention campaigns, developed help centers and education programs for the general public, and is associated with agencies interested in protecting the LGBT community from labor and health care discrimination.

SEXUALITY/SEXUAL PRACTICES

Nontraditional sexual practices have always been predominantly invisible in Chilean culture. Until relatively recently, admitting to nonheterosexual desires or being accused of such by one's peers meant banishment and abjection. It relegated gays and lesbians to a shameful condition where public disdain could affect social interactions and job possibilities. Those who were assumed to perform the passive role in a homosexual relationship, exhibited a feminine appearance, liked to cross-dress, or desired to change their gender received special reprobation. In this sense, social ostracism was fundamentally destined for homosexual males, transsexuals, or transvestites, while female homosexuality tended to hide itself beneath other typically macho concerns.

Nevertheless, as is common in other Western cultures, many (apparently) heterosexual men show a fascination for sexual experiences among people of the same sex. In the countryside, it is common to see farmers (the prototypical macho Chilean) occasionally having sexual experiences with effeminate men, without assuming that these experiences represent a change in their heterosexuality. Sometimes while maintaining a successful marriage and family life, they seek out different means of pleasure through sex with other men. The farmer's active role tends to be significant, since the most distinguished sign of ignominy is not so much "penetrating another man" (which, if considered carefully, could be interpreted as a gesture of superiority and domination), but rather "being penetrated," an idea that totally inverts the significance of these practices. A penetrated man thus feels his masculinity subjugated and his self-esteem completely ruined.

In rural areas, that is, in those less globalized and closer to the values associated with the prevailing culture of preceding centuries, to be a "faggot" (*maricón*) is one's worst destiny. *Marica*, *mariquita*, *mariposón*, *colipato*, *colita*, *fleto*, *hucco*,

maraco, *loca*, and *loquita* are some of the epithets that designate scorn or shame and that always refer to the “lower-class homosexual” (*homosexual de barrio*) who suffers the stigma of being condemned at the same time for this abject sexuality and poverty.

This popular slander differs from the denomination “gay,” which accrues a totally different value. The gay is the upper-class homosexual, distinguished, refined, well-traveled, accepted in social circles, respected for his sexual diversity, admired by many, and even inspirational and a point of cultural reference or value, at least on the level of the mass media, where many gays have found social acceptance, especially those who are related to the worlds of literature, film, and the arts.

In the urban landscape, sexual practices between same-sex couples tend to be more readily accepted, as is the case in the majority of Latin America’s capital cities. There are even certain sectors where the concentration of members of the LGBT community is a majority.

Lately, especially with the advent of new customs and the “urban tribes” (called *pokemones*, *emos*, *pelolais*), there can be seen among young people a more public and uninhibited exhibition of sexual preferences that has also stirred public debate about what this new culture means for Chilean society. It seems that the expression of diversity in this and other aspects has come to stay for a very long time.

FAMILY

The history of the Chilean family has for a long time been marked by the existence of large family groups in the same household that included grandparents, aunts and uncles, children, nieces and nephews, and grandchildren. They contributed to the formation of current cultural patterns thanks to their participation in multiple traditions incorporated by the groups that colonized the country. Beginning in the 1970s, this structure began to experience serious modifications caused in part by growing internal migration from the countryside to the city by those in search of better economic standing. In addition, the sexual revolution, the development of feminist movements, processes of individualization, and the inauguration of the modern family brought other transformations.

After the 1960s, Chilean society began to observe how the family institution was disintegrating as an increasing number of marriages ended in separation. People became less interested in displaying family stability, oftentimes a sham based on appearances or even a double life. In a male-dominated (*machista*) culture, women were generally the most condemned by norms that demanded the keeping up of appearances and the constant fear of public scandal.

For many years, no laws existed to regulate divorce in Chile. An annulment was required that would serve to eliminate the legal basis for marriage, which would thus be declared inexistent. Toward the latter part of 2004, after extensive legal and social discussion, the “New Law of Civil Matrimony” came into effect, which regulates, among other aspects, those mechanisms associated with divorce.

The reality of sexual diversity within families has had several characteristics: previously, in many families the gay uncle whose sexual orientation was veiled under the guise of a prolonged bachelorhood might have existed; children normally hid their desires and tried to only live them occasionally, or suppressed them in search of heterosexuality that, in many cases, resulted in matrimony; homosexual (or bisexual) parents tended to seek sexual satisfaction with someone other than their

spouse. Many, though not all, of these aspects have changed over time. Now many families have dared to accept sexual differences. Female family members, especially mothers, are more prone to accept that their children are homosexual, while fathers tend to be more reticent. Little by little, homosexual children have begun to incorporate their partners into the nuclear family, which accepts them, at least on general terms, with some difficulties and with some negotiating. Evidently, the incorporation of a homosexual partner into the original family nucleus continues to be more problematic than that of the heterosexual partner. This is sometimes attributed not to discrimination within the family, but rather the fear of external reprimand, “of what the children might suffer.” This is related to the idea associated with the feeling that *something* is still not right, that the homosexual couple does not fit ideal moral values. These prejudices are the result of traditional moral education, masculine ideas that want the son to “continue the lineage,” fears about sexual contamination, promiscuity, and so on.

After the legal steps taken at the end of the 20th century towards decriminalizing sodomy, the discussion has centered on the possibility of offering homosexual couples a legal apparatus that favors their social constitution. The idea is currently under discussion and has been formalized through legal projects. Little by little, the possibility of adopting children or even retaining legal custody of one or more of a couple’s children (from previous relationships) is beginning to form part of the agenda. The legal tendency, up to this point, has been to assign custody of children to the heterosexual parent (father or mother). It seems that the homosexuality of one progenitor closes many more doors to legal access to children than any defects a typical heterosexual person might have.

COMMUNITY

Currently, the two principal advocacy organizations in Chile are the Integral Movement of Homosexual Liberation (Movimiento Integral de Liberación Homosexual, MOVILH) and the Unified Movement of Sexual Minorities (Movimiento Unificado de Minorías Sexuales, MUMS). With a common origin and few historical discrepancies between them, it is certain that both have worked to increase the visibility of gays, lesbians, bisexuals, transvestites, and transsexuals in both public and private spaces. They have also contributed to legal initiatives, contact with social leaders, the organization and dissemination of cultural activities, and to the raised awareness of the minority agenda.

HEALTH

In recent years, Chile has seen an extensive improvement in the quality of its health care services. Nevertheless, limited access to services is one of the weak points of the system. There is an immense difference between the care offered by public health services (often insufficient and of poor quality) and the care offered by the private health system that, being of higher quality, is only accessible for those with greater economic stability.

The state has initiated the previously mentioned AUGE program that guarantees health care for all Chile’s citizens, without distinction. The program is fairly progressive in that it incorporates more and more diseases, and it is not discriminatory since it offers full treatment and care for those people affected by HIV.

With respect to the HIV/AIDS virus, the official statement of the Ministry of Health of the Government of Chile formulates the following policies: The only way to detect HIV is through a specific blood test known as the “ELISA Test for HIV.” This exam can be carried out at the nearest hospital or doctor’s office, in the home, or in private laboratories.

According to Law 19.779, this exam should be voluntary, confidential, and accompanied by a consultation. The result of the test is confidential and every individual has the right to be adequately informed as to the meaning of its results.

Additionally, Law 19.779 protects the rights of citizens, by producing legislation based on prevention, diagnosis, and control of HIV/AIDS, as it also cares for the free and equal exercise of the rights of those citizens that live with HIV, impeding discrimination of any type.

Antiretroviral Treatments for HIV in Chile are guaranteed by the government, which ensures 100 percent access to these treatments for adults and children who need it, in accordance with national protocol. It also guarantees 100 percent access to the Prevention of Vertical Transmission protocol for pregnant women and their children who are living with HIV.

In Chile, the administration of Public Policy in conjunction with the Prevention and Attention of Persons Living with HIV/AIDS, is the responsibility of the National AIDS Commission. The National AIDS Commission is a department that pertains to the Division of the Prevention and Control of Illness, which is dependent on the Undersecretary of Public Health of the Ministry of Health of Chile.

POLITICS AND LAW

For many decades, the principal concern over the application of justice in Chile was linked to the reestablishment of human rights, the prosecution of state-sponsored crimes during the military dictatorship, the reparation of damages to the victims of those abuses, the identification of thousands of disappeared detainees, and the strengthening of legislation meant to avoid the repetition of the atrocious events of that period.

The interest in rights for sexual minorities began to emerge years after the return to democracy in Chile. In fact, it was President Eduardo Frei Ruiz-Tagle who saw demands for civil rights that had not previously been discussed in Chilean history at the beginning of his office (1994–2000). The fight for the creation of legal norms and for protection against discrimination of the LGBT community actually began during this period.

In addition to the decriminalization of sodomy in 1998, other important legal projects include the following:

1. *Proposition against Homophobia and Transphobia*: The Proposition against Crimes of Homophobia and Transphobia was designed by the Homosexual Liberation Movement (MOVILH) and approved by the Chilean House of Representatives in 2005. The text represents the first proclamation of judicial power that recognizes the discrimination of sexual minorities and sets measures to prevent it and confront it. More background about the history of the project can be found in the 2005 Report on Human Rights of Sexual Minorities (Informe 2005 de los Derechos Humanos de las Minorías Sexuales).
2. *Nondiscrimination and Civil Union Contracts*: The Proposition to Foment Nondiscrimination and Civil Union Contracts between Persons of the Same Sex was

drafted by the MOVILH and entered the National Congress in 2003 with high parliamentary support. This proposition opened public debate in Chile about same-sex parenting, sexual rights, adoption rights, and the need to advance a norm that would regulate relationships between couples of the same sex. Currently, the MOVILH is no longer working toward the passage of the proposition; instead it is focusing its energy on the PUC.

3. *The Civil Union Pact (PUC)*: This project was devised by the MOVILH, with the help of lawyers from the Universidad de Chile and the Universidad Diego Portales, with the goal of offering Chile a law that would regulate the relationships of cohabitating heterosexual and homosexual couples. Supported by 150 social organizations, gays, lesbians, transsexuals, and heterosexuals, the PUC enjoys widespread political backing and only lacks the approval of the Executive Branch to begin its process through the National Congress.
4. *Antidiscrimination Proposition*: The “Proposition to Establish Anti-Discrimination Measures” (Proyecto de Ley que Establece Medidas contra la Discriminación) was elaborated by the government in conjunction with diverse organizations from civil society. The initiative, which began to progress through Congress in 2005, includes the terms “sexual orientation” and “gender” as protected categories, thanks to work by the MOVILH. It is notable that the original proposition has undergone dozens of modifications and its final version will only be known after the final Senate vote.

Recently, another proposition has been presented that permits name and sex changes without sexual reassignment surgery, in addition to taking this power away from judges.

RELIGION AND SPIRITUALITY

Chile has a strong Christian tradition. Since 1925, separation between Church and State has existed formally, but the social influence of the Catholic Church and the evangelical churches continues.

The institutional religious presence is highly conservative. Religious groups like Opus Dei and Los Legionarios de Cristo have assumed an important leadership role.

In the last couple of decades, many sexual minorities have not identified with their churches and have moved away from organized religion and do not take part in explicitly religious activities. Some minor groups in the church hierarchy have discussed the issues of sexual minorities.

VIOLENCE

In the 1950s, pursuit of homosexuals became an institutionalized system of violence. Since then there have been isolated incidents that attack the physical or moral integrity, or job security of some LGBT people. In recent years, violence against the LGBT population has been linked to neo-Nazi doctrines.

OUTLOOK FOR THE 21ST CENTURY

Since the 1990s there have been great advances in the discourse about the rights of sexual minorities in Chile. Numerous factors have contributed to this: the

opening of the country to outside influences, the existence of widespread and persistent political demonstrations, the development of civil organizations, the modernization of legislation, and the collaboration of the four governments lead by the Accord of Parties for Democracy (Concertación de Partidos por la Democracia).

Nevertheless, there is much more work to be done. Conservative political positions of opposition parties weigh heavily, as do the posture of the Catholic Church, conservative traditions, and the existence of reactionary groups that, through violence, attempt to paralyze any progress.

The increased visibility of the reality and lives of sexual minorities is contributing to a healthier social climate in Chile. To be homosexual, gay, lesbian, transsexual, or transvestite in Chile is, over time, becoming less of a problem. Many members of the LGBT community begin to feel pride rather than fear for their condition and continue to see with more hope that there is a space for their vital projects in a country that has traditionally infringed on their rights and silenced their voices.

RESOURCE GUIDE

Suggested Reading

- P. Patricia Aliaga, Sandra G. Ahumada, and Marisol J. Marfull, "Violencia hacia la mujer: un problema de todos," *Revista chilena de obstetricia y ginecología* 68, no.1 (2003): 75–78.
- Estela G. Arcos, Irma V. Molina, Rosa Eugenia Trumper, et al., "Estudio de género en estudiantes y docentes de la Universidad Austral de Chile," *Estudios pedagógicos* 23 no. 2 (2006): 27–45.
- Ana Mariella Bacigalupo, "La lucha por la masculinidad del machi: políticas coloniales de género, sexualidad y poder en el Sur de Chile," *Revista de Historia Indígena* 5, <http://www.uchile.cl/facultades/filosofia/revhistindigena.html>.
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- Carmen Berenguer, *La gran hablada* (Santiago de Chile: Cuarto propio, 2002).
- Isaac Caro, *Homofobia cultural en Santiago de Chile: un estudio cualitativo* (Santiago de Chile: FLACSO-Chile, 1997).
- Francisco Casas, *Sodoma mía* (Santiago de Chile: Cuarto propio, 1991).
- Corporación Chilena de Prevención del Sida, *De Amores y sombras: poblaciones y culturas homo y bisexuales en Hombres de Santiago* (Santiago: LOM, 1997).
- Javiera Errázuriz Tagle, "Discursos en torno al sufragio femenino en Chile 1865–1949," *Historia (Santiago)* 38, no. 2 (2005): 257–86.
- Verónica Gómez, "Mujeres y participación política: ¿Es viable una ley de cuotas en Chile?" *Universum* 22, no. 1 (2007): 252–67.
- Electra A. González, Temístocles G. Molina, Adela Montero, et al., "Comportamientos sexuales y diferencias de género en adolescentes usuarios de un sistema público de salud universitario," *Revista médica de Chile* 135, no. 10 (2007): 1261–69.
- Matrimonio homosexual, http://www.bcn.cl/carpeta_temas/temas_portada.2005-10-26.2160945086.
- Egon Montecinos, "Democracia y multiculturalismo: ¿Son compatibles los derechos de las minorías con los principios orientadores de la democracia liberal?" *Alpha* 20 (2004): 201–12.
- Nelly Richard, *Masculino/femenino: prácticas de la diferencia y cultura democrática* (Santiago de Chile: Francisco Zegers Editor, 1993).

- Paola Rossi Carvajal, "Rechazo a la despenalización de la sodomía desde el punto de vista del magisterio de la iglesia y del derecho natural," *Revista chilena de derecho* 25, no. 4 (1998): 915–37.
- Ester Valenzuela Rivera and Lidia Casas Becerra, "Derechos sexuales y reproductivos: confidencialidad y VIH/SIDA en adolescentes chilenos," *Acta bioética* 13, no. 2 (2007): 207–15.
- Adela H. Wilson, *La dificultad de ser gay en Chile y en todo lugar* (Santiago de Chile: Editorial Sudamericana, 2000).

Web Sites

- Agmagazine, <http://www.agmagazine.com.ar/>.
Latin American news about sexual minorities.
- Chile-Transsexual, <http://www.chile-transsexual.cl/>.
Information on transsexuality in Chile, with photo gallery, news, documents, interviews, forums, and so on.
- Cultura Lesbiana, <http://culturalesbiana.blogspot.com/>.
Collective blog on lesbian history and culture.
- ForoCiudadano, <http://www.forociudadano.cl/>.
News on human rights.
- Gay Parade Chile, <http://www.gayparadechile.cl/>.
Gay cinema site.
- MOVILH Blog, <http://movilh.blogspot.com/>.
Blog by MOVILH with information about the Gay Parade and Chilean films on sexual diversity.
- OpusGay, <http://www.opusgay.cl/>.
Virtual newspaper on the Chilean LGTB population.
- Santiago Gay, <http://www.santiagogay.com/>.
News and data about sexual minorities.
- Sombras, <http://www.sombras.cl/sitio/>.
Culture and art for Chilean lesbians.

Organizations

- Afirmación.org, <http://www.afirmacion.org/>.
Mormon gays and lesbians.
- Asociación Chilena de ONG, <http://www.accionag.cl/>.
Chilean Organization of NGOs.
- CEGAL, <http://www.cegal.cl/>.
Religious ecumenical organization that works to reconcile faith and homosexuality.
- ConVihda, <http://www.convihda.cl/>.
Advises and helps those with HIV.
- Federación Chilena de la Diversidad Sexual (FEDISECH), <http://www.minoriassexuales.cl/>.
Chilean Federation of Sexual Diversity.
- Forosida, <http://www.forosida.cl/>.
News, forum, agenda, and statistics related to AIDS.
- GAHT (Grupo de Apoyo a Hombres Trans), <http://www.gaht.cl/>.
Support group for transsexual men.
- Genera, <http://www.generaenlinea.cl/>.
Organization against the abuse of power in Chile.
- MOVILH (Homosexual Liberation Movement), www.movilh.cl.
- MUMS, <http://www.mums.cl/>.
Movimiento unificado de minorías sexuales (Unified Movement of Sexual Minorities).
- OTD, <http://www.hombrestransdechile.cl/>.
Organization of Masculine Transsexuals for Diversity and Dignity.

Prosalud, http://www.prosaludchile.org/es_inicio.php.

Works to prevent HIV and promotes safe sex.

Red Vivo Positivo, <http://www.vivopositivo.org/>.

National coordinator of groups for those with HIV/AIDS.

NOTES

1. The expression “thick veil” (to thickly veil) was used by the Chilean writer Jose Donoso in his novel *Country House* (1978) to refer to covering the shameful historical events of the past although the expression is used for anything that is kept under wraps.

2. Law 11.625 on Antisocial States, imposed in 1954 by president Carlos Ibáñez del Campo. Homosexuals were treated as if they were hardened criminals, but with one difference: they were considered to be sick and it was possible to rehabilitate them with hospitalization. According to an article in the magazine *The Times*, published in 1993, del Campo was sweeping homosexuals off the map, like on a ship where a rope was placed around the neck with an enormous stone and then they were thrown out to sea. (Seminar “University, Law and Diversity” organized by the Division of Social Organizations of the Department General Secretariat of Government and the Faculty of Law of the University Diego Portales, Santiago on October 18, 1999.)

3. School children are referred to as “penguins” due to the similarity their uniforms bear to the animals of the same name.

COLOMBIA

Fernando Serrano

OVERVIEW

Colombia is the fourth-largest country in South America and the only one with coastlines in the Caribbean and in the Pacific Ocean. Its surface area (439,73 square miles) covers a wide variety of landscapes and climates that make it a country of diverse regions with specific social, cultural, and political characteristics.

Colombia is a republic with a democratic and decentralized political system. The Colombian Constitution of 1991 defines three branches of public power, each one autonomous and independent. The executive branch is led by the President, who is elected by popular vote every four years and who then designates the Bureau of Ministries. The legislative branch is in charge of creating laws and oversees political control of the government and administration. Its unique body is the Congress, which includes the Senate and the Representatives' Chamber. The judicial branch administers justice and comprises three courts: the Justice Supreme Court (highest tribunal for ordinary justice), the Constitutional Court (in charge of the enforcement of the Constitution), and the State Council (highest administrative tribunal). The sentences provided by the Constitutional Court apply as law, as do the ones enacted by the Senate. The Constitutional Court has played the most significant role of any political body in the development of LGBT rights in Colombia.

According to the 2005 census, there were around 44.9 million Colombians, most of them living in the cities (74%). Of the total population, 4.3 million were Afro-Colombians and



1.4 million were considered Native American, comprising around 80 different ethnic groups. Around 5,000 persons were identified as Roma. With 3.3 million Colombians living abroad, Colombia is one of the Latin American countries with the biggest flow of emigrants.¹ The United States is the main country of destination, receiving 35.4 percent of all Colombian immigrants.² Between 1995 and 2005 around 3.7 million people were internally displaced because of the sociopolitical conflict and the humanitarian crisis the country is currently suffering.³

When Spanish arrived in the 16th century in what is today known as Colombia, they found several indigenous groups with different levels of social and political organization, ranging from small nomadic groups to structured agrarian societies. The impact of the conquest and the establishment of the Colonial Empire reduced the original indigenous population to fewer than 10 percent of the population in the first century of Spanish occupation.⁴ Diseases imported by Spanish and the violence associated with the colonization process were among the main causes of these deaths. From the beginning of the conquest and colonization period, the Spanish brought with them African slaves to serve as a workforce to exploit mines. Indoctrination into Catholicism was part of the colonization process. Groups of Native Americans and Africans have resisted and escaped the colonial system since its inception. In order to maintain and develop their own cultures, they used both group and individual rebellions and other strategies, such as religious practices. The hierarchical interaction between the Spanish colonizers, Native American groups, and African people formed the roots of Colombian society. Small groups of other Europeans, Middle Eastern people, and Asians began arriving in the early 18th and throughout the 19th and 20th centuries, contributing to the development of regional and national cultures.

The colonial ethnic and racial order was not abolished by the independence movements of the early 19th century. The idea of a nation united by Catholicism and Spanish heritage and emerging from the *mestizaje* of cultures and ethnicities permeated Colombian culture and society during 19th and 20th centuries. This notion left Afro-Colombians and native communities marginalized in the national imaginary, but integrated in the political economy as cheap sources of labor. In 1991, a constitutional reform movement changed the definition of the nation under an ethnically diverse multicultural model and rights perspective.

OVERVIEW OF LGBT ISSUES

The human rights situation of LGBT people has been of particular concern to national and international human rights organizations, LGBT activists, and research centers.⁵ LGBT people have been victims of homicides and extrajudicial killings that have not been properly investigated.⁶ Arbitrary detentions, cruel degradations, and inhuman treatments committed by police members against LGBT persons have been denounced.⁷ LGBT people in the areas affected by conflict and humanitarian crisis have been threatened, displaced, and killed.⁸ There are also cases of LGBT persons who have had to look for political asylum in foreign countries.⁹ The lack of proper public policies to intervene in these situations, the absence of mention of LGBT people in institutional attention systems, and the prejudicial practices of public institutions (such as arbitrary detentions, excessive use of force by the police, or discrimination in the delivery of health services) reflect the existence of institutionalized homophobia and heterosexism.

LGBT people have poor information about their rights and how to demand them. Discrimination legitimized and reproduced in cultural practices and institutions still affects the perception LGBT people have regarding their rights, and they often fear to denounce situations of abuse because of the risk of a double victimization¹⁰ not only because the abuse itself, but also because of the discriminatory treatment and the pointing at their gender identity or their sexual orientation by authorities. In particular, the open expression of gender identity by transgendered and transsexual persons exposes them to systematic patterns of discrimination and exclusion.

Despite this situation, there are vibrant communities of LGBT activists and organizations all around the country and significant progress has been made in terms of LGBT rights legislation. These legal advances have occurred at the level of the highest courts, and particularly the Constitutional Court, but while the law demands immediate application, public and private institutions are reluctant to apply them. Constitutional Court sentences require the development of social policies, administrative measures, communicative and educational strategies, and other actions in order to affect the causes and consequences of discrimination against LGBT people. The distance between constitutional advances and everyday life is even wider if one considers the interaction of LGBT issues within class and race divisions, urban/rural differences, gender hierarchies, educational levels, and other factors that affect the realization of people's rights.

EDUCATION

In 2005, the literacy rate in Colombia was 92.8 percent among people aged 15 and above.¹¹ At that time, while almost all of the population had access to primary education, the school enrollment at the secondary level was 78.1 percent and 29.3 percent at the tertiary level.¹² The ratio of girls to boys in primary and secondary education was 14 to 10.¹³ According to the 1991 Colombian Constitution, education is a right everyone has and a public service with a social function.

Sex education has been mandatory in all primary and secondary schools since 1993. Each school must design a pedagogical project that implements sex education into the different subjects of the curricula; the Minister of Education imparts the main guidelines for this public policy. Between 1993 and 2004, the sex education policy was called "Proyecto Nacional de Educación Sexual" (Sexual Education National Project). The focus of these first guidelines were heterosexual couples and heterosexual sexuality as the space for the realization of sexuality; its approach to youth sexualities offered a perspective focusing only on risk and the prevention of sexually transmitted diseases. After 2004, a new focus, "Educación para la Sexualidad" "Education for Sexuality," began to be developed, using a citizenship, gender, human rights and sexual and reproductive rights approach in which gender identity and sexual orientation were mainstreamed.¹⁴

The Constitutional Court has promoted legal changes and protective measures in cases of discrimination in schools based on gender identity or sexual orientation. In 1998, the Constitutional Court declared unconstitutional an article created in 1949 in the teachers' regulation code that deemed homosexual behavior a cause for disciplinary sanctions.¹⁵ In the case of two students who were expelled of school because of their homosexual identities, the Constitutional Court stated that homosexuality cannot be sanctioned or prohibited by itself in schools.¹⁶ According to the

Constitutional Court, the right to education cannot be denied because of gender identity or sexual orientation. However, in other rulings by the Court, a certain idea of the protection of order inside schools is privileged over gender expressions, as in the case of transgendered students wearing clothing considered inappropriate to their physiological gender.¹⁷

Despite the aforementioned progressive legal measures, emergent qualitative and quantitative research reveals that schools are still spaces for the reproduction of gender inequalities and discrimination based on gender identity and sexual orientation.¹⁸ Bullying because of gender expression is part of gender socialization in schools. There are no specific policies that target homophobia or transphobia in schools. Transgendered people leave schools earlier than non-transgendered students because of a lack of support by the educational institutions and the inability of schools to establish gender sensitive approaches. It has been also found that, in some urban settings, tolerant or inclusive attitudes regarding gay and lesbian adolescents have started to be developed among students and teachers, mainly because of media influences and rights discourses.¹⁹ However, transgendered youth (and transgender expression more broadly) are still frequent victims of discrimination.

EMPLOYMENT AND ECONOMICS

Colombia has the fourth-largest economy in Latin America, after Brazil, México, and Argentina. Services, industry, and agriculture are, in this order, its main economic activities. In 2006, the GDP was US\$135.8 billion, an increase of US\$50 billion since the year 2000.²⁰ In terms of annual growth, GDP was 2.9 percent in 2000 and 6.8 percent in 2006. Inflation was 25.13 percent in 1992 and 5.17 percent in 2007.²¹ The growth of the Colombian economy in recent years contrast with the high levels of inequality in the distribution of wealth by region and by social groups. According to official data, in 2007 49.2 percent of the total population lived below the poverty line, on less than US\$94 per month; meanwhile, the income of the top 20 percent of the population accounted for 62 percent of all income earned that year in the country; 50 percent of the population earned just 14 percent of the nation's total income.²²

Under the provisions of the 1991 Colombian Constitution, work is defined as a duty and a right for everyone and is specially protected by the state. Labor laws protect workers from discrimination in general, without naming specific situations of protection. There are particular rulings for the protection of women's right to work, such as equity in payment, protection of women's jobs during pregnancy, and guarantees for the participation of women in popular election positions.²³ However, no laws mention the need for the protection of workers from discrimination based on gender identity or sexual orientation.²⁴ Heterosexual couples and families receive certain social security benefits related to the establishment of a labor contract such as life insurance, pensions, licenses, and permits; these same benefits have not yet been extended to same-sex couples and their families.²⁵

LGBT people are afraid of declaring their sexual orientation or gender identity in the workplace because of fear of exclusion or discrimination. For similar reasons and the lack of institutional attention to the topic, they do not claim their rights in cases of abuse. This is particularly problematic for transgendered persons because their gender identity is more visible²⁶ and, in the case of lesbians who are more

exposed to employment inequalities than gay men because of their position as women, in the social structure.²⁷

The Constitutional Court has ruled that homosexuality is not contrary to military discipline; because of this ruling, homosexuality cannot be considered a reason to deny someone's right to be part of any military or police institution.²⁸ According to the Constitutional Court, what military codes can sanction is public sex in the military, so long as no distinction is made between heterosexual and homosexual activity.²⁹

SOCIAL/GOVERNMENT PROGRAMS

In the last five years, LGBT rights, sexual diversity, and gender identities have gained recognition in public policies and development plans in the three largest Colombian cities (Bogotá, Medellín, and Cali) and in intermediate cities such as Pasto. This recognition is the result of the mobilization of LGBT organizations and the articulation of local authorities concerned with the protection of rights of populations in particular situations of exclusion, discrimination, or vulnerability. There are no national social programs concerned with LGBT rights.

Between 2004 and 2007, around two million dollars was invested by the Mayor's Office of Bogotá in order to support activities related to LGBT rights, such as the organization of the *Marcha por la Ciudadanía LGBT* (LGBT Citizenship Parade), cultural activities, LGBT organizational strengthening, and the opening of an LGBT Community Center. At the end of 2007, the mayor of Bogotá signed a decree ordering the permanent implementation of social, educational, health, and participatory programs in order to protect and promote LGBT rights.³⁰ It is expected that, because of this decree, funding for these programs will be increased several times over and that LGBT rights will be made part of the city's development plan. There is a Sexual Diversity Office in the *Secretaría Distrital de Planeación* (Planning Department of Bogotá), in charge of coordinating public efforts to protect and promote LGBT rights.

In Medellín, the development plan for the years 2004 through 2007 included the recognition of sexual diversity in several of its goals. Because of that, public campaigns were implemented in the city to promote LGBT rights, including training seminars for police officers and public employees intended to increase awareness about hate crimes against LGBT people and to develop institutional attention strategies for meeting LGBT people's needs.³¹ Both Bogotá and Medellín have a police officer in charge of LGBT issues. In Cali, in 2006, an agreement between the Governor of the Department of Valle and several LGBT organizations was signed in order to develop programs to overcome the discrimination, exclusion, and marginalization that LGBT people experience. Funding, public support of LGBT initiatives, and the participation of LGBT organizations in related public decisions were included in that agreement. In Pasto, research studies to recognize LGBT people's needs and potentials were realized in 2006 as part of the gender equity policy. In the mentioned cities, there are also efforts to include women with sexual diversity in women and gender equity governmental programs. The specific needs and demands of transgendered persons are still underrepresented in these programs.

At the national level, LGBT issues are starting to be recognized in social policies. In 2007, LGBT organizations were invited to participate in the planning of

the National Human Rights Program coordinated by a national state agency associated with the Office of the President. During early 2008, the Minister of Culture also expressed interest in the inclusion of LGBT topics.

SEXUALITY/SEXUAL PRACTICES

In Colombian law, the decision whether to have sex, how frequently, and with whom, and the decision whether or not to establish oneself as part of a couple and to procreate are considered free, personal, and private decisions, so long as the other person consents without violence or coercion.³² The age of consent is 14 years old, both for heterosexual or homosexual relations.

Same-sex sexualities in Colombia constitute a complex landscape resulting from the interaction of practices, identities, and politics in a context of rapid and contradictory cultural changes. In Colombia, as in other Latin American countries, sexual behavior is linked to gender hierarchies. While masculinity is associated with activity and superiority, femininity is associated with passivity and subordination. These patterns influence the representations of same-sex sexualities. Same-sex sexualities can be defined by focusing on sexual practices, for example in the case of men, using the *activo/pasivo* model that associates the penetrative role with masculinity and the receptive role with femininity. This pattern of gender hierarchies is challenged in sexual practices between transgendered women working in the sex industry and their heterosexual-identified male clients who look for their services, in particular, to be penetrated.³³ Same-sex sexualities can also be represented using gender hierarchies, considering lesbianism and sex between women as deviant, filthy, or incomplete, or classifying men who have sex with men as *locas* (a word used for both effeminate men and insane women) or as non-men.³⁴ Bisexuality is widespread throughout the country, particularly in areas such as the Caribbean lowlands.³⁵ However, bisexuality as an identity term is mainly used in urban settings and in LGBT rights activism.

From another perspective, same-sex sexualities in Colombia are increasingly represented by identity politics and the development of local expressions of global gay, lesbian, transgender, and bisexual cultures. In the Colombian context, this use of identity politics to define same-sex sexualities is associated with differences between urban and rural settings, and references to modernization are in contrast with traditional values and class differences. Lesbian feminists in the larger cities or in academic and activist contexts have claimed that their sexualities are not part of identity politics but instead lie in the *milieu* of the political emancipation of women.³⁶ At the same time, the use of identity politics to describe same-sex sexualities is being contested and challenged by urban bisexual and queer youth. They have developed new categories to describe themselves and their sexualities, such as *lesboflexible*—a lesbian identified woman who occasionally has sex with men, or *hetero confundido*, a straight person who occasionally engages in same sex practices.³⁷

FAMILY

The Colombian Constitution considers family to be the fundamental core of society and orders the state and society to protect it integrally. In the constitution, family is the result of the decision of a man and a woman to marry or to have a marital life. Marriage can be civil or religious. A judge or a notary formalizes the

first, while the second is celebrated with a priest or other religious official, but also requires the signatures of a civil registry. Before 1991, there was a difference in the rights that married couples and their children had in comparison with domestic partnerships and their families. After Law 54 of the 1990 and 1991 Constitution, however, both ways to conform a family have almost all the same rights, such as marital society, adoption, social security benefits, mutual care, and health decisions, among others.

Despite the legal and cultural promotion of heterosexual nuclear families, Colombian families cover a wide variety of expressions.³⁸ Afro-Colombian families have kinship links that cover several types of relatives, extending family ties over the nuclear core; some indigenous communities have a matriarchal order; in urban settings some domestic units can be constituted by relatives far from the nuclear core while at the same time increasing the number of people who reside in single units; there is also a growing number of women who raise families by themselves, in some cases by choice, in others because of the impact of internal displacement, violence, and political conflict. In recent years, the reality of same-sex families has gained visibility, mainly because of the activism of lesbian mothers and emergent organizations of gay parents or gay men who want to raise children.

Same-sex couples are not allowed to adopt because of the constitutional definition of the term “family.” However, a single person, man or woman, can apply to adopt a child and his or her sexual orientation cannot be considered an impediment *per se*³⁹ to do it. The fact that there is no legal consideration of same-sex families leaves the situation of same-sex couples who raise a child together unclear and unprotected. This also means that the rights of a child raised in a same-sex couple household are not protected, which is contrary with the superiority of children’s rights as outlined in the Colombian Constitution. Same-sex couples and families are not mentioned in the legal measures to prevent or protect from domestic violence or gender-based violence, thus denying LGBT people their right of access to institutional services and related protective measures.

COMMUNITY

The development of organizations formed around sexual orientation or gender identity in Colombia can be traced to the 1970s, in the context of feminism, Latin American leftist theories, emergent social movements, and academic discussions around sex and politics influenced by European authors.⁴⁰ Some of the first organizations were informal support and discussion groups of just men, just women, or mixed groups based in the main cities of the country. Lesbians have had a parallel history both in feminist movements and in LGBT organizations. They have challenged and contested heterosexism in feminist movements and sexism in LGBT organizations while at the same time actively participating in their construction.⁴¹

In the 1980s, issues of democratization, human rights, and sexual rights expanded the agendas of the initial groups and created new ones. In the early 1980s, *gay* was a known term but not widely used. The term *de ambiente*—of the crowd—was more accepted as an identity term. Meanwhile *lesbiana* was also used, but with concerns by some women because of its derogatory use by heterosexuals. *Locas* or *travestis* were and still are terms used by transgendered people to describe themselves. *Transgeneristas*, an umbrella term for the wide variety of possibilities

of gender identities and gender expression, is mainly used by activists or in public policies and rights discussions. Some organizations prefer to use the term *trans* as a way to include all the mentioned possibilities.⁴² As in other Latin American countries, the activism of some LGBT leaders and groups around HIV issues promoted the development of new and wider LGBT organizations throughout the 1980s and 1990s. By the end of the 1990s, there was a diverse landscape of lesbian, gay, and mixed groups and organizations, not only in the largest cities but also in the intermediate-sized ones, organized around several interests: support and identity affirmation, religion, cultural activities, academic discussions, or rights advocacy. It is in this context that networks of organizations were developed, creating the bases for LGBT rights advocacy with a national perspective. Around 2000, with the support of the NGO Planeta Paz, LGBT organizations and activists started to link LGBT rights with peace-building activities.⁴³ Citizenship became also an important articulating topic and was adapted in cities such as Bogotá as the core of the pride parade. In fact, the notion of gay pride is not the main motto in this parade, which is called “Marcha de la Ciudadanía LGBT,” the LGBT Citizenship Parade.⁴⁴

It was around 2002 that the acronym LGBT started to be used by the organizations articulated around the Planeta Paz experience. The acronym helped as a strategy to connect the grievances of organizations with the international lobby around gender identity and sexual orientation rights and to create a collective identity to articulate particular initiatives. However, organizations, academics, and activists, particularly those who are lesbians and/or transgendered, have contested the use of the acronym because of its supposed unity and its blurring of inner differences.

As mentioned, lesbians have created forms of organization and collective representation that resisted the male dominance of most political spaces.⁴⁵ The use of private spaces, personal networks, and the Internet has been part of these strategies.⁴⁶ Transgendered people have also been internally discriminated or segregated in LGBT organizations, in spite of having a long history of organization and articulation around the spaces that they are socially allowed to occupy, such as beauty parlors or sex work. Bisexuality as a political identity began to gain visibility as part of LGBT activism. Intersex activism is emergent, and currently found most often in support organizations interested in medical services access.

HEALTH

Health and social security are defined in the Colombian Constitution as a public service (not as a right) offered both by private and public organizations and directed, coordinated, and controlled by the state under principles of efficiency, universality, and solidarity. Currently, there are two ways to be connected to the social security system: the contribution regimen and the subsidized regimen. In the first case, every worker pays monthly installments according to his income. In the second case, people who do not have economic resources are subsidized by the state, according to certain conditions and priorities. When this system was created in 1993, it was expected that, by 2000, Colombians would have universal coverage, however by that time 84.14 percent of the expected subsidized population was still not covered.⁴⁷ In 2007, 8.5 million Colombians had not yet been included in the social security system.⁴⁸

Apart from studies of the HIV situation of gay men and men who have sex with men, there are no studies on the health conditions of LGBT people. However, health has been one of the main concerns of LGBT activists. The main health issues for LGBT people are associated with the effects that discrimination and institutional homophobia can have on their whole health situation. In the case of transgendered and transsexual people, the social exclusion most of them face implies they do not have the resources to pay for affiliation with social security. Some of these people do not have proper identity documents, thereby increasing their marginality and limiting even more their access to health services. Experiences of discrimination by health providers make transgendered and transsexual patients reluctant to use those services. In the case of those who can afford the affiliation with social security, the medical interventions they require for their gender identities are not covered by the system. This means that, in practice, transgendered and transsexual persons often look for informal interventions for their bodies practiced by nonmedical personal in improper hygienic conditions. The use of cooking oil or industrial silicone to shape their bodies has been among these practices.⁴⁹ Transgender activists assert that, because of these treatments, some transsexuals have died.⁵⁰

Medical personnel have a deplorable lack of understanding and mistreatment of lesbian health needs because of sexism and their focus on heterosexual women. This is particularly the case among gynecologists. Meanwhile, the health needs of gay men are typically reduced to HIV-related issues, leaving other aspects of their health, such as reproductive system illnesses, unattended.

POLITICS AND LAW

Spanish colonizers imported and transplanted sodomy laws from the Middle Ages into Colombia's colonial legal system. There are several cases in the colonial archives detailing the prosecution of men and women because of their sodomite practices.⁵¹ Sodomy laws were replaced in the 19th century by medical and moral discourses and the regulation of public health. The corruption of youth, abuse, and scandals related to same-sex practices were the punished behaviors in the 19th and early 20th century codes, not the homosexual behavior itself.⁵² The 1936 Civil Code was the first to specifically call for the prosecution of homosexuality in any case and circumstance. This ruling remained in effect until the Civil Code reform of 1980, which does not mention the sanction. The Constitutional Reform of 1991 opened the space for a new consideration of LGBT rights with its emphasis on diversity, human rights, and the participation of citizens in the protection of their rights. "Acción de Tutela" was a protective measure created in the 1991 Constitution that became one of the most important tools developed by the 1991 Constitution, and has been used widely for LGBT rights advocacy.⁵³

Equality, Intimacy and the Free Development of Personality

The right to equal treatment structures the Colombian Constitution. The constitution mentions sex, race, origin, language, religion, and philosophical or political opinions as conditions protected against discrimination. Despite the fact that there is no explicit mention of sexual orientation or gender identity, the reference to "sex" has been extended to include LGBT rights, as has the mandate to create protective measures in favor of discriminated or marginalized groups.⁵⁴

The right to intimacy, also mentioned in the 15th Article of the Constitution, has been developed by the Constitutional Court to recognize the importance of sexuality in human dignity and the right every person has to self determine her or his own sexuality.⁵⁵ Article 16 mentions the right to the free development of one's personality. The combination of these rights with other constitutional principles such as freedom, autonomy, and human dignity have created a frame widely used to claim and protect LGBT rights. However, this protective character has been centered on individual rights, leaving the rights of LGBT couples or same-sex families less developed.

Same-Sex Couples' Rights

Five bills to recognize same-sex couples' rights were discussed in the Colombian Senate between 1999 and 2007. LGBT organizations and activists, with the support of some liberal legislators created these bills, and each initiative advanced the cause. The last one, presented in 2006, was approved by the majority of Senators in 2007, but was defeated in a postadministrative procedure controlled by Christian groups and conservative politicians.

These initiatives created national debates surrounding LGBT rights. On one side of the debates was those advocating the protection of heterosexual marriage, the special place of the family in the constitution, and the superior interest in the protection of children's rights. This last topic was part of public debate even when the topic of adoption was not mentioned in the bill, due to a belief that same-sex couples' rights are a threat to children's rights. The same happened with the notion of marriage; even when LGBT activists and proponents did not bring it up, it was still considered under threat. On the other side were those who considered same-sex couples' rights to be in accord with the constitutional principles of equity and nondiscrimination and a step further in the modernization of the country. The first side was headed by the Catholic Church and other Christian groups, conservative parties, and associations related to the protection of traditional family and values. The other side included some left- and center-wing parties, progressive politicians and intellectuals, and some editors of national newspapers and magazines. In 2006, the current president of the country, Alvaro Uribe, stated his agreement with same-sex couples' right to property ownership and social security, but affirmed his opposition to same-sex marriage and adoption.

While the 2006/2007 project was debated in the Senate, the LGBT human rights NGO Colombia Diversa and Grupo de Derecho de Interés Público in Universidad de los Andes developed a strategy of high-impact litigation to be presented to the Constitutional Court. They challenged the constitutionality of Law 54 of 1990, stating that only covering the domestic partnerships of heterosexual couples was against the right to equality of same-sex partnerships. Academics, legislators, and NGOs (including the New York City Bar Association) presented papers in favor of the initiative. On February 7, 2007, the Constitutional Court, in Sentence C-075, declared that the protective regime expressed in the Law 54 of 1990 must be also applied to same-sex couples. In practice, this dealt only with the rights of property ownership by same-sex couples, since other rights such as insurance, inheritance, and pensions were not considered. Despite its restrictions, the mentioned sentence marked the recognition of same-sex couples by the legal system and was a victory for LGBT rights activism supported by academia.

On October 3, 2007, as a development of this Sentence and in response to another litigation strategy presented by two citizens, the Constitutional Court recognized the right of same-sex couples to social security. According to that Sentence, when a LGBT person is part of the contributive regime, he can affiliate his partner will receive the same social security benefits. In response to another demand presented by Colombia Diversa and Grupo de Derecho de Interés Público, on April 17, 2008, the Constitutional Court acknowledged the right of a member of a same-sex couple to receive the pension of her deceased partner. This strategy of claiming rights one by one in the Constitutional Court can be considered the result of the negative response of the Senate to enact a global bill to protect same-sex couples' rights and is expected to be used for other rights given to heterosexual unions.

On January 28, 2009, in Sentence 029 of 2009, the Colombian Constitutional Court ruled that same-sex couples must be granted the same rights as unmarried heterosexual couples, including civil, economic, political, social, criminal, and immigration rights that were not mentioned in its previous rulings. With this ruling, Colombia and Uruguay are the first two countries in the Latin-American region that recognize rights for same-sex unions. However, because adoption rights are not yet included, same-sex couples are still in an unequal status in relation to heterosexual couples, married or unmarried.

Transgendered and Transsexuals' Rights

Transsexual and transgendered persons in Colombia can change the names they were given at birth by presenting a petition to a judge. They can also change the sex that appears on their identity card, once they have had sexual reassignment surgeries.⁵⁶ Because these surgeries are not covered by the social security system, and because the mentioned legal procedures are not free, some transsexual and transgendered persons are unable to benefit from these rights. LGBT activists have denounced the legal limbo in which transgendered and transsexual people are left and its effects on their access to education and jobs.

Intersexed People

The Colombian Constitutional Court has noted the need for laws related to intersex persons' rights in accordance with constitutional principles and international developments. In several sentences,⁵⁷ the Court has considered the need for informed consent before surgical procedures, the limits of parents' decisions, the autonomy of intersex persons, and their right to make decisions about their bodies, and has even questioned surgeries as a possible discriminatory measure against intersex persons. For the Constitutional Court, the decision to perform a surgery (when a person cannot decide by herself, for example, if the patient is a child) must consider several factors: the need for the procedure, its impact on the current and future autonomy of the child, and her physical and psychological condition. It has also stated that the treatment for intersex persons must be included in the social security system (both in the contributive and in the subsidized tiers) because it is needed for the dignity of the person. This position of the Colombian Constitutional Court has been considered progressive by intersex and LGBT activists in the Latin American context.

LGBT Persons in Jails

The violation of the rights of LGBT people in jails has been a frequent topic of attention by human rights organizations and activists. Discrimination based on gender identity or sexual orientation renders them more vulnerable than other inmates. This situation has caused several pronouncements by the State Council and the Constitutional Court. One of the most important concerns the right of LGBT inmates to intimate visits with their partners. While this right is granted to heterosexual inmates, decisions based on prejudice and discrimination have denied it to LGBT prisoners. In 1994, Martha Alvarez, a lesbian woman in prison, initiated a case for the right to intimate visits that went all the way to the Colombian legal system without adequate answer. In 1999, the Inter-American Commission on Human Rights accepted the case, and in 2002 it urged the Colombian state to conciliate and to develop legal measures in order to guarantee the mentioned right. In the conciliation, Colombian representatives argued that the mentioned right was denied because of the intolerance to homosexuality in Latino cultures and the need to protect discipline and morality in jails. There are no clear measures yet, nor enforcement actions in place, to make the exercising of this right a reality. In 2002, Alvarez, Alba Montoya (another lesbian who started a similar legal battle), and their lawyer Marta Tamayo received the Felipa Award from the International Gay and Lesbian Human Rights Commission for their persistence and efforts to protect women and LGBT rights.

Public Expressions of Gender Identity

Public expressions of gender identity, such as the presence of transgendered sex workers on the streets, the holding of transvestite beauty contests, or the participation of transgendered people in public events such as the Carnival of Barranquilla, have received public attention because of the supposed menace to public morality and children's rights associated with them. As an answer to several demands, the Constitutional Court has stated that there are no reasons to prosecute these expressions, so long as they conform to minimum norms of public behavior.⁵⁸ For the Court, sexual diversity is protected by the Constitution as part of personal autonomy. Accordingly, the state cannot impose ideological or moral criteria on sexual expressions, such as homosexuality. However, the Court also considers that state intervention is required when expressions of diversity threaten coexistence and social organization. This consideration leaves an open space for different interpretations that conservative politicians and public employees, such as the police, can use against LGBT rights. At the same time, transgendered people are gaining recognition in public media; Endry Cardeño, a transgendered woman, has not only participated in soap operas but is also recognized as a public figure and was responsible for opening the space to discuss transgender issues in public opinion.

RELIGION AND SPIRITUALITY

Catholicism is the most prevalent religion in Colombia and occupies a significant place in Colombian cultures and society. The Catholic Church is one of the most trusted institutions in the country and has important roles in addressing topics such as human rights, peace building, and conflict resolution initiatives. The Church also has a leading role in both education and its position on women's

sexual and procreative rights; LGBT rights are still considered in public opinion and politics. While the 1886 constitution granted the Catholic Church a privileged position, the 1991 constitution declared freedom for cults and the respect of religious diversity.

Christian churches, coming mainly from the United States, have gained more members in the last years. They have representatives in political institutions such as the Senate and city councils who have clearly stated their opposition to LGBT rights. In several cases, such as the debates in the Senate on the recognition of same-sex couples' rights in 2002 and 2006/2007, Christian politicians have used antigay materials produced in the United States in order to support their positions. Ex-gay activism and reparative therapy ideas have also been imported in recent years by some Christian priests and representatives.

Since the early 1990s, some LGBT persons have been in touch with United States pro-gay religious groups. As part of the mentioned development of support and identity groups, religious oriented groups have developed in Colombia's largest cities, and some Catholic priests have given implicit or explicit support to these groups as part of their evangelical mission. In Bogotá, one of the oldest LGBT organizations, "Discipulo Amado," Beloved Disciple, offered a space for religious experiences with the support of a local parish.

VIOLENCE

Violence is one of the main topics of concern for all groups in Colombia. Despite a decrease in recent years of homicides and violent deaths, they are still high compared with other countries in the world.⁵⁹ According to official sources, in 2006 there were 38 murders per 100,000 persons.⁶⁰ Ninety-two percent of the deceased persons were men, aged 31.7 on average. Homicide rates increase after 15 years of age, and are predominant among agriculturists and retailers. The impact of these rates is considered to be affecting the demographic structure in some areas and cities, such as Medellín.⁶¹

Since the mid 1990s, human rights activists in Colombia and abroad have denounced the existence of social cleansing squads who carry out extrajudicial killings targeting LGBT people, particularly *travestis*. This situation is of such concern that violence against LGBT people is one of the topics raised in the reports of the United Nations High Commissioner for Human Rights in the country. In Bogotá, according to LGBT activists, there were 60 registered killings of gay men between 2000 and 2005. In spite of that, there has been no official research conducted on the topic as of yet, and authorities are not prepared to deal with hate crime situations. There is still a tendency among police and the media to consider crimes against LGBT people *crimenes pasionales*—crimes of passion. In the cases of transsexuals and transgendered sex workers who have been killed, it is common to assume that the crimes were related to their supposed involvement in delinquent activities. These prejudices undermine possible antigay motives and indirectly justify the crimes.⁶² In article 58 of the current penal code it states that crimes with discriminatory reasons must receive a higher punishment, however there are no registered cases in which that ruling was used in relation to gender identity or sexual orientation.

Crimes against LGBT people in regions of sociopolitical conflict or humanitarian crises have recently been considered in human rights reports and qualitative

research. There are cases of LGBT people being threatened, displaced, and even killed by paramilitary operatives who consider homosexual or transgendered persons immoral, child molesters, or not to be proper citizens.⁶³ However, there are no legal measures or specific human rights policies to intervene in these situations.

OUTLOOK FOR THE 21ST CENTURY

The legal advances in Colombian Law in relation to LGBT rights are an important step toward establishing equity and erasing discrimination. The development of some of the most recent sentences of the Constitutional Court in relation to same-sex couples' rights will impact topics that are still difficult to discuss, such as the family. However, the realization of LGBT rights requires not only the creation of laws but also the articulation of public and private efforts in many levels of society, with a leading role in social policies. Local initiatives in Bogotá, Medellín, and Cali show that it is possible for public institutions to promote cultural changes in order to respect LGBT rights. However, there is a lack of attention at the national level that leaves unattended the situation of LGBT people in intermediate-sized cities and rural areas.

The gaining of political power by Christian politicians represents a challenge to LGBT activists and their organizations as much as the increasing antigay protests in main cities. The development of social policies that undertake discrimination and promote LGBT rights requires strengthening the involvement of LGBT activists in citizen-participatory instances both at the local and national levels. Both situations affect the political strategies implemented before now in LGBT rights advocacy and require a reflection on the types of relationships LGBT movements want to have with the state.

The particular situations of marginality and exclusion faced by transgendered people are still a challenge to LGBT rights activism and related social policies. The same happens with differences within that are not yet fully considered in the LGBT articulation, such as gender, race, and class differences, and that require the development of particular actions in social and public policies.

Studies of Latin American sexualities in the United States' context are mainly focused in Brazil, Argentina, and Mexico. Other countries, such as Colombia, are underrepresented in these studies. This implies the need to open the discussion to inner differences among Latin American countries and to challenge globalized representations of their sexualities. There is a vibrant and fruitful academic production on Latin American sexualities published in Spanish by Latin American scholars that is barely recognized in U.S. academic circles. Another challenge for academics and activists both in North America and in Latin American countries is to increase the exchange of knowledge as equals and peers with equally valuable experience and expertise.

RESOURCE GUIDE

Suggested Reading

Luis Fajardo, *Legislación y derechos de lesbianas, gays, bisexuales y transgeneristas en Colombia* (Bogotá: Tercer Mundo Editores, Colombia Diversa, 2006).

Revista Javeriana, *Diversidad sexual: lo psíquico, lo emocional, lo cognitivo y lo social* 735 (June 2007).

Fernando Serrano, ed., *Otros cuerpos, otras sexualidades* (Bogotá: Pensar, Universidad Javeriana, 2006).

Mara Viveros, ed., *Saberes, culturas y derechos sexuales en Colombia* (Bogotá: Universidad Nacional de Colombia, 2006).

Web Sites

Ciclo Rosa, www.ciclorosa.com.

LGBT film festival and academic event held every year since 2000 in Bogotá and Medellín, and occasionally in other cities.

Ciudadano Gay, <http://ciudadanogay.blogspot.com/>.

A blog featuring information and discussions of LGBT issues in Medellín, Colombia and Latin America.

Colombia Diversa, www.colombiadiversa.org.

In operation since 2005, this Web site produces annual reports on the situation of human rights of LGBT people in the country. It presents legal information, documents, news, and campaigns on the topic. Some information is in English.

Instituto de la Participación y la Acción Comunal—IDPAC, http://www.participacionbogota.gov.co/forta_lgbt.htm.

A public institution related to citizens' participation in public policy. Since 2007, it has worked with LGBT organizations and persons in Bogotá. They have produced a directory of LGBT organizations in the city.

Manuel Velandia, <http://manuelvelandiaautobiografiayarticulos.blogspot.com/>.

A log with articles by a gay Colombian activist.

Planeta Paz, www.planetapaz.org.

Peace-building organization that has supported the development of LGBT organizations in Colombia, among other social sectors, since 2000.

Organization

Guía Gay Colombia, <http://www.guiagaycolombia.com/grupos/index.htm>.

Offers information and links for 41 LGBT groups in seven cities.

NOTES

1. Censo 2005, <http://www.dane.gov.co/censo/> (accessed February 18, 2008).
2. Mauricio Cardenasand Carolina Mejía, *Migraciones internacionales de colombianos: ¿qué sabemos?* (Bogotá: Fedesarrollo, 2006).
3. <http://www.codhes.org/Info/grafico-tendencias.htm> (accessed February 18, 2008).
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5. See the following: Eric Cantor, *Los rostros de la homofobia en Bogotá. Des-cifrando la situación de derechos humanos de homosexuales, lesbianas y transgeneristas* (Bogotá: Universidad Pedagógica Nacional, Promover Ciudadanía, 2007); Colombia Diversa, *Derechos humanos de lesbianas, gays, bisexuales y transgeneristas en Colombia 2005* (Bogotá: Colombia Diversa, 2005); ICCHRLA, *Violence Unveiled: Repression Against Lesbians And Gay Men In Latin America* (Toronto: Inter-Church Committee On Human Rights In Latin America, 1996), http://www.Ai-Lgbt.Org/Violence_Unveiled_English1.Rtf (accessed February 18, 2008); Germán Rincón, *Informe paralelo de la comunidad de lesbianas y homosexuales con relación al cumplimiento del Pacto Internacional de Derechos Civiles y Políticos por parte del Gobierno Colombiano* (Bogotá: unpublished manuscript, 1997).
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24. Luis Fajardo, *Legislación y derechos de lesbianas, gays, bisexuales y transgeneristas en Colombia* (Bogotá: Tercer Mundo Editores, Colombia Diversa, 2006).

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41. Camila Esguerra, “Decir nosotras: actos de habla como forma de construcción del sujeto lésbico colectivo y de mujeres LBT (lesbianas, bisexuales y transgeneristas),” *Saberes, culturas y derechos sexuales en Colombia*, ed. Mara Viveros (Bogotá: CLAM, CES, Instituto de Medicina Social, Tercer Mundo Editores, 2006).
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43. Fernando Serrano, *Queering Conflict: The Invisibility of Gender and Sexual Diversity in Conflict Resolution* (Bradford, UK: University of Bradford, unpublished manuscript, 2004).
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53. “Acción de tutela” is a protective measure created in the 1991 Constitution that allows every persons to claim from a judge the protection of her or his fundamental rights when they are affected or threatened by the action or omission of any civil or state agent.

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56. Constitutional Court, Sentence T-594 of 1993 and T-504 of 1994, <http://www.corteconstitucional.gov.co>.
57. Constitutional Court, Sentences T-477 of 1995; 337 of 1999; T-551 of 1999; T-692 of 1999; T-1390 of 2000; T-1025 of 2002; T-1021 of 2003, <http://www.corteconstitucional.gov.co>.
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59. Homicide rate per 100,000 persons was 68 in 1996. It decreased until 1999, when was 59. After that, it increased again until 2002, when it was 66. <http://indh.pnud.org.co/> (accessed February 20, 2008).
60. <http://medileg.medicinalegal.gov.co/homicidios.pdf> (accessed February 20, 2008).
61. Ibid. It is believed that 544.000 years of potential productive life have been lost because of these rates, which has a strong impact on the development chances of the country.
62. Recent research discusses the notions of “prejudice-based violence” and “hate crimes” as applied to the Colombian contexts. See María Mercedes Gómez, “Violencia por prejuicio,” in *La mirada de los jueces. Sexualidades diversas en la jurisprudencia latinoamericana*, ed. Cristina Motta and Macarena Sáez (Bogotá: Siglo del Hombre Editores, 2008).
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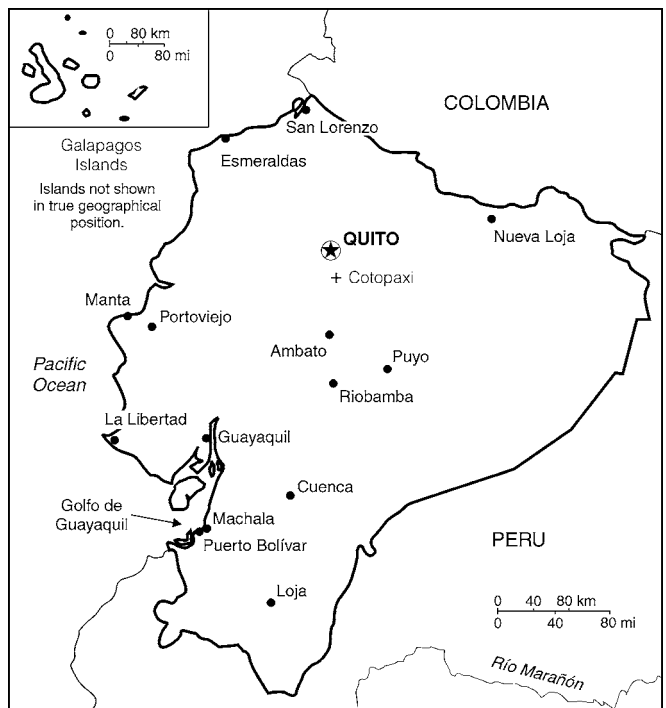
ECUADOR

Eduardo Alfonso Caro Meléndez

OVERVIEW

After nearly 300 years of Spanish colonization, Ecuador gained its independence at the Battle of Pichincha on May 24, 1822, and joined the great nation that at that time was called La Gran Colombia (1821–1831). Eight years later, on May 13, 1830, Ecuador became an independent republic. The official name of the country is the Republic of Ecuador (*La República del Ecuador*). It is a representative democracy located in South America that shares national borders with Colombia (on the north) and Peru (on the east and south), and is bound by the Pacific Ocean (on the west). Its total area is 256,370 square kilometers (including the Galapagos Islands, which account for approximately 965 kilometers, and are located in the Pacific Ocean).¹

The capital city of Ecuador is Quito, although the largest city is Guayaquil. Other cities of interest include Cuenca, Machala, Santo Domingo, Portoviejo, and Ambato. Ecuador's national motto of is "God, homeland, and liberty" (*Dios, patria y libertad*); its official language is Spanish and it is home to approximately 13.9 million. Roughly 1.5 million people live in Quito and in Guayaquil. Ecuador's population density is 47 people per square kilometer. The sex ratio at birth is 1.05 males to every female; the approximate annual birthrate is 24.94 births per 1,000, and the approximate death rate is 5.29 deaths per 1,000. Infant mortality is 31.97 per 1,000 live births. According to information released in 2003, female life expectancy at birth is 74.86 years, and it is 69.06 for males. The fertility rate is



2.99 children per woman. In general, the age structure in Ecuador is birth-14 years (34.9%), 15-64 years (60.6%), 65 years and over (4.5%).²

In terms of ethnicity, Ecuador's population is quite diverse: 65 percent, the largest group, are *mestizos* (i.e., descendants of Spanish colonists and indigenous peoples); Amerindians, the second largest group, make up 25 percent of the population; seven percent are *criollos* (i.e., white descendants of Spanish colonists or of European or Latin American immigrants). The remaining three percent is made up of Afro-Ecuadorians, including Mulattos and *zambos* (the child of a black person and an Indian). As a consequence of the 1999 national economic crisis, it is estimated that 700,000 people emigrated from Ecuador to Europe (mainly to Spain or Italy), the United States, Canada, or Japan. At present, be it for economic, political, or reasons of violence, the expatriate Ecuadorian population is estimated to be 2.5 million.³

OVERVIEW OF LGBT ISSUES

Ecuador is the only country in the Americas whose constitution (in Article 23, Section 3) explicitly refers to sexual orientation, yet there continues to be a serious gap between the law and its enforcement. On a daily basis, Ecuadorian LGBT citizens are victims of physical and psychological hostility and authorities fail to enforce their constitutional rights. In addition, the authorities are often active actors and agents of discrimination against these individuals.

AIDS continues to be an issue of great concern not only among civil society in general, but among LGBT citizens in particular. The *Ley del Sida* (AIDS Law), passed by Congress in 2000, commits the government to providing free AIDS testing and treatment to those who need it, but most Ecuadorians are not covered by the National Security System; the only persons who get full and reliable treatment are select members of the Armed Forces and police who benefit from a special government program. Likewise, marriage between persons of the same gender is not yet accepted or legal in Ecuador. Openly declared LGBT citizens cannot be a part of the military or official government institutions. Given the dominant Christian/Catholic tradition still prevalent in all sectors and levels of Ecuadorian education, LGBT citizens are still seen as defiant against the dominant straight society; therefore, LGBT students are still discriminated against. There are some organizations fighting to voice their concerns and to gain visibility and respect; however, there is no real freedom of speech for them.

EDUCATION

At present, Ecuador has a public education system that is both free and compulsory beginning at age five through 14. However, class sizes are very large and public schools do not have the necessary and sufficient infrastructure needed to service the community. In general, 65 percent of education in Ecuador is public, while 35 percent is private. Roughly speaking, 20 percent of primary and secondary schools alone are privately owned. Although during the 1970s and 1980s there were increased educational opportunities at all levels of instruction, it has been reported that only 76 percent of children will actually finish six years of schooling. It is estimated that, in the less privileged rural areas, only 10 percent continue on to

high school. Currently, there are 61 universities and 300 vocational and technical institutes of higher education.⁴

A large number of Ecuadorian teachers lack full accreditation or advanced degrees, particularly at the secondary and higher education levels; these deficiencies are most visible in rural areas. Since 1980, formal education was divided into four cycles: a preliminary cycle of two-years, primary school with a duration of six years, a three-year cycle of secondary school and, finally, higher education. Although the Ecuadorian Constitution states that 30 percent of the national budget should be invested in education, the country's current economic situation fails to provide for this. Nonetheless, there seem to be some government initiatives (e.g., legislation and campaigns to provide institutions with more materials and supplies) trying to deal with the issues of illiteracy both in the cities and in the rural areas. Also, aware of the need for some additional global dialogue and exposure, some institutions—particularly at the higher levels—are promoting exchange programs abroad seeking to create research and development programs.

In the midst of the ups and downs in the education system in Ecuador, quality education is a domain to which only the privileged elite has access. That is, economically speaking, the less privileged and the indigenous and Afro-Ecuadorian communities are kept in the margins of such a social contract. There is also discrimination against LGBT citizens in the educational arena. Young LGBT students do have access to schools, since in the early stages of their school life they learn to keep their gender or sexual identity to themselves, but they can become the prey of bullies or victims of negative social pressure, stigma, and stereotypes that in many cases, if not all, include their own families. The educational institutions do not seem to do much to combat this treatment.

EMPLOYMENT AND ECONOMICS

The economy in Ecuador went through a long recession between the years of 1982 and 1991. During this critical period, the macroeconomic policy focused primarily on short-term stability, but did not produce as many favorable results as had been expected. This policy was implemented in the midst of two important external crises: the 1982 external debt and the fall of oil prices, which began in 1982 and reached its most critical period between the years of 1985 and 1986.

Shortly after 1990, the Ecuadorian economy began a recuperation process with characteristics different from those applied in years before. Some new structural reforms were introduced that sought to strengthen the mechanisms of the market and to eliminate as much as possible state intervention. This new structure brought about important changes in the national economy. The importance of the manufacturing sector, which had been a good source of jobs, declined. Nevertheless, the participation of the primary sectors, such as agriculture, oil, and mining, showed a significant increase. These three sectors, primarily the latter, have had a great impact on the Ecuadorian economy of today.

In regard to actual employment, the agricultural and mining sectors, with their main focus on primary exports, have not generated sufficient job sources. Between the years 1992 and 1997, years of general national economic improvement, these sectors only supplied 7.3 percent of all employment, while 15.7 percent was generated by the manufacturing sector and 60 percent came from the business sector and other services.⁵ These two latter sectors are where low-income jobs have been

the most predominant. In addition, the generally scarce jobs, as well as the national deficit, have been marked by both national and international phenomena, including the notorious decrease in oil prices and international financial crises, specifically those in Asia, Russia, and Brazil. Furthermore, the El Niño weather phenomenon of 1998 through 1999 had a devastating, lasting effect on both Ecuador's geography and economy.

Due to these negative economic conditions, one of the most recent government strategies has been to adopt the U.S. dollar as the country's official currency. This move was initiated by then-President Jamil Mahuad on January 9, 2000. In spite of national protests, eight months later, on September 10, 2001, the policy was officially adopted. Similarly, negotiations with the International Monetary Fund were opened by the national government. Other significant initiatives designed to help the economy have efforts to keep the fiscal deficit down, the implementation of structural reforms, an attempt to strengthen the banking system, and efforts to regenerate some private capital markets. In the year 2000, in response to a 1.9 percent increase in the GDP, the Ecuadorian economy showed a modest recovery in spite of the fact that it has been estimated that 70 percent of the population still lives below the poverty line.⁶

In theory, Ecuadorian laws decriminalized homosexual activities in 1998. However, LGBT people still continue to be discriminated against in the workplace. Their rights are ignored and, generally speaking, they are seen as perverts and bad examples for straight society. LGBT communities continue to be stigmatized and marginalized by society at large and by the state apparatus.

SOCIAL/GOVERNMENT PROGRAMS

As of this writing, the current president of Ecuador, Rafael Correa, had announced several economic and social programs designed to benefit the Ecuadorian people. On behalf of president Correa, the Finance Minister, Ricardo Patiño, announced that, by the year 2010, the government investment in social welfare would increase to 34.8 percent of the annual budget. Other planned government investments include a two million dollar investment in electric energy development. Another investment of about 2.8 billion dollars in oil exploration and production and in the hydrocarbon sector. With regard to agriculture and cattle, the government aims to increase and improve their production by expanding land capacity and by applying effective and more modern medical and technological treatments, all of which, according to official estimates, will have a positive impact on the national industry.⁷

In addition to the plans outlined above, the government plans to invest in banking affiliated with social security and in housing to benefit the poor and those living in rural areas. In general, concerted government efforts to address social disparities seem to have shown recent positive results; however, given the country's current economic situation and international debt, it appears that it will be quite difficult for Ecuador to fund and implement the spending on social programs that aim to improve the quality of life, especially for the most vulnerable social groups, the indigenous populations and those Ecuadorian families of African descent. Given the widespread social stigma against them, LGBT communities must also be included among these most vulnerable groups. Contrary to what the constitution states in regard to no discrimination on the basis of race, gender, socioeconomic status, or

ethnicity, the Ecuadorean government continues to fail to promote and establish an environment that is free of hate, stigmatization, or discrimination against alternative sexualities. No social programs to provide protection and inclusivity to LGBT communities have either been sponsored or created by the government.

SEXUALITY/SEXUAL PRACTICES

Sexuality and sexual practices in Ecuador, in general, follow the common *macho* or *machismo* practices found in most of the other Latin American countries. Within the family sphere in particular, and in the whole Ecuadorian social domain in general, women continue to carry a rather passive role. Following hegemonic patriarchal norms, sexually speaking, women continue to be subordinate to and dependent on men. Likewise, those with alternative sexualities (lesbian, gay, bisexual, and transgender citizens) who do not follow the patriarchal pattern continue to be discriminated against. For the most part, their social practices and cultural production are still considered subculture and taboos. In the mid 1980s, for instance, any sexual activity between men was punishable with eight years in prison. In spite of this, some cultural and literary critics, mainly Ecuadorians living abroad, have written about this issue. Some of them include O. Hugo Benavides, Xavier Andrade, Gioconda Herrera, Patricio Aguirre, and Pablo Palacio.

FAMILY

As is the case for most Latin American countries, families in Ecuador commonly include several generations under one single roof. Although this seems to be changing, particularly in major urban centers, modern families continue to consider themselves one big family and are broadly inclusive. The notion of *compadrazco*, which implies a relationship of reciprocity between parents and godparents, remains a traditional and powerful relationship. In general, people seem to define themselves not only in terms of the immediate family, but also in terms of their circle of friends and the extended family, all of whom get together and celebrate whenever there is a reason, including such as birthday parties, *quinceañeras* (girls' 15th birthdays), graduations, baptisms, anniversaries, weddings, and special day saints' days. Gender roles, regardless of the celebration, are clearly defined and upheld; that is, on a daily basis, both women and men perform in ways that are traditionally expected of them.

COMMUNITY

To a greater extent, the gay rights movement in the United States in the early 1950s played a significant role in Latin American countries. Ecuador was no exception. However, in spite of this and the Ecuadorian constitution's lack of sanctions against homosexuality (dating to 1997), LGBT communities continue to be discriminated against in practice and are victims of all sorts of violence, including detentions and physical violence. One example of this climate of discrimination can be found in the massive detention of homosexuals that took place in the city of Cuenca in 1997.

Because of such human rights violations, many of which remain undocumented and go unpunished, it is not surprising that cases of violence against LGBT citizens

have been investigated and publicized on Amnesty International's Web site. Also, demonstrations have taken place in major cities in different years, one of which was the Pride Parade 2001 in Guayaquil. LGBT organizations in small cities or towns in Ecuador have yet to emerge, however, in major cities such as Quito and Guayaquil, there are a few organizations that works to fight discrimination and violence against sexual minorities, including Fundación Amigos por la Vida (Friends for Life Foundation) in Guayaquil and Fundación Ecuatoriana de Minorías Sexuales (FEMIS-Ecuadorian Sexual Minorities Foundation) located in Guayaquil and Quito, and Juventud Arco Iris (Rainbow Youth) in Guayaquil, which is part of Fundación Amigos por la vida.

HEALTH

As with discrimination and violence, health in general continues to be a major issue of concern for LGBT citizens in Ecuador, and the situation has worsened since the advent of AIDS. Because of the *macho* nature of Ecuadorian society at large, safe sex (homosexual and heterosexual) campaigns have not been totally successful. Many men who have sex with other men continue to think of themselves as *macho* men and believe that such campaigns are meant to be for homosexuals only. In spite of this, the rate of AIDS among the Ecuadorian LGBT people seems to have declined. Conversely, it is a growing concern among people who identify themselves as heterosexuals.

Likewise, some other sexually transmitted diseases, such as syphilis and gonorrhea, continue to be common among both heterosexual and LGBT communities. In regard to health service providers, each particular institution has its own internal structure and policies; this seems to pose a huge challenge to the establishment of an inclusive national health care plan. However, certain public institutions, such as the Ministry of Public Health, the Ecuadorian Social Security Institute, the Armed Forces and Police Health Services (under the Ministries of Defense and Government, respectively), and health services of municipalities, the Guayaquil Welfare Board, the Guayaquil Children's Protection Society, the Cancer Society, and the Ecuadorian Red Cross, do provide some public health services. On the whole, the public health sector oversees about 58 percent of the population.⁸

POLITICS AND LAW

Because of the stigmatized social realities and conditions, many LGBT persons participating in the government sphere continue to live in the closet. In many instances, LGBT citizens discriminate openly against others just to remain unnoticed or unseen, which—given their political position and power—helps to promote and maintain harsh discrimination against these social groups. Before 1998, before the constitutional change, homosexuality was illegal. In regard to marriage, same-sex marriage remains illegal. However, some changes to the constitution are currently being implemented and institutionalized that could include significant changes to the laws regarding LGBT marriage; one of the possibilities being discussed is legalization. Only recently, current Ecuadorian President Rafael Correa has openly affirmed that he is very much in favor of legalizing homosexual unions. Likewise, he expressed support for allowing homosexuals in the military. Given the markedly

conservative Ecuadorean society, this official statement constitutes a giant leap towards banning sexual discrimination.

RELIGION AND SPIRITUALITY

As is the case in most Latin American countries, Catholicism is the most prevalent religion in Ecuador. About 95 percent of Ecuadorians are Roman Catholic, although the numbers of Protestants are growing. Catholicism continues to promote the man-woman binary and marked gender constructions. Although many Catholic priests and nuns are closeted homosexuals, any sexual manifestation different from this binary continues to be considered an alteration to the norm.⁹ In smaller numbers, Ecuador is also home to Muslims (who number in the low thousands) and Jews (also numbered in the low thousands and mainly of German and Italian heritage). Towards the second half of the 20th century, Evangelical and Pentecostal churches began to make a significant impact on Ecuador's religiosity and cultural mores. Religion, in general, is so significant in Ecuador that a great deal of celebrations (e.g., festivals and annual parades) have a religiously rooted origin. Many lesbians and gay men are, indeed, deeply spiritual and religious. Nonetheless, regardless of the religion or the sectarian group, LGBT citizens continue to be a threat to traditional religious principles, and many religious organizations do not yet welcome or accept them.

VIOLENCE

Like most other countries around the world, Ecuador has gone through several periods of violence throughout its history. There continues to be both social and political violence against the most vulnerable citizens, namely the indigenous populations, women, children, youth and, in general, LGBT citizens. Recently, due to religious and political pressure, religious leaders and activists, journalists, teachers, university professors, and opposition politicians have been threatened, harassed, and subjected to violent attacks. LGBT citizens have been no exception. Many of these incidents of intimidation and attacks are neither openly reported nor documented, and remain unaddressed. It is not surprising, then, that the rate of violent death continues to escalate annually. A 15.9 percent of violent deaths among Ecuadorian youth has recently been estimated.¹⁰

OUTLOOK FOR THE 21ST CENTURY

The legalization of homosexuality as part of the 1998 constitutional reform movement brought about a major improvement in Ecuadorian society and laws. Also, another significant leap forward has been the recent declaration by President Rafael Correa expressing support for the legalization of same-sex marital unions. However, in everyday social life, there is still a great deal of stigma, stereotyping, and violence against LGBT persons who, struggle to be recognized as citizens entitled to the same legal rights as any other person. Sociopolitical Ecuadorian institutions still have a long way to go in regard to providing the same social rights and benefits for all citizens regardless of their race, socioeconomic status, gender, or sexual orientation.

RESOURCE GUIDE

Suggested Reading

- Xavier Andrade, "Machismo and Politics in Ecuador: The Case of Pancho Jaime," *Men and Masculinities* (2001): 299–315, <http://jmm.sagepub.com> (accessed June 16, 2007).
- Xavier Andrade, et al., *Masculinades en el Ecuador* (Quito: FLACSO, 2001).
- Hugo Benavides, "La representación del pasado sexual de Guayaquil: historizando los enchaquirados," *Iconos: Revista de Ciencias Sociales* 24 (2006): 145–60.
- Constitución Política de la República del Ecuador* (Quito: Talleres Gráficos Nacionales, 1946).
- "Ecuador: Continued Torture and Ill-treatment of Lesbian, Gay, Bisexual, and Transgender People," Amnesty International, 2001, <http://www.amnesty-ecuador.de/Assets/Docs/pride.pdf>.
- Katty Hernández Basante, *Sexualidades afroserranas: identidades y relaciones de genero: estudio de caso* (Quito: Abya-Yala, 2005).
- Judith Salgado, "Análisis de la interpretación de inconstitucionalidad de la penalización de la homosexualidad en el Ecuador," *Revista Aportes Andinos* 11 (2004): 1–12.
- Juan Valdano, *Identidad y formas de lo ecuatoriano* (Ecuador: Eskeletra, 2005).

Web Sites

- About Gay Life in Quito, Ecuador, <http://quito.queercity.info/about.htm>.
Focuses on different sociocultural aspects of queer communities.
- "Ecuador," U.S. Department of State, <http://www.state.gov/g/drl/rls/hrrpt/2003/27896.htm>. Focuses primarily on human rights issues in Ecuador.
- El portal GLBT de Ecuador, <http://www.gayecuador.com>.
Focuses on queer aspects of Ecuador, as well as world news on LGBT communities.

Organizations

- Equidad Quito, equidad@ecuanex.net.ec.
- FAV: Fundación Amigos por la Vida (Friends for Life Foundation) and Juventud Arco, famivida2@hotmail.com.

NOTES

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5. CIA, "Ecuador."
6. Ibid.
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EL SALVADOR

James Daniel Wilets

OVERVIEW

El Salvador is a democratic republic located on the Pacific coast of Central America, bordered by Guatemala on the west and northwest and Honduras on the north and east. To the east is the Bay of Fonseca, which narrowly separates El Salvador from Nicaragua.

El Salvador is one of the most densely populated countries in the Western Hemisphere, with a population of approximately seven million in a land area slightly smaller than the state of Massachusetts. It is the smallest country in land area in Central America. Despite its relatively small land area, the terrain is quite varied, with extensive mountains, a central plateau, and a narrow coast.

The principal and official language of El Salvador is Spanish, although Nahua is spoken by some Amerindians. The principal ethnic group in El Salvador is *mestizo*, comprising approximately 90 percent of the population, followed by European whites with nine percent, and Amerindians with one percent. The predominant religion is Roman Catholicism, with 83 percent of the population, although there is an ongoing, dramatic increase in the number of Protestant evangelicals in the country, who now number well over one million.



El Salvador became independent from Spain in 1821, along with the other colonies in the Captaincy General of Guatemala. After independence, Mexico briefly annexed El Salvador, but El Salvador regained its freedom in 1823. That same year, the five states of El Salvador, Costa Rica, Guatemala, Honduras, and Nicaragua formed the United Provinces of Central America, also referred to as the Central American Federation. Constant conflict between conservative and liberal forces led to the dissolution of the Federation in 1838, after which El Salvador became an independent country.

As in much of the rest of Latin America, the elites controlled the vast majority of the land, which, after the mid 19th century, was devoted to coffee growing. Most of independent Salvadoran history is characterized by strong tensions between the landed elite and the vastly poorer peasants. In March 1931, Arturo Araujo, a champion of the Salvadoran lower classes, was elected president. However, in December of the same year, a cadre of young military officers ousted President Araujo in a coup d'état, and Maximiliano Hernandez Martinez, the head of the officers, became president. Nevertheless, resistance against the military leaders continued, and in January 1932 rebels led by Agustín Farabundo Martí attacked the government forces. Within days the uprising was crushed and the military tricked members of the uprising to come into the open for public discussions and pardons. Upon doing so, between 10,000 and 40,000 peasants were slaughtered, leading to the naming of the uprising as "La Matanza" (the massacre).

This uprising set the tone for more recent Salvadoran history as well. An oligarchy continued to rule the country with the backing of the military, and almost every Salvadoran president until 1980 was an army officer. No election during this period could be characterized as free and fair.

The conservative Alianza Republicana Nacionalista (ARENA) earned international opprobrium for its violent tactics, including peasant massacres, murders of religious workers, Catholic missionaries, and the use of death squads.¹ The United States, beginning with the Reagan Administration, was closely aligned with the Salvadoran government during the conflict. Finally, in 1979, the tensions broke out in a full-fledged 12-year-long civil war, pitting the guerrillas under the Frente Farabundo Martí para la Liberación Nacional (FMLN) party against ARENA, who were allied with the government. Peace accords were signed in 1991, and there have subsequently been relatively free and fair elections in the country.

El Salvador's turbulent history has had important ramifications for LGBT individuals as they find themselves caught in the political struggle between an entrenched conservative elite attempting to preserve the social and political hierarchy against groups it deems to be a threat to that social order.

OVERVIEW OF LGBT ISSUES

Although homosexuality is legal in El Salvador, LGBT individuals are subject to widespread societal discrimination, including hate-based assassinations and other types of extreme violence.² Three major concerns dominate LGBT issues in the country.

It is impossible to separate LGBT issues from the larger societal historical conflicts that have convulsed the country since its founding. Human rights abuses against sexual minorities occur in the country within a context of a relatively recently ended civil war that deeply polarized Salvadoran society and created the

perception that any challenge to the social order should be seen as a political threat as well. Because LGBT individuals challenge deeply felt assumptions by many Salvadorans about the proper gender roles of men and women, sexual minorities have always been considered a threat to the stability of Salvadoran society. As such, what would in many countries be considered a largely social transgression by sexual minorities here takes on a political dimension, vastly augmenting the danger of violent persecution beyond the kinds of antigay violence seen in much of the rest of the Western Hemisphere.

Second, as a result of the Civil War and the polarization of Salvadoran society, the rule of law has become severely compromised. Rule of law is usually defined as the existence and implementation of laws independent of corruption, political partisanship, or irrelevant biases. The Civil War and its resultant polarization meant that law and security became subordinate to political concerns and the goal of subordinating nonconforming sections of society. Without the rule of law, societal groups that are subject to societal or other persecution have little or no recourse to the state for protection, particularly when state actors share the same prejudices as the society at large, if not more so.

Third, the breakdown of the rule of law has greater implications for sexual minorities than simply making them more vulnerable to antigay violence. For example, many Salvadorans—gay and heterosexual—experience a real threat from physical violence at the hands of organized gangs for various motives.³ For gay individuals, however, that risk is exponentially greater because perpetrators of that violence understand that sexual minorities can be physically assaulted and even killed largely with impunity from state prosecution. The widespread social acceptance of antigay discrimination and antigay violence, which is particularly prevalent in organized gangs, aggravates this already deadly situation. From a practical perspective, it is not difficult to appreciate that a person who can be robbed, assaulted, or killed with impunity is much more likely to be a victim of such crimes than a citizen who has recourse to state security forces to protect her or him.

EDUCATION

El Salvador has a literacy rate of approximately 80 percent, with literacy being defined as the ability for those over the age of 10 to read and write. The educational system is severely underfunded, but progress is being made.

The government has undertaken efforts at HIV/AIDS education with limited success. El Salvador has taken no steps to address educational discrimination against the LGBT community or violence against LGBT individuals in the schools.

EMPLOYMENT AND ECONOMICS

El Salvador has traditionally had a relatively strong economy compared to other Central American countries, although its economic growth rate has slowed in recent years. The per capita income as of 2007 was \$5,200. The economy consists of 60.5 percent services, 29.3 percent industry, and 10.2 percent agriculture.⁴

The currency of El Salvador is the U.S. dollar, which has prevented El Salvador from stimulating its economy through monetary policy. Nevertheless, El Salvador has a strong export sector, and of the country's membership in the Central America Free Trade Agreement (CAFTA) has strengthened this trend, although some

argue participation in CAFTA will aggravate the already serious labor problems and economic exploitation that is widespread in the country. El Salvador has had a history of state-tolerated employer interference with workers' rights to organize, with union organizers suffering from violence, harassment, and discrimination in employment.⁵

There is no employment protection for LGBT individuals in El Salvador, and there is, in fact, widespread employment discrimination throughout the country against sexual minorities.

SOCIAL/GOVERNMENT PROGRAMS

There are no government programs specifically targeted at the LGBT community. The country has been experiencing a difficult period of relatively low growth rates and the opportunity for government social service programs in general is limited.

SEXUALITY/SEXUAL PRACTICES

As a Catholic country, sexual practices normatively follow the Catholic tradition, although in practice contraceptives are readily available. As a country with a strong *machista* tradition, El Salvador's sexual practices typically adhere to traditional gender norms. Thus, there is a dualistic approach towards *travesties* (male transvestites). On the one hand, *travestis* are strongly stigmatized and frequently targeted for violence and even murder. On the other hand, because *travestis* are adopting the social gender role of a female, *travestis* are sought after for sex by numerous men who would otherwise consider themselves heterosexual. Thus, as in many Latin American and other countries, there is a strong tradition of *travesti* sex workers.

FAMILY

El Salvador differs somewhat from some Latin American countries with its prevalence of common law marriages. Despite this somewhat reduced lack of religious influence over the family, whether formally recognized by the state or not, family is highly valued, and anything that deviates from an otherwise traditional family structure is viewed with deep suspicion by many elements of Salvadoran society.

For example, the Canadian Refugee Board has documented that gay youth are frequently rejected by the family and "thrown out on the street," thus forcing these youth to seek alternative livelihoods that are frequently dangerous, both to their personal safety and integrity, and because of the risk of exposure to HIV.⁶

COMMUNITY

Although most LGBT individuals in El Salvador lead hidden lives, there is a growing LGBT community with one active political and social LGBT organization, Entre Amigos, based in San Salvador, the capital. El Salvador does have a gay pride parade in late June with dozens of individuals participating.⁷

The principal gay social and political organization, Entre Amigos has seen its members attacked and harassed by both societal actors and police. As of 2006, the

Governance Ministry continued to deny legal status to “En Nombre de la Rosa,” a sexual minority advocacy NGO.⁸

HEALTH

El Salvador has a national health care system, but that system has historically been characterized by insufficient funding and a scarcity of resources.⁹ This has had allocation implications for groups that have traditionally been the victims of discrimination, such as sexual minorities. Sexual minorities with HIV/AIDS are at particular risk, as they are not only discriminated against by society at large, but also within the health system, resulting in a frequently fatal lack of access to scarce and expensive but vitally needed medication.

A 2003 estimate put the number of people living with HIV at 29,000, constituting a 0.7 percent prevalence rate in the adult population.¹⁰ Discrimination against individuals with HIV is widespread,¹¹ although the Ministries of Labor and Health have launched several campaigns to eliminate workplace discrimination based on HIV status and pregnancy.¹² Individuals with HIV/AIDS also suffer from a lack of information and medical supplies.¹³

POLITICS AND LAW

The El Salvadoran legal system is based on the civil law legal system. However, because of the influence of the U.S. legal system, the El Salvadoran legal system does contain certain aspects of the common law system in various aspects of civil and criminal procedure.

As noted, there is no law prohibiting same gender sexual relations, commonly referred to as “sodomy laws,” and the Constitution and national law prohibit discrimination in general. Nevertheless, the reality is that discrimination is widespread and permeates all aspects of society, including the legal and political system. There is widespread discrimination against LGBT individuals and the LGBT community by most sectors of El Salvadoran society.¹⁴

RELIGION AND SPIRITUALITY

As in most Latin American countries, Roman Catholicism has been dominant in El Salvador, although there is a growing evangelical Protestant movement in the country modeled on the North American version.¹⁵ Despite the prevalence of Catholicism and evangelical Protestantism, El Salvador has nevertheless been relatively more secular than its Central American neighbors, and in this sense bears some resemblance to Mexico’s relationship with Catholicism. Because of poverty, many families have lived together in “free unions” or common law marriages, many families have been headed by women, and many children are born out outside of marriage.

Notwithstanding the relative secularity of El Salvador as a whole, the Church hierarchy itself is generally ideologically very conservative and has traditionally been extremely hostile to LGBT communities. Bishop Monsignore Saenz Lacalle, the bishop of El Salvador and a member of Opus Dei (a conservative sect within the Catholic Church), has been quoted as referring to gays and lesbians as “sick” and “perverted.”¹⁶ Even the Catholic humanitarian agency Caritas, a charitable

organization that focuses on the homeless, has stated that the Church will not help anyone who is homosexual.¹⁷

There have been some significant exceptions to the conservative orientation, however, with some members of the hierarchy supporting social justice causes within the context of “social” Christianity.

In part because of these conflicting strains within Catholicism, the conservative elite has become increasingly more identified with the evangelical Protestant movement than with the Roman Catholic Church. This identification results from evangelical Christianity’s emphasis on free market capitalism, entrepreneurship, and its tendency to discount the role of the political state in the country’s economic and social problems. This tendency of evangelical Protestantism not to blame the state derives in part from the belief that salvation will be found in the second coming of Christ, rather than changing the political and economic structure of the country. The growth of evangelical Protestantism poses challenges for the LGBT community because of its fierce hostility to sexual minorities and its resistance to democratic social activism. For example, the head of one large fundamentalist Protestant denomination (the Friends of Israel Church), Brother Tobi, referred to gays as “dirt” and “garbage.” He also urged parents to throw their gay children out of the house.¹⁸

VIOLENCE

Discrimination can frequently take the form of violent attacks perpetrated by gangs, individuals, or state and quasi-state actors.¹⁹ Contrary to the trend in much of Latin America, the level of anti-LGBT violence appears to be increasing in El Salvador as the role of gangs increases.

El Salvador is characterized by extensive violence against the LGBT community, including state actors such as the police.²⁰ Human rights organizations, as well as the U.S. State Department, have documented a close nexus between antigay vigilante groups and the police forces.²¹ As just one example, the *2006 United States Department of State Country Reports on Human Rights Practices for El Salvador*, released on March 6, 2007, documents:

There were reports of violence and discrimination by public and private actors against persons with HIV/AIDS, and against homosexual, lesbian, and transgender persons, including denial of legal registration for a homosexual rights advocacy group.²²

The close nexus between societal and governmental actors in the violence against gay and lesbian individuals means that gay individuals cannot turn to the police or other governmental authorities for protection since they are, as often as not, the source of the problem.

A very serious facet of violence against the LGBT community involves violent attacks perpetrated against sexual minorities by gangs, many of whom have their origins in the barrios of Los Angeles and who were deported to El Salvador from the United States.²³ Gang members frequently target sexual minorities for murder or other violent crimes motivated by at least four reasons: (1) initiation into the gang; (2) the impunity they enjoy in committing such crimes against sexual minorities as opposed to other targets; (3) hatred or psychosexual fear of gay people; or (4) simply for pecuniary gain.

Transgendered individuals (*travestís*) face particularly severe discrimination and are most often the victims of violent attacks from gangs, the police, and other societal actors. Transgendered individuals are particular targets of attacks for at least three reasons.

First, El Salvador is an extremely *machista* society. There are those who argue that hatred of sexual minorities in general, and in Central America as well, is based more on opposition to gender nonconformity than homosexuality per se. Indeed, it has been argued that, for many in Central American societies and elsewhere in the world, the deep-seated hatred of homosexuality results more from opposition to, or fear of, gender nonconformity than from the homosexual act itself.²⁴ This attitude is obviously the most applicable for hatred of those who are perceived as embracing their sexual nonconformity. This view is supported by the reality that same-gender sexual relations are not considered out of bounds in all respects in El Salvador (and elsewhere), so long as they do not *otherwise* violate gender norms.²⁵ Examples of this attitude can be seen in the numerous instances of rape of *travestís* and gay individuals by purportedly heterosexual assailants, and the extensive incidence of same-gender sexual relations in prisons. It is only the individual who is perceived as passive in the sexual activity, or who actively embraces the idea of forming a relationship with an individual of the same gender, that is considered to be an appropriate target of antigay violence. *Travestís*, for many in Salvadoran society, are the quintessential embodiment of the gender nonconformity that is at the heart of what the society perceives as a threat to the social order.

Second, *travestís* are more visible in society and are visible in a manner that is perceived as taunting the larger society. Thus, the public expression of a *travestí's* identity is not perceived as an individual's free expression of her own identity, but rather an assault on the larger societal order. In a society where each level of the social hierarchy has demonstrated a deep insecurity about its continued status in that hierarchy, every perceived threat against a particular social order is taken extremely seriously. Perhaps as El Salvador's democratic institutions develop and the society becomes more securely pluralistic, this rampant insecurity will lessen.

Third, *travestís* can be violently assaulted with impunity. Although this is somewhat true for all sexual minorities in El Salvador, it is particularly true for the *travestí* community. As noted, the public display of one's identity is frequently perceived as an offensive act, rather than one of identity, and therefore there is a sense among many in the police forces and society in general that *travestís* deserve whatever treatment they receive.

As noted by human rights organizations and even the U.S. Department of State, *travestís* cannot look to the state or the police for protection or justice when their basic human rights have been assaulted and even their lives threatened.

OUTLOOK FOR THE 21ST CENTURY

The current situation for the LGBT community is compromised in terms of its physical safety and social and political situation. What makes the current situation so difficult to resolve is that the problem does not lie entirely in generalized anti-LGBT sentiment in the general public, which is a problem that almost every country has had to encounter at some point in its history. Rather, the general societal hostility towards the LGBT community manifests itself in a government and a

security apparatus that suffers from a notable lack of rule of law and has been, and is likely to be, resistant to any change in such attitudes dictated from the political sector. Indeed, the murder rate of sexual minorities appears to have increased in the middle of the first decade of the 21st century.²⁶

A small minority of Salvadoran politicians are, however, more supportive of the LGBT community. For example, the LGBT community has enjoyed the political support of the first female mayor of San Salvador.²⁷ This suggests that there are some progressive inroads being made, and presumably levels of anti-LGBT discrimination and violence should ultimately decrease as those changes work their way through society, the political system, and those state entities entrusted with protecting Salvadoran citizens.

RESOURCE GUIDE

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Web Site

Globalgayz.com, Gay El Salvador, <http://www.globalgayz.com/g-elsalvador.html>.

Organizations

Asociacion Entre Amigos, entreamigos@integra.com.sv.

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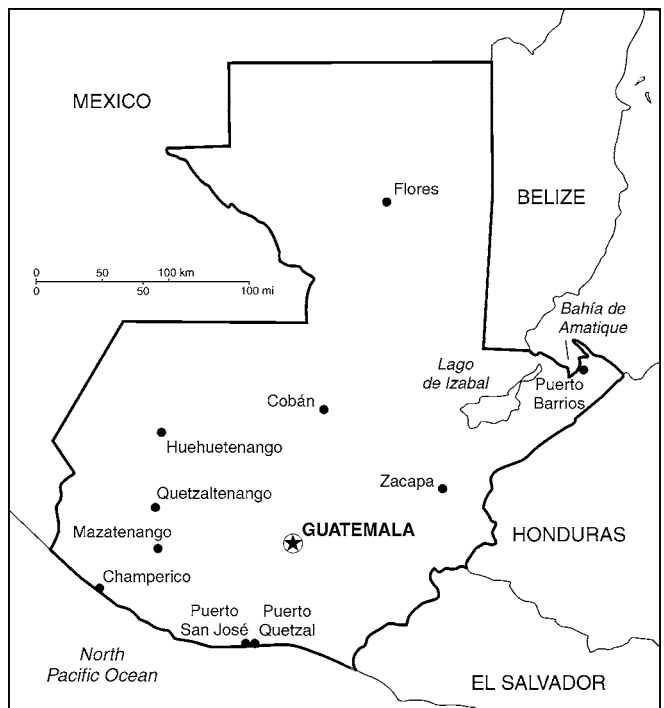
GUATEMALA

Eduardo Alfonso Caro Meléndez

OVERVIEW

The official name of Guatemala is the Republic of Guatemala (La República de Guatemala). It shares borders with Mexico to the northwest, the Pacific Ocean to the southwest, Belize and the Caribbean Sea to the northeast, and Honduras and El Salvador to the southeast. The total area of Guatemala is 42,042 square miles. Its capital city is Guatemala City (La Ciudad de Guatemala), with about two million inhabitants within the city limits and more than five million in the surrounding urban areas. Guatemala is the most populous country in Central America. Its population is estimated to be 12.9 million, with a density of 348.6 people per square mile. The population growth rate is 2.152 percent; the birth rate is estimated to be 29.01/1,000, and the death rate is 5.27/1,000; the life expectancy at birth is estimated to be 69.69 years.

The national motto of Guatemala is “The Land of Eternal Spring” (“El país de la eterna primavera”). Although 40 percent of the population speaks Amerindian languages, Spanish is the official language. After centuries of Spanish colonization, Guatemala gained its independence from Spain on September 15, 1821. The development of Guatemala has been affected by a recent history of civil war and military coups, among which resulted in a variety of rapidly changing military and civilian governments and a guerrilla war that lasted for 36 years. Finally, in 1996 a peace agreement was signed between the government and the Unidad Revolucionaria Nacional Guatemalteca, officially ending the sociopolitical conflict that took more



than 1,000 lives and created at least 1,000 refugees. Currently, Guatemala is a constitutional democratic republic with three branches of government: legislative, executive, and judicial.

OVERVIEW OF LGBT ISSUES

Lesbian, gays, bisexuals, and transgendered citizens continue to be invisible to the heterosexual majority in Guatemala, and homophobia is a major instigator of violence against LGBT citizens. Indeed, common LGBT people as well as activists continue to be the targets of several forms of violence, including intimidation and assassinations that are neither investigated seriously by the authorities nor criminalized. Due to social and family pressures, many teenagers—both male and female—commit suicide even before speaking their minds about their sexuality.¹ There is, indeed, a high suicide rate in Guatemala.

AIDS is one of the major health problems among LGBT people in Guatemala. In spite of many efforts by activists and organizations to educate people about AIDS and the LGBT population, social stigma, stereotyping, and violence against them still persists. The AIDS pandemic has had a negative effect on public attitudes toward homosexuality. Although some educational campaigns have been carried out, it is still commonly believed that AIDS is an epidemic that affects mainly homosexuals. Several groups and organizations, formed mainly in the 1990s, continue to fight discrimination, violence, and social stigma against LGBT people. In general terms, homosexuality is not considered illegal; however, the daily practices and violent actions against LGBT citizens say otherwise. In addition, same-sex marriage is not yet permitted. Homosexuals cannot serve openly in the military, as they are considered neither good citizens nor “real men” who could carry out the tough duties that soldiers are expected to perform.

LGBT people, both those who have come out as well as those who remain in the closet, have to face harsh social realities in Guatemala, and this may have an affect on their mental health. For this reason, some nongovernmental organizations (NGOs), such as USAID Guatemala, offer them psychological and medical assistance.² As expected, in a traditional *macho* society, the government and government organizations do not seem to care much about the sexual needs and care of the LGBT community in Guatemala.

Receiving a good education appears to be a privilege in Guatemala. Only students from wealthy families can attend good schools, which are usually private. Just as is the case in the broader society, if LGBT students are discovered or come out of the closet, they often become victims of nasty jokes and violent persecution by straight students. This persecution continues in the adult workplace. There have been quite a few recorded cases of LGBT workers losing their jobs due to their sexual orientation or gender identity.

EDUCATION

The education system, including the number of private and public elementary and secondary schools, is centrally controlled by the government. Public school is free, although the costs of school supplies, school uniforms, transportation, and the like has been steadily increasing, making it more difficult for the least privileged Guatemalans to continue to have access to education. The literacy rate among the

total population is believed to be 69.1 percent. Many children from the middle and upper social classes go to private schools, which have better facilities and services. Guatemala has one national public university, La Universidad de San Carlos de Guatemala, in addition to nine private ones, including La Universidad del Valle and La Universidad Galileo. Although the Constitution states that there is equal education for all without discrimination, the deeply rooted *macho* culture and mentality practiced and experienced within the Guatemalan nuclear family helps to promote discrimination against LGBT people in the school system. Serious groups or organizations within public or private schools committed to working against discrimination toward the most vulnerable people in Guatemalan society do not seem to exist. Guatemalan society seems to teach the philosophy “each person must fend for themselves.”

EMPLOYMENT AND ECONOMICS

Guatemala’s natural resources include petroleum, nickel, rare woods, fish, and hydropower. Its main exports are coffee, sugar, and bananas. About one fourth of the GDP comes from the agricultural sector, whereas two-fifths and one half are based on exports and the labor force, respectively. Guatemala has enjoyed important economic reforms and macroeconomic stabilization after the signing of the 1996 peace accords. In 2006, the Central American Free Trade Agreement (CAFTA) between the United States and Guatemala was initiated. Nonetheless, the inequality in the distribution of income persists, keeping about 56.5 percent of the total population below the poverty line. At present, other continuing economic challenges in Guatemala include upgrading both government and private financial operations, restraining drug trafficking, and narrowing the trade deficit. Interestingly enough, remittances from a large *émigré* community in the United States have become the major source of income, greater than the total value of exports and tourism combined. As of 2008, the labor force was estimated to be 3.9 million and the unemployment rate was at about 3.5 percent.³

In regard to the participation of LGBT citizens in the workplace, they can work, provided that their sexual preference is not publicly known. Should they want to keep a job, they must make sure that they do not let their sexual or gender preference show. Otherwise, LGBT Guatemalans can very easily be subjected to humiliation and job loss, and, legally speaking, very little or nothing can be done. As continues to be reported nationally and internationally, the streets of Guatemala, and those of Guatemala City in particular, are full of LGBT youth and adults who survive through prostitution; they are commonly harassed and victimized by the police or other authorities who are supposed to offer them protection against violence. A common reason for arrests or victimization of LGBT people is that they are a threat to normal social behavior.⁴ That is, they are constructed and persecuted as being inherently dangerous to the social order and common decency; therefore, they deserve what they get and are in need of regulation, treatment, and cleansing.

SOCIAL/GOVERNMENT PROGRAMS

In spite of the fact that the Guatemalan Constitution states that all citizens of Guatemala are offered equal education, health, work, and social benefits regardless

of age, race, ethnicity, cultural background, and sex, the reality of daily social practice indicates otherwise. Although there are some NGOs that provide assistance with LGBT health and AIDS, the Guatemalan government does not provide funding for any social program intended specifically for lesbians, gays, bisexuals, transsexuals, or intersexed citizens.

SEXUALITY/SEXUAL PRACTICES

Because the culture in Guatemala is so *macho* centered (i.e., men are the ones who have the social power and control), sexual roles are markedly divided. Both women and men have very clear sex or gender roles and any alternative sexual or gender expression that is different from the heterosexual binary is considered a serious transgression against the norm. This is the main reason why many LGBT Guatemalans are the targets of discrimination, threats, attacks, and violence, all committed with impunity. Within families, men are brought up to perform as active *macho* men, whereas women are brought up to perform the rather passive role, which means that, when it comes to sexual relationships and sexuality, it is the man who seems to have the last word. This tradition is passed on from generation to generation.

Virginity is an enormously important issue in conservative families in Guatemala; women (but not men) are expected to be virgins before marriage. However, the average person in Guatemala has his or her first sexual encounter between the ages of 15 and 18, and many do so without proper protection. About 40.5 percent of Guatemalans report that they were 17 years old or younger when their first sexual encounter happened.⁵ School-aged girls, sometimes as young as 12, get pregnant and have children, so their education suffers. Indeed, sexual education and sexual rights are a chief concern for the Guatemalan educational system and Guatemalan culture and society in general. Not surprisingly, given the rooted Catholic traditions and practices in regard to sexuality and sexual rights, very little about this topic is specified in the Guatemalan Constitution

FAMILY

Guatemalan families and family customs are very much centered on the ideas and pillars of deeply rooted Mayan traditions, Catholic religious principles, and patriarchy. Men and women have very distinct gender roles within the family circle. For instance, women are expected to be gentle and faithful to their husbands, and an act of infidelity committed by a woman is seen and considered differently from male infidelity. Female infidelity is considered more serious and punishable than male infidelity. In actuality, adulteresses are marked and punished, whereas adulterers are unmarked and not necessarily punished; that is, the legal penalties for adultery are more severe and greater for women than for men.⁶

Guatemalan wives, for the most part, have been socially constructed to depend on and obey men, a situation that can very easily lead to domestic violence. This is just one example of the violation of women's rights in Guatemala. In spite of the fact that the Guatemalan Constitution affirms the equality of all persons and equal rights and responsibilities of both women and men in a marriage, the Civil Code still makes the male the head of the household and, at the same time, enables the husband to deny his wife the right to work outside the home, as doing so would

compromise her duties of housekeeper and mother.⁷ Legally formed LGBT families are yet to be seen in Guatemalan society. Also, the possibility for openly LGBT persons to adopt children is still out of the question under the Guatemalan legal system. Nonetheless, due to social prejudice, stigma, and the rigid social constructions of men and women's roles, a man or a woman may have a "normal" life with a significant other and, at the same, time, have a "double life" with a homosexual partner.

COMMUNITY

Since the advent of sexual liberation and increased tolerance toward homosexuality in countries like the United States, Central American countries have started to see some slight changes in their LGBT scene. More and more businesses and organizations geared to LGBT citizens have been opening, particularly in the capital city, although they are not totally accepted by the heterosexual population. One of these is "Pandora's Box," a recently remodeled discotheque that appears to be the first gay business to have opened in Guatemala and has survived for over 20 years; little by little it has gained acceptance, although since its beginning and for several years was the target of censorship and rejection. In Guatemala City, some bars and clubs designed predominantly for gays and lesbians have been operating for the past 10 years or so, although visitors and frequent customers have had to visit them with caution, especially late at night, precisely because they can be the target of violent acts.⁸

Because there is little acceptance and tolerance displayed towards them, LGBT people still feel stigmatized and discriminated against. This is why, primarily since the 1990s, LGBT citizens have gotten together to form alliances and organizations to create a sense of community and togetherness, to fight back, to gain visibility, and to fight for the right to be heard. The most salient of these has been the *Colectivo Gay de Guatemala*, which, in October 2000, changed its name to "Guatemalan Gay, Lesbian, Bisexual, Transsexual and Transgender Community." It has subsequently grown to become one of the most important LGBT voices in Guatemala. Some other organizations of this kind include: OASIS, a Guatemalan HIV/AIDS prevention organization that focuses mostly on gay men and sex workers; Grupo Promotor del Colectivo Gay-Lésbico de Guatemala (Group for the Advancement of the Gay and Lesbian Community in Guatemala); Gente Positiva (Positive People), a group of women and men with HIV/AIDS who work together to gain more visibility and respect; Lesbiradas, an organization for lesbian and bisexual women; and Mujeres Somos (We Are Women), an organization solely for lesbians. That these organizations have been able to form, given the nature of the conservative and patriarchal society in Guatemala, is a quite an achievement.

HEALTH

At present, the national health system in Guatemala is controlled by many organizations. It is made up of the Ministerio de Salud Pública (Ministry of Public Health), The Instituto Guatemalteco de Seguridad Social (Guatemalan Institute of Social Security), the private sector, the Military Health Plan, and a major sector of traditional healers from the Mayan community. The main goal of the

Guatemalan Institute of Social Security is precisely the security of the country; one of its responsibilities is to provide health care to workers and their families. There are also various NGOs offering health services through education, prevention, clinics, and hospitals. The Military Health Plan, as the name suggests, caters exclusively to the army and the police with hospitals and clinics. The traditional healers provide health services with traditional medicine based on indigenous beliefs and practices.

As noted, and for different reasons, HIV and AIDS continue to pose serious challenges to the Guatemalan people. On the one hand, the Roman Catholic Church opposes the use of condoms, which worsens with the *macho* belief that “real men” do not need to use condoms and reinforces the vulnerability of women who have to accept the decisions of their boyfriends and husbands. As of September 2006, it was estimated that there were about 61,000 Guatemalans infected with HIV, of whom 16,000 were women. To make matters worse, as previously noted, HIV-positive Guatemalans face social discrimination and discrimination in the workplace. In the midst of it all, some organizations do offer some assistance, but many are dependent on private funding, which is not always abundant or readily accessible.⁹

POLITICS AND LAW

According to the Guatemalan Constitution, all human beings are free and equal. On paper, men and women have the same rights regardless of their marital status, and they all have the same opportunities and responsibilities. These fair constitutional principles do not match the social reality in Guatemala today. It is well known that discrimination of all kinds against the most vulnerable citizens of the social fabric, such as women, indigenous communities, and LGBT people, does exist. There certainly must be LGBT individuals involved in politics; however, the social system forces them to remain closeted, as they know that, should they come out, the social panorama could very easily change for them. Some gay pride events, like the 2003 Gay Parade organized by Lesbiradas and demonstrations, have taken place in Guatemala City; their main goal is to be heard in regard to gaining access to the same social privileges that other citizens enjoy and, most importantly, to stop the widespread violence that makes them frequent targets in the workplace, in school, in universities, or the general social public sphere. Violence has caused a great number of LGBT citizens to go into exile in other countries, such as Spain, to some countries in South America, Mexico, Canada, or the United States.

RELIGION AND SPIRITUALITY

Before the Spanish arrived in Guatemala, the Mayans had their own religion and practices associated with nature and the natural world. Interestingly enough, for the Mayans, there was no clearly marked line on gender issues; that is, for them gender and/or sex roles were somewhat ambiguous and, to some extent, interchangeable. It was not until the arrival of the Spanish that sexuality and gender divisions began to be imposed upon an already structured society. The Spanish conquest also imposed Catholicism on the Mayans, converting a great number of them to Christianity. Even though some Mayan religious traditions are still practiced today,

since the earthquake of 1976, some evangelical Christian groups have flourished in Guatemala and continue to transform Mayan religious practices and rituals. Nonetheless, as a result of the wave of dictatorships in Guatemala, the Catholic Church has continued to gain and maintain power; this has not been a highly positive result for a large sector of the population.

LGBT Guatemalans can be as religious and as spiritual as heterosexual Guatemalans. The Catholic Church, the largest religious institution in Guatemala, however, does not accept or approve of LGBT identities or sexual practices. For the Catholic Church, the existence of LGBT people and behavior continues to be seen as a threat and a deviation from the compulsory heterosexual binary. In spite of their rejection of homosexuality, it is not a secret that members of the Catholic Church hierarchy continue to be singled out for their homosexual behaviors, or for having relationships with minors. This situation, along with several others related to child molestation, is still on the rise and very little or nothing is being done by the authorities in the country.¹⁰ Indeed, the Catholic Church in Guatemala continues to be one of the institutions that has radically opposed same-sex practices, marriages, and unions throughout history.

VIOLENCE

Guatemalans have endured a series of violent episodes throughout their history. Since the arrival of the Spanish *conquistadores* around 1518 to the present, the Guatemalan social scene has been plagued by violent acts in many forms and degrees. This widespread violence has been inflicted upon the most vulnerable and marginalized citizens of the social system, namely children, youth, indigenous communities, women, the elderly, and the LGBT population. Since January 2002, 1,183 women have been murdered, and 18 transvestites were victims of violent murder between January and June 2004. Likewise, in 2005, at least 13 transgendered women and gay men were murdered in Guatemala City alone. Similarly, citizens who have spoken their minds or opposed mainstream views and practices, particularly during periods of dictatorship, have been victims of crude violence. One example of this was the case of 19 young protesters who spoke out against the modification of the penal code and were murdered between November 2002 and March 2003. The Guatemalan Constitution states that there is freedom of speech for both men and women, regardless of their marital status; however, what international NGOs have witnessed is totally contrary to what has been written on paper.

Moreover, throughout the 20th century, indigenous cultures, human rights workers, editors, journalists, and the like have been the targets of threats, kidnapping, and murder by sociopolitical forces in power. The literary work *I, Rigoberta Menchú: An Indian Woman in Guatemala* (1997) by Nobel Prize Winner Rigoberta Menchú Tum, an indigenous leader in Guatemala, provides many examples of such sociopolitical violence. Indeed, there have been many reports in different media on violence against LGBT citizens in Guatemala, particularly in the urban scene of Guatemala City. Because of the lack of freedom, recognition, and opportunities, poor children and youth, lesbian, gay men, and transgendered people continue to be hidden in the shadows or have to work in prostitution in secret or on the streets, making them vulnerable to continuous threats and killings.

OUTLOOK FOR THE 21ST CENTURY

The Guatemalan Peace Accords were signed in October 1998, however violence in many different forms and to varying degrees continues to affect many sectors of Guatemalan civil society. In spite of the fact that many organizations, primarily NGOs, continue to combine efforts to stop violations of human rights against LGBT citizens and other persecuted members of the social fabric, social equality is yet to be seen in Guatemala. Guatemalan alternative social groups and popular cultures still have a long way to go for recognition and acceptance in the patriarchal, hegemonic society.

RESOURCE GUIDE

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- Cifuentes Herrera and Juan Fernando, *El diálogo de los cuerpos: la sexualidad en la literatura guatemalteca* (Guatemala: Editorial Palo de Hormigo, 2005).
- Rosemary Joyce, "Negotiating Sex and Gender in Classic Maya Society," in *Gender in Pre-Hispanic America*, ed. Cecilia Klein and Jeffrey Quilter (Washington: Dumbarton Oaks, 2001), 109–41.
- Oscar Morales, *Al final del arco iris* (Guatemala: Oscar de León Palacios, 2003).
- Andrew Reding, "Human Rights in Guatemala Since the Signing of the Peace Accords," <http://worldpolicy.org/globalrights/guatemala/1998-Guatemala.html>.
- Ana Simo, "Guatemala: Making an Oasis in a Culture of Violence," <http://www.thegully.com/essays/gaymundo/001023.html>.
- Richard Stern, "Gay Life Emerges in Guatemala," http://www.thegully.com/essays/gaymundo/001016gay_guat.html.
- Frederick Whitam, *Male Homosexuality in Four Societies: Brazil, Guatemala, The Philippines, and the United States* (New York: Praeger, 1986).

Video/Films

Men Amongst the Ruins, DVD, directed by Kristen Bjorn (2003; Antigua: Sarava Production, 2003). The film portrays the lives of some gay men who share homoerotic encounters in this Mayan city. Guatemalan critics and filmgoers did not respond positively to the film.

Web Sites

- Cómo ser lesbiana en Guatemala (*How to be a Lesbian in Guatemala*), <http://www.gayguatemala.com/chicas/comoser.htm>.
- Gay Guatemala, <http://www.gayguatemala.com/articulos/art38.htm>.
Contains articles and opinions on different topics for Gays.
- Gay Guatemala News and Reports 1996–2006, <http://www.globalgayz.com/Guatemala-news.html>.

Organizations

- Gente Positiva (Positive People), gentepositiva@gua.gbm.net.
A group of women and men with HIV/AIDS.
- Grupo Promotor del Colectivo Gay-Lésbico de Guatemala (Group for the Advancement of the Gay and Lesbian Community in Guatemala), lesbiradas@intelnet.net.gt.
An organization for lesbian and bisexual women.

OASIS, Phone 502-253-3453.

HIV/AIDS prevention organization focusing mostly on gay men and sex workers.

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3. Guatemala Economy Profile 2008, http://www.indexmundi.com/guatemala/economy_profile.html (accessed June 12, 2008).
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8. Gay Life Emerges in Guatemala, http://www.thegully.com/essays/gaymundo/001016gay_guat.html (accessed June 13, 2008).
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HAITI

Jen Westmoreland Bouchard

OVERVIEW

The island comprised of Haiti and the Dominican Republic is known as Hispaniola. Christopher Columbus first landed on the island in 1492, and it fell under Spanish rule shortly thereafter. The Spanish relinquished the western portion of Hispaniola to the French in 1697; this area later became Haiti. Thanks to the forestry and sugarcane industries, Haiti soon became one of France's wealthiest territories. During the colonial period, the French brought over hundreds of thousands of slaves from the West African colonies of Senegal and Mali. In the late 18th century, a former slave named Toussaint L'Ouverture led an historic slave revolt and gained control of Haiti, naming himself as ruler. Since that time, Haiti has experienced near-constant political turmoil.

As a result of this instability, Haiti is now one of the poorest nations in the world. The average family income is less than US\$230 per year, and Haiti has one of the highest infant mortality rates in the Western Hemisphere (64 deaths per 1,000 live births).¹ Out of the country's 8,706,497 inhabitants, over one-third are without basic health care. Most of Haiti's population is underfed, and Haiti has the second-lowest per capita caloric intake in the world.² As a result of these conditions, crime, violence, and prostitution have become the norm for many within the lower strata of Haitian society.

OVERVIEW OF LGBT ISSUES

Homosexuality carries a powerful stigma in Haiti. Haitians tend to consider homosexuals humorous and



exaggerated. As a result, many homosexuals are often publicly ridiculed. The term *pédé* (a pejorative French term for gay) is used colloquially as an insult. This attitude is typical of Francophone Caribbean cultures. In fact, most Francophone, Hispanophone, and Anglophone Caribbean cultures are not welcoming of homosexual lifestyles. Despite this harsh social climate, a complex corpus of LGBTQ literature has developed out of the Caribbean islands. Caribbean writers who discuss homosexual themes in their work include: Dionne Brand, Michelle Cliff, Richard Fung, Gerg Henry, Sharon Lim-Hing, and Audre Lorde.³

EDUCATION

Haiti's official languages are French and Creole. French is the language of government and the upper class. The majority of lower class Haitians (many of whom do not have access to French language education) speak Haitian Creole, a language derived from French. As a result, a large sector of the population is excluded from information (government or otherwise) written in French. Only approximately 10 percent of the population is functionally literate in French, and only the elite (5%) speak French fluently. The national illiteracy rate is near 90 percent.⁴ In general, education in Haiti is relatively expensive and reserved for the French-speaking elite. Most schools are overcrowded and teachers are ill prepared to handle disciplinary and academic problems as they arise. Access to any sort of education or communication tools (such as the Internet) is scarce in Haiti and limited to the elite classes living in the larger cities. Consequently, education and information on homosexuality is virtually nonexistent.

EMPLOYMENT AND ECONOMICS

As one of the poorest countries in the Western Hemisphere, Haiti's employment opportunities are extremely limited. Haiti lacks the infrastructure to support a thriving economy. Roads in rural areas tend to be dangerous and unreliable at best. Many roads cannot even be used during the rainy season. With the exception of wealthy households in major cities, most Haitians do not have running water or electricity. Haiti's wealth is dominated by a privileged few. The rest of the population is forced to scavenge for jobs, and employment opportunities in the countryside are extremely limited. Therefore, many men travel to the larger cities to follow often-dubious employment leads. Upon arrival, they learn that there are few jobs to be had in the cities and end up living in slums or returning to their families in the countryside.⁵

If a known homosexual were qualified for one of the few sustainable employment opportunities to be found in Haiti, he or she would surely be denied this privilege. Homosexuals are viewed as not only ridiculous, but also as incompetent and untrustworthy.

SEXUALITY/SEXUAL PRACTICES

There is very little information available on homosexual practices in Haiti. Given Haiti's homophobic culture, one could infer that homosexual acts are performed in private and that homosexuals find out about one another through word of mouth. In both homosexual and heterosexual practices, the use of condoms is

rare, which has led to the spread of AIDS throughout the island. There are several Catholic organizations operating in Haiti that preach abstinence to Haitian teens. Since there are no data on sexual practices of teenagers in Haiti, the outcome of their efforts is unknown.

FAMILY

Family life plays an important role in all Haitian social classes. In many rural communities, the extended family serves as a social outlet. Rural Haitian families typically live in community and children are raised by all of the adults in the family. However, due to the migration of many Haitians to the island's major cities (in search of employment), the shape of the family has shifted somewhat. Now, the model of the nuclear family seems to have replaced the extended family in the urban milieu.

Within the familial unit, men and women take on unique, yet complementary roles. Traditionally, women have taken care of the home and children, and men have been responsible for the finances. Men also perform heavy chores such as repair work and gathering firewood. In rural areas, it is not rare for women to work on the farm.

A typical form of marriage among Haiti's lower social classes is *plasaj*, a type of common-law marriage. Even if the government does not officially recognize *plasaj*, these unions are considered commonplace and valid among Haiti's lower social classes. *Plasaj* is practiced by 85 percent of the Haitian population. Depending on one's social milieu or sexual habits, an individual may have several *plasaj* relationships over the course of a lifetime. For example, certain *plasajs* are formed if a man impregnates his mistress and offers to provide support for the child. Frequently, children born from one *plasaj* couple consider offspring from a parent's other *plasaj* to be brothers and sisters.

No socially accepted "alternative" family models exist in Haiti. Therefore, homosexual couples who take on parental roles are not considered "normal" by Haitian social standards. No form of marriage, common-law or other, exists for homosexuals in Haiti.

COMMUNITY

Even though homosexuality is legal in Haiti, the majority of gay and lesbian Haitians do not feel comfortable coming out or displaying homosexual behaviors in public.

There is a definite gay and lesbian movement in Haiti. However, given the anti-gay sociopolitical climate of the country, the movement has not been able to make much headway. Though homosexuals are the objects of much humor and mockery among contemporary Haitians, anthropological studies have shown that Haitians tend to be more tolerant of gender nonconformity (transsexuals and cross-dressers are two examples) than their Latin American counterparts.⁶

HEALTH

According to a 2003 report by the Haitian government, 40 percent of Haitians are without basic health care. For every 10,000 Haitians, there are 1.2 doctors, 1.3 nurses, and 0.04 dentists. Most of these specialists reside in Port-au-Prince,

Haiti's capital.⁷ When AIDS appeared in the U.S. consciousness in the 1980s, essayist Randy Shilts proposed a theory that AIDS was transmitted to the United States via the Haitian sexual tourism industry. In the late 1970s and early 1980s, inexpensive travel packages attracted a large number of tourists to Haiti and other islands in the Caribbean, and many assumed that the sex trade in Haiti during that time was responsible for the spread of HIV/AIDS in North America. Shilts's theory was quickly countered by many, including Canadian poet Ian Young, who dismissed the theory as racist and unfounded.⁸

Today, Haiti has a much higher rate of sexually transmitted diseases (STDs) than the United States. Since even basic STD treatments are too expensive for most Haitians, additional problems arise. Untreated genital ulcers caused by some STDs make it easier for HIV to spread throughout communities.⁹ In the 1990s, most Haitian men who were infected with the AIDS virus were homosexual or bisexual (or recipients of contaminated blood transfusions). However, the statistics have changed greatly over the past decade. Today, heterosexual intercourse in Haiti is the cause of more new cases of HIV/AIDS than homosexual intercourse. In 2003, four out of five men and three out of five women who were diagnosed with HIV contracted it from a heterosexual partner. There are currently 280,000 Haitians living with HIV/AIDS.¹⁰

POLITICS AND LAW

Homosexual relations have not been illegal in Haiti since the country was under French colonial rule in the 18th century.¹¹ However, same-sex marriage and domestic partnerships are not available. There are also no antidiscrimination statutes based on sexual orientation related to employment, housing, or public accommodation.

RELIGION AND SPIRITUALITY

The breakdown of religions in Haiti is as follows: 80 percent of Haitians are Roman Catholic and 16 percent are Protestant (10 percent Baptist, 4 percent Pentecostal, 1 percent Adventist, and 1 percent other), the remaining 6 percent practice other religions or are not religious. Nearly half of the Haitian population practices voodoo, either separately from or in conjunction with Christianity.¹² Although homosexuals are firmly excluded from Catholicism, they are welcomed by voodoo. Within the voodoo ritual, homosexuals are capable of becoming *oun-gans* and *mambos* (religious leaders). In fact, some *ounfos* (voodoo communities) in Port-au-Prince are made up of only gays and lesbians. Moreover, homosexual men are thought to be under the care of the lwa (a spirit character) of femininity, named Metres Ezili Freda Daome. Many lesbians serve Ezili Danto, who represents the independent and hard-working woman. During voodoo ceremonies, both homosexual men and women can be possessed by an lwa.

VIOLENCE

Because most Haitian homosexuals keep their sexuality a secret for fear of being shamed by their communities, violence against homosexuals is not a common occurrence. Furthermore, because most Haitian homosexuals attempt to conceal their sexual orientation, it is hard for potential perpetrators to identify victims.

OUTLOOK FOR THE 21ST CENTURY

Given Haiti's antigay climate, it does not seem likely that homosexuals will be able to flourish within this society. However, many gays and lesbians have been able to carve out a place for themselves within the voodoo tradition. In this way, they can freely express themselves, yet still be part of a cultural and religious community. Voodoo communities and ceremonies help give homosexuals the support and psychological resources they need to cope with the secrecy and intimidation they face on a daily basis. If a gay community does emerge in Haiti during the 21st century, it will surely emerge from this context.

RESOURCE GUIDE

Suggested Reading

- Marianne Antle and Dominique Fisher, eds., *The Rhetoric of the Other: Lesbian and Gay Strategies of Resistance in French and Francophone Context* (New Orleans: University Press of the South, 2002).
- Herbert Gold, *Best Nightmare on Earth: A Life in Haiti* (Edison, NJ: Transaction Publishers, 1991).
- Keith Green, *A Doctor Describes the Impact of an Epidemic on His Homeland* (New York: Positively Aware, 2005).

Films/Videos

- Des hommes et dieux [Of Men and Gods]*, DVD, directed by Anne Lescot and Laurence Magloire (2002; Haiti: Documentary Educational Resources, www.der.org).
- Haitian filmmakers made this documentary about various underprivileged homosexual men living in Haiti's capital, Port-au-Prince. The film examines the complex sociopolitical underpinnings of Haiti's homosexual community and discusses the places where homosexual men are free to congregate without being ridiculed or persecuted (for example, certain discos, voodoo ceremonies, and voodoo pilgrimages).

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HONDURAS

James Daniel Wilets

OVERVIEW

Honduras is a democratic constitutional republic located along the Caribbean coast of Central America. It also has a very short coastline along the Pacific Ocean along the Bay of Fonseca, between El Salvador and Honduras. It is bordered by Guatemala to the northwest, El Salvador to the southwest, and Nicaragua to the south and southeast. The capital of Honduras is Tegucigalpa.

Honduras has a population of 7,639,327 (July 2008 est.)¹ and a land area slightly larger than that of the U.S. state of Tennessee. Spanish is the official and predominant language, although Amerindian languages are also spoken.

Honduras's history largely tracks those of other Central American nations such as El Salvador, Costa Rica, and Guatemala. During Spanish colonial rule, Honduras was part of the Captaincy General of Guatemala, but obtained independence from Spain in 1821. It was annexed to the Mexican Empire, but in 1823 Honduras gained its independence from Mexico and joined the United Provinces of Central America. Between 1838 and 1939, the Federation collapsed due to regional strife, but regional integration remained a central goal of Honduran foreign policy until well into the 20th century.

The lack of economic development in Honduras led to extraordinary economic inequality and a marked lack of infrastructure development. The economy came to be dominated by large United States-based fruit companies and mining companies, which



supported puppet authoritarian leaders that protected the companies' interests against the much more numerous landless peasants.

In 1955, after economic unrest among banana workers in northern Honduras, a military coup was staged by relatively young reformist military leaders who took steps to enact a true democracy in the country. There were efforts to separate the military from the civilian government and create a more professional military. However, in 1963, conservative military leaders deposed the reformist leaders in a strikingly violent coup. This coup was followed by El Salvador's invasion of Honduras in a short war known as the "Football War." Despite the continued rule of the conservative military junta, some progressive policies were adopted, including land reform and infrastructure development.

In 1979, the country returned to civil rule. This development, however, was quickly undermined by the United States' encouragement of Honduran involvement in the Nicaraguan contras' efforts to overthrow Nicaragua's Sandinista government. In return for substantial U.S. aid, Honduras became a base for the contras and actively worked with the U.S. military. The Honduran Commission on Human Rights later accused John Negroponte, who served as U.S. Ambassador to Honduras from 1981 to 1985, of involvement in human rights violations against both Hondurans and Americans present in the country, including religious missionaries.²

Finally, in 1986, Honduras experienced a peaceful transfer of power between civilian presidents. Honduras has remained a relatively stable democracy, although the political scene continues to be dominated by two traditional, dominant parties, the Liberal Party of Honduras (PLH) and the National Party of Honduras (PNH). There is little ideological difference between the two parties, resulting in voting based on personalities and regionalism, which only exacerbates already severe issues of corruption and a general lack of accountability.³ On June 28, 2009, President Manuel Zelaya was overthrown in a military coup and was provisionally replaced by Congressional President Roberto Micheletti.

Honduras's history has led to a political and social situation where the rule of law is highly compromised. This has particularly severe consequences for the LGBT community because the security forces, who are mandated with a mission to protect the vulnerable members of society, are themselves unable or unwilling to prevent violent and nonviolent crimes against the LGBT community; and unable or unwilling to prevent members of the security forces themselves from committing such crimes against the LGBT community. Thus, the security forces, rather than protecting the LGBT community, or at least remaining an ineffective bystander, have become a significant source of the violence and discrimination experienced by the LGBT community.

OVERVIEW OF LGBT ISSUES

Although same gender sexual relations are not criminalized in Honduras, there is widespread discrimination against LGBT individuals by state actors, including the security forces, and by society in general.⁴

These discriminatory societal attitudes towards LGBT individuals are reflected in a high murder rate and other forms of violence against the LGBT community by those same state and nonstate entities. This situation is reflected in the 2006 U.S. Department of State Country Reports on Human Rights Practices for Honduras,

released on March 6, 2007 (the “2006 Report”), which is notable in its very circumspect position on reporting human rights abuses within a country, particularly with respect to countries that are perceived as friendly to the United States.

In addition to widespread societal discrimination, human rights conditions for sexual minorities are aggravated by governmental corruption, virulent gang violence, impunity for lawbreakers, police killings of sexual minorities, and vigilante violence committed by present and former members of the security forces and other entities.⁵

Persecution and other targeting of gay and transgendered individuals by entities acting with explicit or implicit government support is widespread throughout Honduras and is not limited to a particular region.

HIV continues to be a public health problem, with Honduras suffering from the highest HIV prevalence rate in Central America.

EDUCATION

Honduras did not create a national educational system until the late 1950s. Although the Honduran Constitution now states that a free primary education is mandatory for every child between the ages of seven and 14, the Honduran educational system is the least funded and widely considered one of the least effective at accomplishing its educational mission in all of the Central American countries.⁶ According to United Nations statistics, only 32 percent of students finish primary school without repetition; 13.5 percent of children have no access to an education. Private schools have, to some extent, attempted to fill this gap in education, but there is some skepticism about the quality of those schools and they tend to be viewed primarily as profit making institutions. In spite of this, Honduras has made modest progress in combating illiteracy, with sharp reductions in adult illiteracy and increased educational opportunities for younger Hondurans.⁷

In terms of higher education, the principal public university is the Universidad Nacional Autónoma de Honduras (National Autonomous University of Honduras). The principal location of the university is in the capital city, Tegucigalpa, though there are branches in La Ceiba and San Pedro Sula. In addition to the public university, there are private universities as well, although they are viewed as much less prestigious than the public university. There are no state educational programs addressing the needs of LGBT youth or adults.

EMPLOYMENT AND ECONOMICS

Honduras is the second-poorest country in Central America with a per capita income of \$3,300 according to 2007 estimates.⁸ It has an extremely unequal distribution of income and high unemployment rate; over 50 percent of the population lives below the poverty line.⁹ The economy is comprised of 55.5 percent services, 31 percent industry, and 13.5 percent agriculture.

The 2008 Human Development Index (HDI), published by the United Nations Development Programme, ranked Honduras 117th out of 179 countries in the world.¹⁰ The HDI consists of a composite measure of three variables of human development: life expectancy, education, and per capita income based on purchasing-power parity. LGBT¹¹ persons and those with HIV¹² suffer extensive and severe discrimination in the workplace.

SOCIAL/GOVERNMENT PROGRAMS

As one of the poorest of the Central American republics, Honduras has an overall dearth of government social programs. Given this reality, it should not be surprising that there are no government social programs specifically targeting the LGBT communities.

SEXUALITY/SEXUAL PRACTICES

Honduras is a very *machista* society; as such there is a strong emphasis on gender roles. Some argue that the hatred of sexual minorities in general, and in Central America in particular, is based more on opposition to gender nonconformity than the specific sexual acts implicated in homosexuality per se.¹³ Accompanying this emphasis on traditional norms is a high level of domestic violence, as men attempt to enforce their dominant societal position. There is little empirical evidence on the levels of domestic violence within same-sex relationships, but the generally high level of violence within heterosexual relationships is presumably reflected in same-sex relationships.

In a society where a bipolar view of gender and gender roles is predominant, bisexuality is seen simply as a variant of the gay or heterosexual orientation, depending on whether the sexual identity role adopted by the particular individual conforms to a stereotypically perceived gay or heterosexual individual.

FAMILY

The Honduran Constitution was amended in 2005 to prohibit marriage or adoption by same-sex couples. Much of the political impetus for this change came from the growing evangelical Protestant movement in the country.¹⁴

COMMUNITY

There are a number of LGBT rights organizations in Honduras, although their members are frequently the subjects of government harassment and intimidation, including murder, beatings, and other mistreatment.¹⁵ Government hostility to LGBT organizations is reflected in the government requirement that LGBT organizations remove any reference to their LGBT advocacy work in their title or mission.¹⁶ For example, in 2007, the Secretary General of the Ministry of Governance and Justice publicly articulated the rationale for the governmental denial of a LGBT advocacy group's registration, stating that the organization's purpose was not consistent with "good custom."¹⁷ The President of the Asociacion Kukulcan, Javier Medina, filed an appeal in 2007 against the Ministry of Governance and Justice's unilateral modification in 2006 to the legal registration of Colectivo Violeta, Asociacion Kukulcan, and Asociacion de Gay, Lesbianas y Travestis that had removed references to gay rights advocacy in their registration materials.¹⁸ In 2007, according to the 2007 Report, police arbitrarily detained and arrested *travesti* activist Claudia Spellmant, along with seven other persons, and physically abused them.¹⁹

The Honduran governmental authorities provide no protection to the country's LGBT community and community organizations.²⁰ The U.S. government

and human rights organizations have documented that the Honduran government is frequently the source of this serious violence, which includes arbitrary and/or unlawful killings²¹ and other forms of harassment.²² Although this problem is particularly acute for the country's LGBT community, the failure of the state to protect its citizens extends to the entire population.²³ The same report notes that "[t]he constitution and law prohibit arbitrary arrest and detention, but the authorities at times failed to observe these prohibitions [for everyone]."²⁴ It goes on to say that, "[a]lthough the constitution and the law prohibit such practices [torture and other cruel, inhuman, or degrading treatments or punishments], there were instances in which government officials employed them, including police beatings and other abuse of detainees."²⁵

In 1988, a loosely organized lesbian social and political network evolved into *Las Hijas del Maíz*, a feminist lesbian organization.

Other gay organizations formed in the Tegucigalpa and in the northern Honduran center of San Pedro Sula, a primary industrial center. In 1991, HIV activists formed the Honduran Association of Homosexuals Fighting Against AIDS. In 1994, the *Grupo Prisma*, a gay/lesbian social organization, was formed, with a strong focus on unity. In 1995, *Colectivo Violeta* was formed, consisting principally of gay men and transgendered individuals. At roughly the same time, *Comunidad Gay Sanpedrana* (San Pedro Sula Gay Community) began organizing community activities, including cyber cafes for queer youth.

HEALTH

Honduras has the highest rate of HIV in Central America.²⁶ It accounts for 60 percent of the AIDS cases in Central America, while only accounting for 17 percent of the region's population.²⁷ There is, however, an increasing amount of resources being devoted to HIV/AIDS programs and to efforts to provide cheaper access to antiretroviral treatments,²⁸ although these efforts have yet to demonstrate substantial improvement in the situation.

POLITICS AND LAW

Sodomy

There is no sodomy law in Honduras, although recent legal changes nevertheless give police wider discretion in harassing and arresting LGBT individuals. Moreover, the lack of rule of law effectively gives government security forces even greater latitude to harass and arbitrarily arrest LGBT individuals even without a sodomy statute.

Antidiscrimination Statutes and the Constitution

The Honduran Constitution of 1982 prohibits discrimination based on race, gender, class, or "any other discrimination that is detrimental to human dignity."²⁹ Honduran courts have never interpreted the nondiscrimination clause of the constitution as applying to sexual minorities, and in fact discrimination is widespread both in the government³⁰ and in society at large.³¹ In 2002, the Honduran government passed a statute, the "*Ley de Policia y de Covivencia Social*" (the Police

and Citizen Coexistence Law).³² This law has contributed to harassment of LGBT organizations and individuals who attempt to associate with one another.³³

Bisexuals

In Honduras society, there is no social or political movement particularly focused specifically on bisexuals, as opposed to LGBT individuals in general.

Societal and state actors for discrimination, violence, and death in Honduras and much of Central America have, particularly targeted transsexuals, or *travestís*. There are three primary concerns surrounding this community.

The intolerant attitude is the most applicable for hatred against those who are perceived as the most embracing their sexual nonconformity, one of the most prominent examples being *travestís*. This view is supported by the reality that same-gender sexual relations are not considered out of bounds in all aspects of Honduran society (and elsewhere), so long as they do not *otherwise* violate gender norms.³⁴ Examples of this attitude can be seen in the numerous instances of rape of *travestís* and gay individuals by purportedly heterosexual assailants, and the extensive incidence of same-gender sexual relations in prisons. It is only the individual who is perceived as passive in the sexual activity, or who actively embraces the idea of forming a relationship with an individual of the same gender, that is considered to be an appropriate target of antigay violence. *Travestís*, for many in Honduran society, and Central America in general, are the quintessential embodiment of the gender nonconformity that is at the heart of what the society perceives as a threat to the social order.

Second, *travestís* are more visible in society and are visible in a manner that is perceived as taunting the larger society. Thus, the public expression of a *travestí's* identity is not perceived as an individual's free expression of her own identity, but rather an assault on the larger societal order. In a society where each level of the social hierarchy has demonstrated a deep insecurity about its continued status in that hierarchy, every perceived threat against a particular social order is taken extremely seriously. It is possible that as Honduras's democratic institutions develop and the society becomes more securely pluralistic, this rampant insecurity will lessen.

Third, *travestís* can be violently assaulted with impunity. Although this is somewhat true for all sexual minorities in Honduras, it is particularly true for the *travestí* community. The public display of one's identity is frequently perceived as an offensive act, rather than one of identity, and therefore there is a sense among many in the police forces and society in general that *travestís* "deserve" whatever treatment they receive.

Although intersexed people exist in Honduras, no particular political or social movement in Honduras focuses specifically on the issues related to intersexuality, separately from the issues facing *travestís*.

RELIGION AND SPIRITUALITY

Like most countries in Latin America, Roman Catholicism is the dominant religion in Honduras, with adherents numbering 97 percent of the population and a growing Protestant population constituting the remaining three percent. Religion has a strong influence on the political system.³⁵ The Evangelical Federation, a

grouping of 180 evangelical churches in Honduras, has urged the government to withdraw official government recognition from any LGBT organization.³⁶

VIOLENCE

Honduras is one of the most violent countries in Latin America, and the level of violence continues to increase substantially.³⁷ The U.S. government, the Canadian government, and human rights organizations have documented that violence, including murder, against sexual minorities is particularly widespread.³⁸ LGBT individuals are powerless to stop the violence against them because of the ability of government and societal actors to kill or physically attack them with impunity. The number of murders reported is considered to be underreported because of the fear of sexual minorities towards the security forces. The 2007 State Department Report documents that the official numbers of LGBT victims of violence are likely substantially lower than the actual figures because of government intimidation of LGBT victims, fear of reprisal for those reporting violent assaults, police corruption, and fear of reporting by LGBT individuals³⁹ since the police and security forces are frequently the perpetrators.

Freedom House, a widely respected human rights organization founded in 1941,⁴⁰ has documented that unlawful killings and other violations of civil liberties are widespread in Honduras. Freedom House has also documented that many of these abuses are committed by police and security forces, as well as gang members. The abuses include unlawful killings, detainee abuse, disappearance of political opponents, a lack of due process, and lengthy pretrial detention.⁴¹ Freedom House also notes that the situation is aggravated by impunity for those who commit these acts.⁴²

In April 2007, a group of five men attacked *travestí* activist Josef Fabio Estrada. Numerous reports indicate that the police officers present were laughing and encouraged the men to continue their violent assault. Police were reported to be yelling “*Mátalo a este maricón, golpéenlo!*” (“Kill the faggot, beat him!”).⁴³

The Honduran LGBT community, like its counterpart in El Salvador⁴⁴ and other Central American countries, faces an additional threat from gangs, many of whose members originated in the United States and who were deported to Honduras from the United States.⁴⁵ Gang members frequently target sexual minorities for murder or other violent crimes motivated by at least four reasons: initiation into the gang, the impunity they enjoy in committing such crimes against sexual minorities as opposed to other targets, hatred or psychosexual fear of gay people, or simply for pecuniary gain.

Violence against women is also widespread and severe in Honduras.⁴⁶ Gendered violence is reflected in extremely high rates of domestic abuse, including murders of wives by husbands. Amnesty International has reported that nearly one third of women who formally submitted complaints to the authorities regarding domestic abuse were ultimately murdered by their spouses.⁴⁷

Much of the governmental abuses against its citizens, and their organized communities and organizations, can be attributed to the lack of effective rule of law in the country. The 2007 State Department Report notes that “[t]he law provides criminal penalties for corruption; however, the government did not implement the law effectively, and officials engaged in corrupt practices with impunity.”⁴⁸

The lack of rule of law particularly affects the LGBT community, since the generally hostile societal attitudes permeate the government as well. LGBT groups

have documented that “security force, governmental agencies, and private employers engaged in antigay discriminatory hiring practices.”⁴⁹ The World Policy Institute has reported that the “[H]onduran police frequently charge . . . gay men (and occasionally lesbians) with offending ‘morality and public decency’ if they are seen expressing physical affection in public.”⁵⁰

OUTLOOK FOR THE 21ST CENTURY

The near-term outlook for the LGBT community in Honduras is not particularly bright. Part of the reason for this relatively bleak outlook is that Honduras’s social and economic variables are considerably worse than its Central American neighbors. Without a strong middle class that has extensive interaction with the rest of the world, Honduras is likely to continue to be relatively, although not completely, isolated from the inexorable progressive changes affecting some of its neighbors.

There have been incremental gains in community organizing, although the harassment and violence experienced by LGBT organizations render their effectiveness limited. Moreover, Honduras, even more so than its most *machista* neighbors, suffers from an extraordinarily high rate of violence against women, which political science and sociological research shows is highly correlated with attitudes and violence toward sexual minorities.⁵¹

RESOURCE GUIDE

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- GLBTQ, “Social Sciences, Honduras,” <http://www.glbtq.com/social-sciences/honduras.html>.
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Organizations

- Asociacion Arcoiris, arcoirisghn@yahoo.com.
A relatively large, politically active organization.
- Comunidad Gay Sampedrana para la Salud Integral (San Pedro Gay Community for Holistic Health) (CGSSI)

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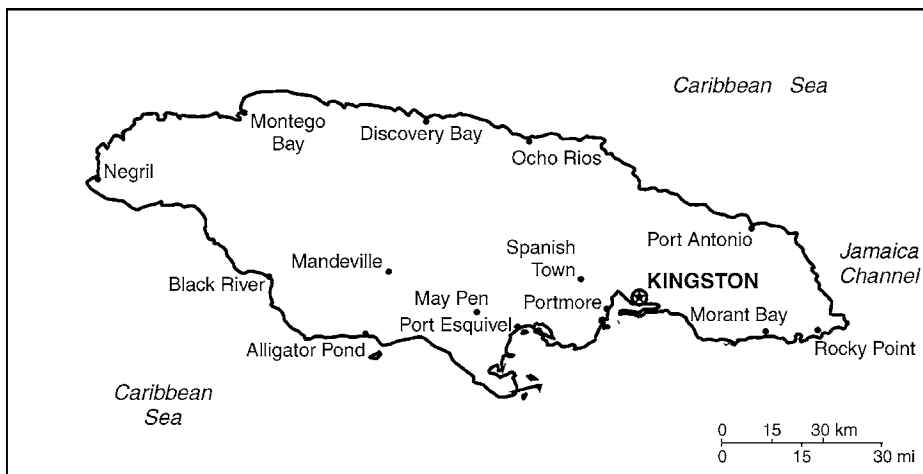
JAMAICA

Natalie D. A. Bennett

OVERVIEW

Jamaica is the third-largest country in the Caribbean, with a geographic landmass extending 4,400 square miles. The island nation is located in the western part of the Caribbean Sea, lying 90 miles south of Cuba and 110 miles east of Haiti; it is a one-hour flight from Miami, Florida. The island's topography is varied, including coastlines, swamps, fertile valleys, plains, tropical rainforests, and mountain ridges. Jamaica has one of the highest mountain ranges in the region, the Blue Mountains, which reach a maximum elevation of 7,402 feet.

Jamaica was originally named Xaymaca (which means "land of wood and water") by indigenous Taino peoples, and the arrival of Christopher Columbus on the island's north coast in 1494 brought tremendous changes to the physical, cultural, and demographic landscape. The indigenous peoples were decimated by Spain's brutal occupation; trading ports were established to accommodate European merchants, politicians and pirates arrived seeking new means of wealth and political power; and the expansion of the transatlantic slave trade by British slavers brought people from the west coasts of Africa to work on plantations designed to provide wealth to the British Empire.



Following decades of rebellions, revolt, and agitation by enslaved persons, Britain's parliament formally ended its participation in the slave trade effective March 25, 1807. Thirty years later, a policy to end slavery began with an "apprenticeship" period in August 1834, and ended in full freedom in August 1838, after much protest by former enslaved persons and British abolitionists. Jamaica endured five centuries of turbulent yet prosperous colonial rule by Spain and Britain before being granted political independence from Britain in 1962.

Jamaica is divided into 14 parishes, which are the primary administrative units; these are distributed across three counties (Cornwall, Middlesex, and Surrey). The capital city is Kingston; the largest metropolitan area encompasses Kingston, St. Andrew, and St. Catherine. Montego Bay, which is in the northwestern parish of St. James, was designated a city in 1977. Currently, more than half of the country's population—a total of 2.67 million—lives in one of these urban centers. Other major towns and population centers include Ocho Rios (St. Ann), May Pen (Clarendon), Mandeville (Manchester), and Savanna-la-mar (Westmoreland).

The population of Jamaica is primarily of African descent. The major racial/ethnic categories and composition are black, Indian, Chinese, white, mixed, and other. Besides the descendants of the Irish, Scottish, and English planter class and enslaved Africans, subsequent groups migrated to Jamaica from India, China, Syria, Lebanon, and Germany as indentured workers, laborers, merchants, refugees, farmers, and entrepreneurs from the mid-19th to the mid-20th centuries. The largest groups of such migrants were brought from India as indentured workers in order to replace the Afro-Jamaicans who had fled the plantations after emancipation. Chinese laborers were also brought to supplement the workforce, but anti-Chinese hostilities among Afro-Jamaicans soon ended this migration.

The country's official motto "Out of Many, One People" was adopted in 1962 at the moment of Jamaica's independence from Britain, and emphasizes a single national and cultural identity; however, tensions do exist about whether Jamaica is a black or a multiracial nation. Universal suffrage was granted to Jamaicans in 1944, while they were still considered colonial subjects of Britain.

Intergroup dynamics between Afro-Jamaicans and descendants of other immigrant groups are shaped by legacies of racism and economic inequality, as a result of more than three centuries of a plantation-based system that was stratified by class and color; the lowest socioeconomic status was accorded to dark-skinned Afro-Jamaicans; this level was shared with the descendants of Indian indentured workers. Immigrants from Europe quickly became members of the ownership classes. Racial/racist caricatures remain a feature of everyday life in Jamaica, and are frequently expressed in jokes, cartoons, names, and social commentary.¹ In general, social class (defined by the interaction of occupation, education, and family lineage), skin color, and cultural capital strongly influence individuals' access to opportunities for social mobility. One pernicious legacy of colonialism and slavery is the persistence of the color hierarchy, which is based on the assignment of higher social status and privilege to "brown" persons, who are descendants of intermarriages between Europeans, immigrant groups, and mixed-race Jamaicans, and ranking them above darker-skinned persons with African phenotypes. In recent years, the phenomenon of skin bleaching among dark-skinned Jamaicans, and particularly among women and young gay men in urbanized areas, has emerged as a strategy for navigating and perhaps moving up the social hierarchy of desirability.²

Spoken language is also used to demarcate one's social status in Jamaica. While the official language is English, Jamaican Creole is the language used by most persons, especially working-class and poorer people, in everyday communication. Jamaican Creole (also referred to as Patwa) is an amalgam of European and West African languages and is indigenous and distinct from other Creole languages in the region. In recent times, it has also been influenced by African American urban vernacular. Jamaican Creole is also the medium through which cultural traditions and ideals are expressed, from folk sayings to dancehall music. Fluency in Jamaican Standard English is achieved through education and is often taken as an indicator of employability and social status.³ Given the ubiquitous, albeit paradoxical, nature of Jamaican Creole, it is not surprising that it is often the chosen mode of expression for extreme emotions or unadulterated thoughts: sexual humor, name-calling, and abusive language are generally expressed in Patwa. For example, the term "batty man," which literally translates as "a man who likes bottoms/anal sex," is the common derogatory term for a homosexual man. Women who are suspected of being homosexual are called "man royals" (or "royals," for short) or "sodomites"; the term lesbian entered the local vernacular only in the past decade or so. Nonetheless, the use of Jamaican Creole is often considered a problem; many regard it as broken English and a symptom of poor education. There is also intense debate regarding whether it should be considered a language and formally be taught in schools.

Since the 1960s, urban-based cultural and anticolonial nationalist movements have critiqued the dominant Eurocentric values and orientation of Jamaican society. Although there has been much resistance to ideas about Black Power and Afrocentrism, most aspects of social life—from beauty contests, national heroes, and government-sponsored cultural celebrations, to national monuments, literary and visual arts, and styles of dress—have been affected, or even revised, based on these movements. Reggae music and its recent offspring dancehall music continue to shape urban music cultures around the world and are now considered legitimate topics of academic study. Both the reggae and dancehall spheres are dominated by men from the urban ghettos of Kingston, and operate as spaces for reinforcing and contesting mainstream ideas of Jamaican identity, as well as settings that offer insight into the lived experiences of urban, disenfranchised Jamaicans. Since the early 1990s, gender, sexuality, and violence—often together—have been the main foci within the music. The mainstream and religious critiques of dancehall as "slackness" (i.e. sexually explicit, violent, vulgar and antiestablishment) has led to various attempts by government and corporate sponsors to censor the work of targeted artists, to withdraw their support from entire events, and to ban particular songs or words from being broadcast over public airwaves. It is notable that songs containing derogatory language or exhorting violence against gay men and lesbians are not included in this ban.⁴ Nonetheless, reggae and dancehall music continue to thrive in Jamaica and the Caribbean diaspora, and have become a lightning rod for controversy regarding the recent trend of musicians using the songs to deliver trenchant attacks against LGBT persons.⁵

The dominant religion in Jamaica is Christianity, ranging from mainline denominations such as Anglican, Methodist, and Baptist, to millenarian and fundamentalist groups such as Seventh Day Adventists, Jehovah's Witnesses, and Church of God. Conservative interpretations of biblical scripture are widely embraced by observant and nonobservant persons alike, and influence all areas of public life,

including the government. Other faith communities include Judaism, Islam, Buddhism, the Ethiopian Coptic Church, Rastafarianism, and indigenous groups like Pocomania and Myal, also known as Revivalism.

Jamaica has a parliamentary democracy. Elected officials serve as members of Parliament, the body responsible for all decision-making on public policy, organization, and resources at the national level. There are three branches of government: the executive (led by the Prime Minister and an appointed Cabinet), the legislative (a bicameral parliament composed of the Prime Minister, an appointed Senate, and elected House of Representatives), and the judiciary (based on English common law, with a Privy Council located in London, England; Court of Appeal; Supreme, Revenue, Family, Traffic, and Resident Magistrates' Courts; and Petty Sessions). The Jamaica Constabulary Force (JCF) is the policing unit, and has primary responsibility for daily security. The Jamaica Defense Force (JDF) is the military arm responsible for national defense. Jamaica is a member of the British Commonwealth of Nations, a body composed of former colonies of Britain. The Governor-General represents the British Crown, and is the titular head of state; this person is appointed by the Prime Minister and serves a purely ceremonial role.

The two major political parties, the Jamaica Labor Party (JLP) and the People's National Party (PNP) have dominated the system since independence. The majority of politically active persons ally themselves with one of these parties. Historically, the PNP has followed a more populist agenda, embarking on a program of democratic socialism in the 1970s, and identifying itself as a party "for the people." For example, the PNP has made the social welfare of the citizens its primary focus, addressing issues of poverty, education, housing, employment, and land redistribution, and enacting various legal protections for women and children. PNP rule in the 1970s was accompanied, and supported, by various attempts to mobilize social rights, especially by and on behalf of women, gays and lesbians, workers, intellectuals, and other marginalized groups.

The JLP has largely been the party of the cultural and economic elite, adopting conservative free market capitalist positions that have primarily benefited the corporate class and promoted private and foreign ownership of key national resources. While these ideological positions were somewhat undermined toward the end of the 1980s with the economic downturn and introduction of liberalization policies through loan agreements with the International Monetary Fund, each political party retains some commitment to its core philosophies and constituencies.

Other political parties, such as the Workers' Party of Jamaica, the New Democratic Movement, and the Imperial Ethiopian World Federation Incorporated Political Party have emerged over time, speaking to ideological positions not reflected in the mainstream political arena. In the years of Jamaica's political independence, the PNP has been the governing party for the largest number of years: from 1972–1980, and then the longest stretch from 1989–2007. During its regime, the PNP presided over the unraveling of the major social reforms it had instituted in previous years, a weakening state, increased corruption and state violence, declining social and human rights, and a liberalized economy leaning heavily towards foreign ownership and control. Despite evidence to the contrary, many have perceived the PNP as being somewhat more favorably inclined towards the goals of sexual equality. It was under the PNP government that the question of revising the constitution to include protections for sexual orientation became an issue of contention, but the then-head of state, P. J. Patterson, did not support such a proposition. After

more than 30 years of political participation and despite criticisms of her educational background and her populist appeal, Portia Simpson-Miller became the first woman to be elected Prime Minister in 2006. While she vocalized the need for broader support for the economic and social rights of women, no specific policies or legislation were enacted to put these ideas into effect. The JLP, under the leadership of Bruce Golding, was elected as national government in November 2007. Under his leadership, the government continues to take a strong, proactive stance against the full inclusion of LGBT persons in Jamaican society.

Since the 1960s, the economic system has ebbed and flowed, steadily shifting from one dominated by export agriculture (mostly bananas and sugar) to mineral exports (bauxite and alumina), to the current mix where tourism and hospitality industries are the mainstays, with new growth in telecommunication and financial services. Together these sectors account for 60 percent of the Gross Domestic Product (GDP).⁶ Since beginning a nearly 20-year relationship with the International Monetary Fund in 1977, Jamaica has undergone several changes, including the divestment of government-run entities, such as electricity, telephone, and manufacturing companies, and increased foreign ownership of the country's resources. In the wake of a series of financial crises in the 1990s, Jamaica's external debt rose dramatically.⁷ Currently, Jamaica is the fourth-most indebted country in the world, with debt in excess of US\$14 billion dollars, which is approximately one-and-a-half times its gross domestic product. More than 50 percent of all revenue goes toward paying off debts owed to several international lending countries and institutions. Earnings from tourism and remittances from émigrés make the largest contribution to the Jamaican economy, each totaling up to 20 percent of the GDP.⁸ The revenue from these sectors is currently in decline, as they are heavily influenced by the state of the U.S. economy. Given the steady decline in economic productivity across all sectors, the current JLP government has aggressively courted foreign investment in mining and tourism, especially the cruise-ship industry, which in turn has harmed both Jamaican workers as well as physical environment, especially the destruction of the habitats of native species.⁹

Widening economic inequality since the 1990s has produced a larger educated middle class and an urban underclass characterized by inadequate education, low literacy skills, entrenched poverty, deteriorating living conditions, gang warfare, drug trafficking, as well as increased police violence and human rights violations.¹⁰ For the working-age population (i.e., those 14 years and older), the unemployment rate is conservatively estimated at 15 percent, with more than 30 percent of the population reportedly underemployed.¹¹ While there is considerable debate about whether women's achievements in education are occurring at higher rates than, and therefore at the expense of, men's national statistical data shows that women are still more than twice as likely to be un- and underemployed as men.¹² Unemployment among youth (especially young men) has become more acute in recent years, fed by declining quality of schools, increasing illiteracy and drop-out rates, job scarcity, job-skills mismatch, and the changing value of many sex-typed low skill jobs. For example, until the early 1990s, gas station attendants were primarily men; currently, more women than men apply for and secure these jobs. Widespread political corruption and a lack of investment in the social infrastructure has created fertile ground for crimes including gang violence, trafficking in drugs, weapons, and people, petty crime, and homicide.

Since the early 20th century, Jamaicans have been emigrating to England and North America for access to social mobility abroad, or to maximize their opportunities upon return to Jamaica. The 1980s saw a dramatic increase in outward migration, the net effect of which has been a significant brain drain of nurses, teachers, and persons with a college education. Some consequences of this outward movement include increased local dependence on imported goods and remittances and fragmented family networks, which often span several countries and cities. Ease of travel and communication through access to wireless and digital communication technologies (e.g., cell phones, Internet, radio, video, etc.) has helped to intensify feelings of nostalgia and patriotism among Jamaican immigrants, many of whom are actively involved in local debates (e.g., whether the sodomy laws should be removed from the constitution). Various groups have also been organizing and lobbying for recognition of “the diaspora” as a political constituency that would have say in matters of national governance.

OVERVIEW OF LGBT ISSUES

The terms *lesbian*, *gay*, *bisexual*, and *transgender* have only recently come into use by Jamaicans to describe themselves or to talk about sexual orientation. More frequent references are made to gay and, to a lesser extent, lesbian as descriptors of sexual behavior and erotic attraction rather than as identity categories. Like the term “homophobia,” these terms emerged in historically specific contexts *outside* of Jamaica, and thus are not directly applicable to how same-sex sexual orientation is experienced and understood in Jamaica. Nonetheless, the shorthand term “LGBT” is used as a matter of convenience here until there is much better understanding of sexuality in relation to Jamaica’s social and cultural landscape.

Social antipathy toward persons of same-sex sexual orientation has noticeably increased in recent years and is routinely and commonly expressed through physical and rhetorical violence, pejorative language, harassment, and incitement to harm. Since the late 1990s, the radio airwaves, classrooms, newspaper columns, family dinners, political speeches, courtrooms, chance encounters between strangers, popular music, counseling offices, and prayer services have often served as venues for the promotion of antihomosexual sentiments.¹³ It is within this context that the sexual identities of LGBT individuals are being forged and politicized, often pitting them against families, friends, coworkers, each other, and the broader society. In turn, there have been various attempts by LGBT individuals to create spaces—social, political, and cultural—to mitigate the loneliness, isolation, anxiety, and danger posed by the widespread stigmatization of homosexuality. These efforts are often clandestine and mostly short-lived, re-emerging in new forms in order to escape the persistent threats against a growing but still vulnerable community.

The terrain that LGBT persons travel in Jamaica is a complicated one; in this setting, the characterization of Jamaica as a homophobic society does little to aid in understanding the ways attitudes about same-sex sexual orientation are being formed and expressed; the concept certainly does not reveal how LGBT Jamaicans themselves might reasonably respond in the dominant social and political climate as described. On one hand, anger, verbal abuse, chastisement (called “judgments”), and physical violence are the methods by which most individuals and organizations make their attitudes known on any issue that sufficiently provokes them. The most visible targets of hostilities to perceived same-sex sexual orientation in public

are usually homosexual men. This is in part because there is higher tolerance for diverse gender displays among Jamaican women; women are perceived in more ambivalent terms than men. Variations in men's gender displays are taken as an indication of deviant sexual orientation.¹⁴ On the other hand, it would be inaccurate to say that lesbians are somehow safer and protected by their gender simply because there are fewer publicized events where women are the targets of physical violence that is driven by antihomosexual attitudes. For example, the brutal deaths of Phoebe Myrie and Candice Williams in 2006, at the hands of Candice's former male lover, show that violence motivated by antihomosexual feelings often works in concert with other socially recognized forms of violence against women.¹⁵ Since the sexual harassment of women in public is so ubiquitous that it is not named as such, and since sexual violence against women and girls is consistently ignored and underrecognized in law, as well as underreported to and under-investigated by the official authorities, it will take much more effort than reliance on crime statistics and images of scarred, mutilated male bodies to understand the complete picture regarding the nature and extent of violence against LGBT persons in Jamaica.

Similarly, public sentiments expressed in newspapers and on radio talk shows do not usually make distinctions among LGBT persons, whether from outside of or within Jamaica. The victims of the mob violence and other attacks that have been broadcast around the world to demonstrate the extent of Jamaica's homophobic environment are quite specific; they have been primarily working-class men. The perpetrators shown, or assumed, also tend to be persons from poor and working-class backgrounds and communities. In general then, conclusions about LGBT lives in Jamaica have been extrapolated from these specific events and have over-emphasized one source of the hostility, homophobia, emerging from specific social groups, while allowing the effects of other aspects—economic oppression, sexism, religious fundamentalism, and nationalism—to be ignored or misrecognized.

For example, the media frenzy and the highly publicized deaths of Brian Williamson and Peter King, both of whom were brown elite men, suggest that class status may not have the protective effect that is often claimed by Jamaicans of all class backgrounds. That is, middle-class gay men may not be as insulated from violence and harassment as one might imagine; it is more likely that they are able to manage their sexual lives—and the related trauma—beyond the public's gaze. More than anything, it is the mainstream media's deferential attitudes towards elites that work to protect men and women of those social groups from undue media exposure, while simultaneously overexposing the violence committed by and against poor and working-class homosexual men.

Since most of LGBT life in Jamaica unfolds beyond of the scope of the camera lenses and public discourse, the picture that has been created about LGBT persons in Jamaica so far is incomplete and quite skewed. Notably missing are the experiences of women, middle and upper-class Jamaicans, and youth. The experiences of LGBT persons in the less visible settings—at work, in congregations, in families of origin as well as families of choice, intimate partnerships, and so on—are no less important, but have yet to be examined with any seriousness. On this basis, it becomes readily evident that the characterization of Jamaica as “the most homophobic country on earth” by LGBT groups in North America and Europe gives short shrift to how LGBT Jamaicans are navigating multiple arenas of social life. On the flipside, there is much public denial within Jamaica about the extent of the marginalization and victimization of LGBT persons. This has the effect of both

rebuffing the external critiques of “rampant homophobia” and perpetuating the invisibility of LGBT persons, and denying the validity of the negative treatment they experience. Conspicuously yet unrecognized by both the critics and defenders of homophobia is the steadfast resilience and creativity of LGBT Jamaicans who live out their lives in their birthplace. These experiences are no less valid or meaningful than those of gay and lesbian Jamaicans who have sought political asylum elsewhere on the basis of persecution due to sexual orientation.

For all the reasons noted, reliable research and public information on the lives of LGBT persons in Jamaica is scant. Thus, the task of creating a body of knowledge—including academic research, community histories, archives, works of literature, arts, and other creative activities—which documents the lives and struggles of LGBT Jamaicans is essential to the ongoing movement for full social equality and inclusion.

EDUCATION

Until the 1950s, the majority of working class and poor Jamaicans did not have access to adequate, or sometimes any, schooling. Only students from elite families were able to obtain a secondary and tertiary education in a British-run system. In 1972, Prime Minister Michael Manley introduced several wide-scale reforms, the most significant of which were to make primary, secondary, and tertiary education free and accessible to all, to subsidize the cost of uniforms, transportation, and meals for socially disadvantaged children, and to improve adult literacy. Adult literacy currently stands at 80 percent, meaning that at least 20 percent of persons 15 years and older are unable to read and write adequately.

Since the 1980s, limited financial resources and a lack of political will have led to the deterioration of the government-funded school system; governmental expenditures on education have declined from over 20 percent in the 1970s to approximately 9 percent in 2005. Private schools are completely fee-based and selective; these are generally reserved for children of the upper-middle classes and elites, diplomats, and foreign nationals. Private schools provide students with a direct pipeline into tertiary institutions; the majority of students emigrate to attend college and university in North America or Europe. The following discussion concerns publicly funded institutions.

While various efforts have been made to remove some of the structural barriers that produced unequal quality of and access to education among primary and secondary schools (e.g., subsidizing exam fees, building more schools, changing the examination format), the education system continues to be plagued with problems such as overcrowded classrooms, declining physical infrastructure, low attendance and retention rates among the poorest children, inadequate training of teachers, inefficient administration, low motivation among teachers, and increasing school violence, especially in boys’ and mixed-gender schools.

School attendance is not mandatory; education is still treated as the purview of individual families. As recently as 2006, then-Prime Minister Portia Simpson-Miller proposed major school reforms including making school attendance compulsory for school-age children. However, children living in poor and rural households are far less likely to attend regularly and to complete their schooling, even at the primary level. Girls are more likely than boys to complete the fifth grade.¹⁶ To date, the policy of mandatory education has not been implemented.

There is a three-tiered system of education in Jamaica. Funding for public schools at the primary (basic through grade 6) and secondary levels (first through fifth form, equivalent to grades 7–11) is subsidized by the national government and supplemented by fees assessed to each student. Midway through the sixth grade, students take the Grade Six Achievement Test (GSAT), which determines whether and which type of secondary institution they will attend, as well as their chances for attending university later on. Students' scores and social background directly affect whether they are placed in traditional, hybrid ("upgraded"), or technical/vocational schools. Students may shift between mixed-gender and single-gender schools over their educational lifetime. Traditional high schools, which are perceived as better academically, are generally single-sex; the majority of the schools are designated for girls.

Students graduate from secondary school at around the age of 17, after being tested in academic subjects of their choice in the General Certificate Examination (GCE) and Caribbean Examination Council (CXC); these exams are fee-based. Exiting from secondary school is also stratified; while all students take the Caribbean Secondary Education Certificate (CSEC) examination, those who attend the "upgraded" high schools are less likely to demonstrate competencies in math, English, and social studies than those students enrolled at the traditional high schools. The former are also less likely to be eligible to take the Caribbean Advanced Proficiency Examination (CAPE), which is highly required for entry into tertiary institutions.

In general, girls are more likely than boys to be encouraged to believe that education determines their life chances. Not surprisingly, many more young women aspire to and seek out postsecondary educational opportunities than do young men.

Most of the tertiary institutions are co-educational, but some teachers' colleges are single-sex, admitting only women. Because these institutions have entrance requirements that are based on exam scores, only a small proportion of students who successfully completed high school and take the exams are able to attend these institutions. All the institutions are fee-based but are subsidized by the government and the private sector. The vast majority of university students are women, although the balance shifts within specific academic programs. Most educational institutions also have a religious affiliation (Baptist, Church of God, United Church, Seventh Day Adventist, etc.) or explicitly promote religious belief as a part of students' participation.

Several structural inequalities in the educational system produce dramatically different outcomes for boys and girls and reproduce socioeconomic differences along the way; these also have particular implications for gay and lesbian students. The first is the school environment. Despite claims to the contrary, students are tracked in the Jamaican school system. Girls and boys who are able to attend the traditional high schools experience a better quality education, less corporal punishment, less verbal abuse, and generally develop better social skills. Within these schools, there is high degree of pressure to conform to normative gender and sexual identities. These rules are enforced at every level, from the school's public identity, religious affiliation, and structure of classroom interaction, to its curricular content and peer groups. As such, students are subjected to an inordinate amount of social control that strongly dissuades any fruitful exploration of their sexuality or disclosure of non-normative sexualities. Any such disclosure or questioning is typically met with social disapproval and stigmatization. Students who are suspected or presumed to

be gay or lesbian may be subject to teasing, sexual harassment, physical intimidation, and violence by their peers.

Because traditional high schools, more so than the other high schools, are given the task of reproducing the dominant ideas about gender and respectability in the society, the level of scrutiny of students in traditional high schools is fairly high, coming from both media and ordinary citizens alike. The pressure on children within these institutions to conform to idealized notions of masculinity and femininity is reflected in and enhanced by the media reports designed to scare ordinary citizens, politicians, and families of children attending these schools. In 2006, *Jamaica Gleaner*, one of the national newspapers, presented unsubstantiated anecdotal information on same-sex sexuality, which the paper characterized as a “fungus” that was “going rampant” and “spreading” across the traditional girls’ high schools in Kingston. Principals’ responses to these rumors of girls’ sexual orientation ranged from denial and defensiveness of their school’s identity, to punishment (i.e., expulsion of girls from school) to explicit policies of discrimination. In the latter case, girls who were suspected or who were “professing lesbians” were routinely denied promotion into one of the slots for the highly competitive Sixth Form, the preparatory level for entrance to university.

While most girls in these schools seem to echo the antipathies about same-sex orientation expressed by their teachers—using terms such as “nasty” or blasphemy to characterize lesbian relationships—many also resist the policing of the students’ sexual identities by refusing to betray their scorned peers. From the pointed responses of lesbian and bisexual young women (e.g., declaring their presence by writing on bathroom walls and other public areas and creating their own social groups), it appears that lesbian and bisexual young women have been able to claim spaces of autonomy, however limited, within the constraints of school-based peer culture.

Research on gender-based violence in Jamaican schools show that girls experience regular sexual harassment (touching of their breasts, hips, and buttocks, “grinding” on them) by male peers to the extent that many girls come to think of these violations as normative. Furthermore, the pervasive nature of male teachers making sexual advances toward school-aged girls has prompted politicians to introduce the controversial term of “sexual grooming” into the revised Sexual Offences Act in order to criminalize such conduct.¹⁷ Given that this same statute criminalizes sex between men and was also changed to define sexual contact in explicitly heterosexual terms, it is unclear whether the term would be applied to situations where the teacher and child are the same gender. For boys, the school environment they encounter does not permit the level of uncertainty and debate—however covert—that is more evident in girls’ schools. Whether in traditional or “upgraded” co-ed high schools, the incidence of verbal and physical harassment and violence directed against boys who are perceived as soft is a virtually fixed aspect of boys’ schooling, whether they are the targets, harassers, or onlookers. Adolescent boys who fail to adequately demonstrate normative heterosexual and masculine qualities such as engaging in explicit sex talk with peers or displaying verbal or physical aggression against other boys (and girls) are rewarded with anything from physical threats to accusations from fellow classmates of being “batty-men” or derogatory remarks meted out by teachers. Those who refuse to toe the line or who do not deny their homosexuality quickly and forcefully enough are subject to ongoing teasing and harassment. For the most part, these dynamics in

the schools go unnoticed and unaddressed by educators and parents alike. The noticeable rise in violence at the traditional boys' high schools is related to this question of the policing of sexuality, but has received little attention.¹⁸ Even with the escalation in violence against children inside and outside schools, it is unlikely that parents, teachers, or the affected students will take any steps to redress this problem soon. Concerning these issues of school safety, the stance of the current Minister of Education, Andrew Holness, on homosexuality virtually assures that gay and lesbian students will still have far less protection and fewer avenues through which to demand that their safety is guaranteed by administrators, teachers, or school-based security personnel.

Inadequate social support for students experiencing psychological distress in schools also means that LGBT students, as well as students living in LGBT families, will have fewer opportunities to make sense of the source of the distress or to develop collective solutions to navigate the hostile school environment. Withdrawal and isolation can also put gay and lesbian students at higher risk for low academic achievement and for dropping out of school, especially if they attend the upgraded schools where the co-ed school environment is much more punitive and unforgiving.

Lack of confidentiality in the school environment also makes it difficult for students to seek assistance from teachers or guidance counselors. This issue has been particularly important issue for HIV-positive students who are especially reluctant to talk to either teachers or guidance counselors about the problems they experience because of what they experience and observe: teachers failing to inquire about a student's well-being, turning a blind eye to the teasing and harassment by other students, and openly discussing the personal matters of other students. It is highly likely that these scenarios exist for gay and lesbian students as well. Since gay and lesbian students are not members of a protected category, they are likely to be subjected to extreme measures of discrimination and harassment by students and teachers alike, without legal or other recourse.

Students' self-disclosure of sexual orientation to parents and family members is also likely to cause undue emotional and physical harm. Family responses might include worry, concern, and struggle to accept the child. More common, however, are reports of family members who subject the child to beatings, verbal abuse, death threats, sexual assault, and/or expulsion from their homes. In a societal context where corporal punishment is still widely accepted, a negative response by parents is taken for granted and duly expected.

At the curricular level, school-based instruction is heavily laced with religious and moral claims about gender and sexuality. There is little room for students to be introduced to ideas about non-normative sexualities, except as examples of perversion, deviance, and sin. All matters of sexuality are addressed through the Family Life Education Program (FLEP) curriculum, which is designed and mandated by the Ministry of Education. The FLEP curriculum focuses on reproductive issues related to early sexual behavior, such as pregnancy and contraceptives; teachers are more likely to emphasize abstinence over information, especially for girls. International donor organizations such as USAID and Family Health International have also worked with local organizations like Ashe, an LGBT-friendly performance-based peer education troupe, to provide education and training for school personnel about HIV/AIDS in particular and about sexuality more broadly. Still, guidance counselors are not specifically trained in dealing with issues related

to sexuality among youth. Despite the efforts to train and introduce guidance counselors to new information about adolescent development and sexual health, they are, in general, uncomfortable talking about sexuality with students. Teachers who try to introduce questions about non-normative sexualities also run the risk of being censured or accused of being gay or lesbian by both students and other teachers. More typically, if teachers persist in going against the grain, they are pushed out or request a transfer to another school.

One recent example is instructive in showing how the school environment actively stymies discussion and suppresses knowledge about same-sex sexuality and, by extension, the recognition and validation of the sexual orientation of its faculty and students. In November 2007, a teacher at a traditional girls' high school was investigated for using a government-approved textbook that contained the following paragraph affirming gay and lesbian unions as a family form:

Today, there is much discussion about what constitutes a family. There seems to be a broadening of the traditional definitions of a family structure. When two women or two men live together in a relationship as lesbians or gays, they may be considered as a family. They may adopt children or have them through artificial insemination.¹⁹

The teacher also required students to find images of all the family forms taught in class, including gay and lesbian families. The school's administrators took great pains to exclude students' opinions about the controversy, and instead sought to demonstrate to the public that there was no deliberate effort on the part of the teacher to introduce, teach, or explain the "offensive clause." Reminiscent of the Rainbow Curriculum debate in New York City in the 1980s, letters of outrage and calls for investigations, firings, and boycotts poured into the newspapers, television, and radio stations, calling such an incident a "sinister strategy to influence [the] acceptability of homosexual practices" and rejecting any effort to "teach homosexuality in schools" and "to normalize" sexual deviance.

Many major institutions, groups, and leaders went on record to denounce the textbook. For example, the Jamaica Teachers' Association stated that "it [homosexual relationships] is not something that we embrace in Jamaica, and we can't ask our teachers to teach such a matter to students." In response, the newly elected Minister of Education, Andrew Holness, mandated that the textbook be removed from all classrooms and declared that teachers were only allowed to use books that were selected from the "approved textbook list" distributed to all secondary schools and posted on the Ministry's Web site.²⁰ Failure to comply would result in a breach of the Education Act of 1980, which gives sole control of public school curricula to the Ministry of Education. All textbooks are currently undergoing a page-by-page review to make sure that no information on gays and lesbians is introduced to students.

Clearly, the nature of the debate and decision by the Ministry can have a significant impact on the healthy development of sexual identities among children at this age, when they are actively exploring their sexual orientation and could benefit from more and better information about their sexuality. Furthermore, the psychological and physical safety of the children of gay and lesbian parents who attend public schools is directly jeopardized by this policy decision. Not only do children regularly receive negative messages about their families inside the classroom, they also cannot risk their peers or teachers knowing about their families. At the very

least, teachers, parents, and policymakers alike have acquiesced to fostering an intolerant environment in which all students must learn.

While there are gay and lesbian teachers throughout the education system, the school environment is often a hostile one in which to work, and teachers must prevent any suspicion about their sexuality. The undue influence of speculation, gossip, or malice on the parts of students and other teachers, as well as information that can filter in from outside the school environment, leaves LGBT teachers especially guarded in their relationships with students and colleagues. Both male and female teachers can be fired on grounds of suspicion or for having personal conflicts with school principals. Men are especially on guard because they can be arrested and imprisoned on allegations of homosexual conduct, pederasty, and “gross indecency” without proof or evidence. Given the Jamaica Teachers’ Association general antipathy to homosexuality, gay and lesbian teachers do not have any institutional support. More frequently, teachers who suspect that rumors are circulating will request to be transferred to other schools, or leave the profession altogether.

At the tertiary level, neither faculty nor students are safe from the kind of physical or psychological harassment meted out against their peers at the secondary level.²¹ For the most part, homosexuality is not treated as a legitimate topic of academic study and informed debate at the universities. While individual faculty do conduct research on related topics,²² many faculty avoid doing research on the topic altogether, do not teach or engage with the large body of empirical research on the lives of LGBT persons, nor do they recognize such research as relevant to Jamaican society. Among those university faculty who do engage the topic, some do so in ways that further polarize debate or seek to legitimize antigay views. In a classroom setting, the introduction of the question (e.g., “Should homosexuality be accepted in Jamaica?”) further narrows the scope of inquiry to a one-sided contest heavily weighted toward religious and cultural arguments denouncing homosexuality. Some faculty use public forums to tacitly justify the social attitudes that inform homophobic violence²³; others operate through selective reliance on scholarship that supports cultural-nationalist or psychological interpretations of homosexuality as a legacy of European domination, that is, colonialism and slavery.²⁴ Whether through the use of pejorative language and analogies, reproducing myths and stereotypes about homosexuality, a denial of the social prejudices and forms of discrimination against gays and lesbians, misrepresenting social scientific research on sexual orientation, or worse, claiming that LGBT persons should expect to be punished because they know they are violating a cultural norm, their status as scholars more often serves to legitimize and give wider currency to their problematic views. In a context where knowledge is seen as the purview of the privileged, the views of these scholars are rarely questioned; rather, they are perceived as using scientific knowledge to “defend” the authentic cultural values of the Jamaican people.

For faculty who make critical discussion about LGBT topics a focus of their courses, they are often subjected to verbal harassment, hostility, and resistance from students in the classroom. That hostility comes in various forms: shouting, riotous behavior, students walking out of class while it is still in session, and a refusal to complete assignments. Not surprisingly, the handful of faculty who are perceived by their students as more open to discussion are those who have also developed reputations and followings for trying to create more open classroom environments.

Many also become *de facto* mentors for the few lesbian and gay students who dare to disclose or suggest their non-normative sexual orientation.

While students at the university often exhibit significant antipathy towards homosexuality in general, their attitudes have been shown to be less hostile towards lesbian and bisexual women than gay men.²⁵ However, these differences are not significant, since both lesbians and gay men have been the subject of attacks by large groups of university students in recent years; men and women alike participate in verbally and physically assaulting other students.

At the private religious universities, there is little information available about the experiences of gay and lesbian faculty and students. However, given the strong stances that the religious denominations take against homosexuality, there is no reason to assume that students or faculty would willingly disclose their sexual orientation to others, or that their experiences in doing so would be positive. For example, the Code of Conduct at the Northern Caribbean University, which is an extension of the Seventh Day Adventist Church, reads:

The University is governed by the Seventh-day Adventist's policy on homosexuality. The Church loves and values the homosexuals as a person but forbids the homosexual act. Severe sanctions will be applied by the institution if individuals are found indulging in this act or if individuals are reported to be propositioning any member of the school family on or off campus.²⁶

Given the sanctioned permissibility of hostility towards homosexuality at this institution, it is no surprise that there have been reports of assaults against men who were suspected of being gay. While participating students were expelled in one incident in 2001, the university also considered it due diligence to investigate the sexual backgrounds of the victims and to punish them if they were found guilty of violating the school code.

EMPLOYMENT AND ECONOMY

Gays and lesbians participate at all levels of the economy. There is rigid sex typing of jobs and appearance in the formal economy, but this is far much less evident in the informal economy. Most workplaces have a designated uniform women are expected to wear (which typically include skirts, pantyhose, and feminine shoes), while men are expected to wear dress or loose-fitting shirts and slacks. Women who work in jobs that are sex-typed as male jobs are particularly conspicuous and are often treated as spectacles. The same is true for women who do not embody traditional femininity. In failing to look the part ascribed to them, women in these fields are regularly subjected to public harassment and pejorative comments about their sexuality. On the other hand, many lesbian and bisexual women invest in traditional femininity in order to dispel any suspicion about their sexual orientation at the workplace, thus protecting themselves.

Suspicion and rumors, more than actual evidence, serve to generate fear among LGBT persons in the workplace and operate as a form of social control. In 2008, various journalists set out to document the existence of LGBT persons in specific occupations such as the police force. While the stated purpose of such exposés was to demonstrate how law enforcement entities themselves had not purged and punished the lawbreakers in their midst, these reports also illustrated some of the

challenges that LGBT persons face as they navigate these professions. Furthermore, the reportage highlighted the challenges faced by employers and administrators who are not avowedly hostile to LGBT persons, but who feel that they must respond to pressure from the media, the public, and their peers to act in a discriminatory fashion towards LGBT individuals.

Within the informal economy, working-class men and women appear to have more latitude to challenge normative assumptions about gender and sexuality; this is aided by the fact that they are often self-employed and that their work style is not as heavily regulated in the way that most formal labor sector jobs are (e.g., through official titles, status, salaries, uniforms, physical location and other protocols of gender display). Informal sector jobs in vending, auto mechanics, construction/repair, and domestic work (home and yard) predominate among working-class Jamaicans. Like the formal sector, most informal sector jobs are gendered (i.e., who does the work is defined according to masculine and feminine characteristics). However, there is more fluidity and flexibility in who does what, given that men and women have somewhat more latitude in their social interactions. Because interactions with the general public may be more fleeting, and because workers are not always bound to a specific site, there might be more room for men and women to avoid being punished directly if one is perceived as failing to uphold normative standards of heterosexuality.

Notably, women who are independently employed in the informal economy Informal Commercial Importers (ICIs), that is, traders who buy and sell manufactured goods to the public for a profit, are often accused of being lesbians. Here, the term is not meant as an objective descriptor of women's actual relationships and identities, but instead as a pejorative and acts as a social corrective to women who appear to be economically and socially autonomous of men and whose social networks tend to include other women like themselves. Their business acumen and success clearly challenge the sexual and gender norms of Jamaican society, and ultimately limits what areas and types of work the women can pursue and the function of women's friendships. Certainly, some ICIs are lesbians. But, as is the case for most Jamaicans, ICI men and women tread lightly around issues of privacy, preferring to maintain clear boundaries between their professional and personal lives. While sexual self-confidence is often a means of gaining acceptance and respect from peers, it seems just as likely that many lesbians and gay men who work in this particular sphere will place more emphasis on their business interactions and relationships in public in order to bypass any uncertainties around their sexual orientation, and to neutralize the negative effects of innuendoes, jokes, and gossip.

The un- and under-employment of LGBT persons is not only affected by the broader economic conditions of the society, it is also exacerbated by structural inequalities that punish them for failing to adhere to social norms about gender and sexuality. Given the overall situation in education as described above, gays and lesbians from poor and working-class backgrounds may be at an even higher risk of not completing high school due to unstable family and living situations, incipient mental health issues related to social isolation, physical harassment, and fear of unintended disclosure of their sexual orientation. Inadequate social capital and networks may make the transition to adulthood, a stable job, and income even more difficult.

Most jobs in the Jamaican formal economy require that applicants have taken proficiency exams in various academic subjects at the end of high school. To deal

with the problem of how the poor quality of secondary education hampers one's choices in the job market, many persons resort to taking additional subjects at private educational facilities. While an increasingly popular option, the cost and quality of the programs make this avenue a gamble for many. Without a college education, there are even fewer employment options available: self-employment or part-time employment, often in the informal economy; working at low-wage service jobs; or work-exchange programs on farms and tourist resorts overseas.

All the conditions mentioned together pose particular difficulties for young working-class lesbians and gay men, whether they live in rural areas or journey to the urban center of Kingston in hope of finding a niche in a larger LGBT community. As a result of being displaced from somewhat more stable and supportive family situations without the benefit of skills, education, or adequate resources to support themselves, many gay men and transgendered persons as young as 15 years old are increasingly drawn into sex work, relationships involving transactional sex (e.g., sex for school uniforms, fees and books, lunch, a place to live, a cell phone, clothing, etc.), and other illicit high-risk activities. Indeed, research conducted by the Jamaica AIDS Society for Life shows that this group of young men faces an especially high risk for bodily injury and harm in the context of these social interactions; this also increases the likelihood of them contracting sexually transmitted infections, including HIV/AIDS.

Wage discrimination is rampant and adversely affects women, who are overrepresented in low-wage, low-status, and low-productivity sectors, and underrepresented in highly skilled jobs. Jamaica is regularly in violation of international labor laws governing standards for wages and collective bargaining. Jamaican legislation explicitly prohibits discrimination based on race, gender, place of origin, political opinions, color, or creed; however, there is no protection from sexual harassment or from discrimination based on disability, sexual orientation, or HIV status. The existing antidiscrimination laws are rarely enforced; only a few individuals have ever taken action against an employer. While some lesbians and gay men do experience discrimination on the basis of gender, there is little governmental oversight or encouragement to file complaints about the situation. Filing a claim based on one's status also opens the claimant to counter-accusations by employers and other employees that could expose the employee's sexual orientation and put him in jeopardy. Because same-sex sexual orientation is grounds for being fired, gays and lesbians working in the formal economy are especially careful about how they respond to the connections that colleagues and employers choose or try to make between their gender and sexual identities.

Despite the efforts of some governmental bodies to educate workers about their rights and to push for broader and more inclusive public policies, such work has been relatively slow and ineffective. Consequently, many persons remain reluctant or unlikely to use the language of discrimination to talk about their experiences, and thus tend not to see the employer's treatment as actionable or beyond their authority to hire and fire.

After much debate in 2006, the Jamaican government agreed to adopt public policy that prohibits mandatory HIV testing for employment. However, the Workplace Policy on HIV/AIDS is unevenly implemented in part because many employers do not agree with its antidiscrimination clause. Indeed, during the parliamentary debates, some politicians sought to implement it in ways that would give employers more leverage. Still, the debate about the HIV/AIDS policy in

workplaces reveal widespread discomfort within the population with allowing employers to have access to confidential health information. Most importantly, there is broad recognition that employers would readily use personal health information to influence their decisions about hiring, firing, and promotions. Because gay men are perceived as the main sources and victims of the disease—despite evidence to the contrary—it is likely that employers might consider using HIV testing as a proxy for identifying and discriminating against gay men. While the policy on HIV testing continues to be debated, mistreatment of HIV-positive persons continues unabated through stigmatization and being denied access to basic care and social resources.

FAMILY

Jamaican family structures are fluid and heterogeneous and highly responsive to social and economic shifts in the society. Alongside, and counter to, the longstanding dominant claim that a “normal” family unit consists of a married couple and their biologically related children, most families and households in Jamaica continue to be organized around women as their central figures or as heads, whether as biological parents or relatives. Formal marriages between men and women account for less than one-fifth of all relationship types in Jamaica at any particular moment. Families organized around the “one man + one woman + biological offspring” formula are among the minority of family forms; this form often shifts to other structures based on aging patterns, migration, divorce, or other changes in circumstance. Since the 19th century when the first census was taken, the majority of Jamaican children have been born into nonmarital relationships. These might be considered common-law unions, where women and men create households and raise families together without being formally married. Another prevalent family form is the visiting relationship, where men and women live in separate households while maintaining a sexually intimate relationship, which might include children. Primary responsibility for the raising of children often lies with the parent (most often the mother) with whom the children are more likely to reside.

Socioeconomic issues affect the family forms that Jamaican children encounter over their lifetime. Children growing up in economically disadvantaged families are far more likely to be raised in households headed by a grandparent, a relative, or a family friend, and to experience more disruption, instability, and physical abuse within their families. Child shifting, where children are shifted from one relative and household to another as financial conditions change, is an enduring feature of Jamaican family life. It is also a flexible strategy that is used by families and households at all economic levels in order to accommodate changes brought on by the demands of divorce, migration, education, and work.

Despite the diversity and complexity of Jamaican family life as noted above, the normative definition of “family” remains the nuclear, heterosexual unit. Marriage, while infrequent, remains the idealized family form; all other family forms are judged inadequate, dysfunctional, or deviant against this standard. This normative model of family is taught in schools through “family life education,” where all children learn that the best and ideal arrangement is to be married to someone of another gender. This model is also enforced through legal and religious norms. For example, recent changes to the Sexual Offences Act include the provision that rape (“marital rape”) is explicitly prohibited in marriages. However, given this effort to

distinguish marriage from other relationship statuses and the recent changes in the legal definitions of sexual intercourse (i.e., as that which occurs between a man and a woman, and must include a penis and a vagina), it is not clear how other forms of sexual coercion in intimate relationships, whether heterosexual or homosexual, will be treated in the courts. As previously discussed, the uproar over a single home economics textbook in November 2007 reflects the entrenched commitment of the state and the broader society to maintaining the narrowest possible parameters around the concept of family, and to penalize those (especially lesbian and bisexual women) who do not adhere to these normative values. Despite these prohibitions and constraints, gay men and lesbians in Jamaica—as individuals and as couples—create family arrangements that include biological and nonbiological children. These family situations are also the outcomes of negotiation, rather than predetermined by social norms and dominant cultural attitudes. Since the majority of childbearing among Jamaican women occurs in the late teen and early adult years, it stands to reason that adult lesbian and bisexual women are more likely to have biological children born of a former heterosexual relationship or to be fostering a child-relative while also involved in a lesbian relationship.

One 2005 study of gay and bisexual fathers in Jamaica demonstrated that regardless of socioeconomic status, men foster and informally adopt male children who are relatives; this is consistent with the general patterns of fostering and adoption across the society.²⁷ In addition, gay and bisexual men are more likely to take in male children who have been abandoned, displaced from homes because of their sexual orientation, or are HIV-positive. Participating in raising their own biological children may also be influenced by whether they have disclosed their sexual orientation to their family and extended kin, the child's mother, and the attitudes of these family members toward their sexual orientation. For many LGBT persons, fear of reprisal in response to disclosure of their sexual orientation may preclude persons from living together as a couple while raising children. This arrangement would seem to be especially relevant to lesbians and bisexual women who often come into relationships with biological children in tow. One strategy taken by many lesbian and bisexual women is to allow their children to be raised by a grandmother or an aunt in a separate domicile. In this way, they are able to support and maintain contact with their children, while keeping their intimate/sexual and familial lives separate and not overlapping with each other.

Adoption policies in Jamaica do not specifically prohibit lesbians and gay men from adopting children, but gay men are less likely than lesbian and bisexual women to be able to formally adopt a child because the state prohibits single men from adopting children who are not biological relatives. Since only heterosexual relationships—whether marriage, common-law, visiting, etc.—are recognized socially and legally, gay men cannot petition for adoption as part of a couple. Establishing that one is a “fit” candidate would also require additional documentation as well as gender performance that does not raise the suspicions of adoption administrators. Individuals in a decision-making capacity can deem LGBT persons unfit because of their supposed immoral lifestyle and its potential effect on the children. If there is disclosure of their sexual orientation, it is unlikely that gays and lesbians could claim legal parental rights. It is also highly unlikely that any judge would agree to hear such a case. What is more likely is that decisions about parental rights are made outside juridical frameworks, and within the context of the broader network of relatives and friends.

Thus, on one hand, families of gays and lesbians appear to be one of several variants of the nonmarital family structure that predominates in Jamaica. Indeed, it is likely that the families and households headed by LGBT persons will not appear to be very different from that of other nonmarital households. Any likely differences between heterosexual and LGBT families might come from the dynamics between intimate partners and the children, the social stressors related to maintaining a same-sex family and relationship in a generally hostile society, the definitions and limits of parenting when both parents are the same gender, as well as the extent to which these family units are integrated into the extended families of LGBT persons. Answers to these questions await further inquiry.

On the other hand, any discussion of the relevance of same-sex marriage debates in Jamaica must proceed within this context, where marriage has been an idealized form that is infrequently practiced, and where other equally viable family forms have predominated for many years. Indeed, arguments from Jamaicans against the social acceptance of gays and lesbians increasingly claim that any form of social recognition (e.g., removing the antisodomy statutes) would open the door to bids for same-sex marriage. While this worst case scenario speaks to the real potential effects of North American values on local organizing and agenda-setting, it is also true that same-sex marriage has not been, and probably will not be, a focus of LGBT political activists in Jamaica, in the short- or long-term. Nonetheless, individual gay and lesbian couples have begun adopting the North American model of hosting commitment ceremonies as a means of gaining social recognition for their relationships.²⁸ To the extent that individual actions such as these become more visible and emerge as a political strategy, they will certainly continue to push the question about the meaning of same-sex relationships in the larger society and nullify the question about whether family structures built around same-sex relationships are indeed families.

Overall, LGBT persons in Jamaica currently face an uphill battle in gaining broad recognition for their roles as parents, caregivers, and members of family networks. Being involved in a same-sex intimate relationship can be used as grounds for hostile family members to informally terminate parenting rights of gays and lesbians. Such tactics might include threatening to exclude the parent and child from access to the extended network of blood relatives, intentionally disclosing the parent's sexual orientation to other family members to invoke shame, or refusing to allow the parent to have access to the child.

Within heterosexual Jamaican families, the failure to adopt the normative sexual orientation can be the basis of much conflict. Many gay and lesbian children in heterosexual families face the possibility of being subjected to high levels of psychological abuse and physical violence, should their sexual orientation be suspected or confirmed. Family members, from parents to siblings, routinely threaten, harass, and even attempt to harm family members who are guilty of violating sexual codes. As morality debates about homosexuality have infused the public airwaves, school-aged boys suspected of being homosexual are being forced out of their homes in greater numbers. As previously discussed, they are left to fend for themselves, whether by finding a sympathetic relative, distant family friend, or stranger to take them in, or simply to hustle and learn to survive on the streets. More often than not, these boys end up on the streets or living with persons who are similarly unstable, with no access to education or a legitimate source of income. They become involved in prostitution and other forms of transactional sex as a livelihood and

lifestyle. Such involvement virtually assures that the boys cannot return to their blood families, because of the shame and stigma attached to these activities. There is far less anecdotal evidence about whether girls are faced with similar constraints. This is an important arena that deserves further investigation.

Likewise, there are families who choose not to expel their children, while still exerting strong pressures on the children to remain closeted so as not to disgrace the family. It is not readily apparent whether a family's social class or religiosity affects the response of individual family members. While there is a broad perception that families of middle-class and elite social status are more tolerant than working-class and poor families regarding same-sex sexual orientation, this perception seems to conflict with the lived realities of LGBT persons. Indeed, it is fair to suggest that the economic realities of working-class and poor families, which generally produce more constraints for individuals as well as the collective, might even enhance the role of LGBT members within, making sexual orientation less relevant to, but nonetheless a complicated aspect of, membership. Furthermore, given the overall strength of religious and moral perspectives around same-sex sexuality, family members' religiosity and the particular religious affiliation of the head of household might have a stronger effect on their response to a family member's sexual orientation. These issues also await further investigation.

COMMUNITY

To the extent that a single lesbian, gay, bisexual, and transgender community exists in Jamaica, it is defined primarily by the shared experiences of stigmatization and rejection by the broader society. In the daily rhetoric, LGBT Jamaicans are generally perceived as outsiders or sources of moral contamination and are compelled to hide their sexuality or face expulsion from the national body. While the stigmatized status of homosexuality helps to define a group identity based on collective victimization, LGBT persons in Jamaica still see themselves as citizens, although the rights accorded to them are sharply curtailed in most respects.

Within a social and cultural context heavily shaped by surveillance and the fear of being found out, LGBT persons have created ways of recognizing and identifying with each other in public and private spaces. These include styles of dress and adornment adapted from North American gay culture and constitutes some of the nuanced aspects of emerging LGBT subcultures in Jamaica.

Social events—paid or unpaid, in private or public settings—are the hub of the LGBT community life, where people go to interact with each other and to affirm their mutual existence in an otherwise hostile society. These settings are especially valuable for youth who are searching for both support and advice for dealing with the challenges they face at school and at home. From the mid-1990s until the present, the majority of social events have consisted primarily of fee-based parties held in private, secluded residences or clubs, some of which have come to be identified as gay spaces and are advertised as such. In the urban metropolis of Kingston, new entrepreneurial efforts to create ongoing social events have been somewhat successful. These consist of renting one of many dancehalls located around the area that typically cater to a heterosexual clientele. These spaces-for-hire range from working-class bars to strip clubs that ordinarily cater to elite heterosexual men.

Attendance, as well as willingness to interact with others in these spaces, is shaped by gender and socioeconomic status. Like most aspects of social life, the

leisure activities of Jamaicans are generally class-segregated; this pattern of interactions extends to the LGBT community events as well. In the 1990s, the only established dance club in the Kingston area that catered exclusively to LGBT persons also, ironically, sought ways to exclude working-class and poor men from the inner cities. Arbitrary rules and decisions based on attire, speech and gender display were often invoked on a general suspicion that these men intended to disrupt the event by becoming physically violent. Similarly, entry fees, location, and access to information about the events are regularly used to select and limit who is able to attend.

Parties and events held in residential communities located in the hillside periphery of Kingston are often shut down by police because of complaints by neighbors about music and noise. This response is not particular to events held by gays and lesbians, of course, but rather to those that blast dancehall music and violate the cultural codes of respectable conduct in these communities.²⁹ However, the effect of the policing is particularly pernicious for LGBT-related events because access to affordable and safe locations for social events for an already marginalized group becomes even more difficult.

On the other hand, the ordinary spaces inhabited by Jamaicans—bars, public parks, beaches, sporting events, and the like—are also sites for spontaneous LGBT gatherings, increasingly facilitated by technology in the form of text messaging and mobile phones. Athletic and sporting competitions—cricket, football, and track and field—occupy a large part of the Jamaican cultural identity. While mainstream sporting events have long been gender-segregated, many LGBT persons have occasionally created and participated in sports teams that cohere with their non-normative gender identities. These include women's cricket teams and men's netball teams. Cricket is primarily played by men, while netball is regarded as women's sport. Nonetheless, the lack of institutional support for nontraditional teams, as well as participants' heightened awareness of the social consequences of being labeled as a lesbian or gay team, seriously undermines the effectiveness of these groups in building an LGBT community through participation in sports.

Events that celebrate major transitions in the life cycle—such as funerals, commitment ceremonies, baby showers and birthday parties—of LGBT individuals offer opportunities for mutual support, the exchange of information, and a renewal of social networks. Such events have also drawn public ire, as in the case of funerals of gay men that have been disrupted by heterosexual members of the congregation and neighboring community who disapprove of the churching of a sinner's body in their house of worship.

Because fear of being discovered is a driving force shaping how lesbians and gays interact with each other in the wider society, such fear is often expressed in pathological behaviors among LGBT persons. These include blackmailing, threats of disclosure to family, friends and employers, economic manipulation, physical intimidation, and the withholding of important information. Because the consequences are weighty, disclosure of one's sexual orientation, even to other LGBT persons, is not taken lightly. Not surprisingly, these self-protective mechanisms that are fuelled and intensified by the repressive homophobic social climate, are often taken as evidence that violence against gays and lesbians is not a societal problem, but rather an in-group dynamic, and thus a defining characteristic of the "homosexual personality."³⁰ Consequently, violence against LGBT persons that is reported is more likely to be treated as a family affair by police and the public alike,

and thus not taken very seriously. That is, investigations of violence perpetrated against LGBT persons are conducted in much the same way as those that affect poor people, where the social status of the persons involved influences the amount of resources brought to bear on the cases.³¹

To ensure their physical and emotional survival, LGBT persons in Jamaica have developed a repertoire of self-protective strategies from which they draw based on the context or situation. To prevent unintended disclosure of their sexual orientation, LGBT persons navigate social landmines in order to find places of relative safety for the moment. In addition, speculation, gossip, and the agility of cell phone technology have affected many people's ability to retain friendships and social networks, to find secure housing, and to participate in community events. Many women and men are unlikely to attend LGBT community events for fear of being seen in the vicinity by someone they know, or of being questioned by a family member or other person in their social network. Others, especially more upwardly mobile men and women, are selective about which events they attend, especially if there is awareness that a particular location or address is becoming known outside of the LGBT community.

Physical mobility is a significant factor that affects participation in community-building. Owning and maintaining a vehicle is beyond the reach of most of the population; only a small proportion of LGBT persons can afford to have private transportation. Reliance on public transportation as the primary mode of travel, especially at night, also poses additional risks, especially for women. It is not uncommon for cabdrivers to make pejorative remarks about LGBT passengers and their destinations over the radio network, or to issue veiled threats against other drivers who are seen in the vicinity of a location frequented by LGBT persons. For these reasons, great care is taken with the selection of taxicab companies and individual drivers.

In recent years, as the LGBT community continues to grow, an informal network of transportation services has emerged, run by working-class LGBT individuals who are self-employed as taxi operators and who earn additional income by providing transportation to and from major events, as well as to individuals on a regular basis.

Despite the many efforts to create and sustain a sense of community, LGBT persons are constantly under surveillance, and not only by inquisitive passersby who become suspicious of single-sex events or one's gender display.³² Police officers often pass through LGBT events out of curiosity and to intimidate community members and remind them of their precarious social status. Widespread corruption and abuses of power among police means that any activity or interactions that are read as suspicious by the police can lead to extortion, battery, rape, detention, or even death. While some LGBT persons may voice resentment of this intrusion into community events, an acute awareness about their collective vulnerability moves others to placate and dissuade lengthy or repeated visits by the police. One form of redress has been for individual gay and lesbian police officers to attend and participate in gatherings, helping to reassure attendees that they will not be unduly harassed. While incidences of community events being shut down by police are not as frequent today as they once were, the naked visibility and unpredictability of the state still creates an atmosphere of unease and tension for many LGBT persons.

While friendships and informal social networks are the hub of LGBT community life in Jamaica, more structured efforts have been attempted, with varying

success. The Gay Freedom Movement (GFM) emerged in the 1970s at a time when the dominant ideological framework of the PNP's democratic socialist agenda emphasized grassroots organizing and collective self-determination in order to build a more democratic and egalitarian society. During a time when intimate sexual relations between men ("buggery") was already criminalized by the Offences Against the Person Act, and when prostitution was also illegal, the efforts of a single individual, Larry Chang, to provide support and affirmation to other gay men helped to transform the social landscape where LGBT community and activism in Jamaica is concerned. From its initial beginnings with Larry answering letters from his home in the Kingston metropolitan area, the work of the GFM extended from providing support, consciousness-raising and promoting outreach to youth, prisoners, and prostitutes, to include health education to prevent the spread of sexually transmitted infections. Its primary organ of communication was the *Jamaican Gaily News*, a newsletter that was published and distributed nationwide until 1984.

In a context where antipathies about same-sex sexuality were not politicized or being stoked by right-wing religious fundamentalist groups inside and outside Jamaica, the individuals who sustained the GFM were able to envision and set out a relatively ambitious and inclusive program centered on those existing on the margins of sexual citizenship.

Much of GFM's work was continued through Jamaica AIDS Support for Life (JASL), a nongovernmental organization that was founded in 1991 by a group of gay men, a few of whom had been associated with the GFM. JASL is located in a middle-class section of the capital city, Kingston. JASL originated as a hospice that cared for persons, primarily men, who were infected with HIV and who were not able to get medical care because of the stigma attached to the disease and the infected person. Homosexual men of lower socioeconomic status and without extensive social support were most likely to use these services. Today, the organization serves all groups and individuals with HIV/AIDS, including a growing number of women and children, with specific programs designed for outreach to male sex workers and men involved in same-sex relationships.

Inequalities based on gender, educational status, and cultural capital permeate all aspects of LGBT community-building, and severely limit the potential for the emergence of a single-issue, sexuality-based movement anytime soon. From their inception until now, both JFLAG and JASL have focused their agendas on men with same-sex sexual orientations, whether under the guise of human rights or via HIV/AIDS. The top-down decision-making style of the organizations makes it difficult for the interests of their various constituencies (lesbian and bisexual women, sex workers, transgendered persons, youth, men and women coming from socially marginalized communities, etc.) to be heard and fairly represented. The rhetoric and organizing models used by JFLAG are based on the mainstream North American movement for LGBT rights, which foreground sexual orientation as a primary basis for discrimination and second class citizenship, to the exclusion of issues based on race/color, gender, or socioeconomic status. At the same time, most middle-class and elite LGBT Jamaicans have created their own networks based on professional or other shared interests and offer little if any political or financial support to the work of these important organizations. As the mandate of JASL has broadened to include more heterosexual board members, clients, and to build relationships with organizations that are at times hostile to overtly lesbian and gay

concerns, new tensions have emerged around the organization's relationship and accountability to the LGBT community.

Since the end of the 1990s, JASL has served as an incubator for community groups and functioned as the only partially publicly funded space where working-class LGBT persons could access resources such as information, counseling, shelter, referrals, advocacy, jobs, friendships, and so on to address their social and emotional needs. Under the umbrella of its HIV-related mandate, the organization created a support group GLABCOM, which stands for "gay and lesbian community." JASL also provided important space for the discussions and nascent activism that evolved into the human rights organization Jamaica Forum for Lesbians, All-Sexuals and Gays (JFLAG), which has taken up various issues including constitutional reform and the removal of the sodomy laws, boycotts against dancehall artists, legal advocacy, and crisis intervention for LGBT individuals. JFLAG also functions as a clearinghouse on information on the persecution of LGBT persons in Jamaica.

In response to lesbian and bisexual women's experiences of sexism within GLABCOM, as well as stated desires to have a group that focused on the particular concerns of women, the group "Women for Women" was founded in 1998 to provide social support to lesbian and bisexual women. Through its loose ties with JASL and JFLAG, the women's group has held various programs and workshops on lesbians' health and wellbeing, transgender identity, education and skills development, intimate partner violence, and crisis intervention. The group meets bimonthly and is probably the oldest and longest running lesbian and bisexual women's organization in the Caribbean.

Much of infrastructural and political support for Women for Women comes from outside of Jamaica, through human rights, feminist, and queer women's funding streams in North America and Europe. The development of the women's group has also been hampered by lack of adequate institutional support from both JFLAG and JASL, the absence of its own political agenda, and the need for focused and stable leadership. The lesbian and bisexual women's group is also more invisible and isolated from the broader debates about same-sex sexual orientation. Few people outside of the LGBT community actually know of the group's existence.

The concerns of lesbian and bisexual women, to the extent that these have been articulated, are not taken very seriously by gay men who tend to have wider access to international resources and networks that support LGBT organizing in developing countries. Indeed, there appears to be little support among community leadership for including lesbian and bisexual women's concerns in broader discussions about community mobilization, and other issues. Many argue that, because women are not explicitly targets of the law and public ire in the same ways that men are perceived to be, lesbian and bisexual women are expected to devote their energies to challenging the sodomy laws and defending the sexual rights of gay men. As such, few resources are solicited or directed to support women-specific programs, and little attention has been devoted among the predominantly male social networks to cultivating alliances with women or to understanding the meaning of same-sex sexual orientation in the lives of Jamaican lesbian and bisexual women. The women's group is similarly disconnected from other grassroots social justice groups; its own well-founded fears about how other Jamaican feminist and women's organizations will perceive it provides another obstacle for the group to build necessary alliances and to grow into a viable entity. Furthermore, the lack of experience in community organizing among the women involved in the group,

combined with internal power struggles based on education, employment status, and cultural capital, hampers the group's abilities to do its work. Notwithstanding all these challenges, women of all ages—from high school to middle age—continue to participate in and support informal monthly social events, further attesting to the variety of needs that this grassroots group is asked to fulfill.

Transgendered women, effeminate gay men, drag queens, and male sex workers have become increasingly visible to each other and to other Jamaicans in public, in small towns and bigger cities, during both day and night. Much of this increased visibility is due to the unintended effects of the heated morality debates about homosexuality. That is, the undue attention and scrutiny from both international and local media has actually helped to open up the social climate and has generated more dialogue, ambivalence, and even resignation about same-sex sexuality.³³ As such, the venues in which the struggle over sexuality takes place have only multiplied and diffused over a wider number of social contexts.

Today, young gay men and lesbians are more openly defiant than ever of the taboo against public displays of same-gender sexuality, even when there is violent reprisal to their actions.³⁴ Between late 2006 and 2008, several incidents of spontaneous mob attacks against young, working-class gay men in various public settings occurred because these men were perceived as being out of order. That is, through their actions, dress, and styles of interaction, they were perceived—rightly—to be flouting the rules for socially appropriate middle-class masculine behavior. According to media accounts, these young men had chosen to 'flaunt' their sexualities in public by openly dancing with each other on a stage at a music concert, dressing in what was deemed inappropriate attire in a commercial district during daylight, and speaking openly of their sexual desires.³⁵ Moreover, even after individuals chastised the men for their behavior, the reportage claimed that they defiantly refused to act ashamed or to hide themselves from public scrutiny. Gatherings in private settings attended by young men often become the magnets for harassment by neighbors and police.³⁶ Such reportage reflect a broader cultural clash about what constitutes appropriate sexuality and public conduct and who should determine the rules. Many young working-class gay men in Jamaica, men who would not call themselves activists in any sense, are determined to have a say in this debate and are putting their bodies on the line to do so,³⁷ yet, as the violence against them is becoming more visible, frequent, and mob-driven, public sentiment is also beginning to sway towards doubt about the usefulness of these kinds of attacks in silencing gay men and lesbians.³⁸

HEALTH

HIV/AIDS is the only health condition that is explicitly linked to the LGBT community, and the disease is stigmatized partly because of this.³⁹ The HIV prevalence rate in Jamaica's general population is 1.5 percent, equivalent to approximately 35,000 persons, with almost two-thirds of HIV infected persons being unaware of their status.⁴⁰ The majority of HIV cases are from heterosexual transmission; however, small case studies suggest that there is a higher prevalence of HIV in vulnerable groups, especially among men who have sex with men, followed by sex workers and prison inmates. However, it is impossible to correctly estimate the rate of prevalence because persons in these groups are more likely to conceal their HIV status and sexual histories from both sex partners and health care workers because

of fear of stigma, discrimination, and violence. Young gay men (14–21 years old) are particularly at risk for being infected with HIV.⁴¹ The conclusions of several studies conducted on this high-risk population suggest that factors such as high rates of multiple sex partners among men, an overall increase in the rates of transactional sex, and an early age of sexual debut explain heightened risk of young men being affected by HIV/AIDS. Such risk factors are driven by poverty, population dynamics, and the cultural emphasis on men acting as sexual decision-makers. For example, research conducted by Nesha Haniff of Jamaica AIDS Support for Life (JASL) shows that young men's vulnerabilities to HIV infection are exacerbated by the increased likelihood of rape and physical harassment by other men, including older or socially secure gay men who see young boys as physically and socially weak and therefore targets. This research shows that the power dynamic of age, male dominance and the vulnerability and powerlessness of young people increases their propensity to be infected with HIV.

Since 2001, Peter Figueroa, the former Chief Medical Officer and head of the Ministry of Health's HIV and AIDS program, has continued to argue that the laws that rendered sex between consenting homosexual adult men as illegal were responsible for driving the AIDS epidemic underground. As such, he called for the decriminalization of homosexual sex between men. Three successive prime ministers—P. J. Patterson, Portia Simpson-Miller, and Bruce Golding—have refused to take the argument seriously and have argued for upholding the “buggery” law. While elected politicians have decided to follow suit, the issue continues to be pushed by local and international coalitions of HIV/AIDS service providers and advocates, even as the rates of HIV infection among men who have sex with men continues to rise virtually unabated.

In many ways, young gay men from socially disadvantaged backgrounds face similar challenges as women of similar backgrounds who are sexually involved with men. Although several targeted prevention programs have been developed to stem the rate of infection among this population of young men, the message and focus on women is more diffuse, with an emphasis on prevention as part of reproductive health. For lesbian and bisexual women who may not be as concerned about contraception or sexually transmitted infections, or for whom men are not their primary sexual partners, there are few targeted education or prevention efforts that address sexual health for women in same-sex relationships.

Because the health of lesbian and bisexual women is generally not given attention, there is no current language, framework, or research to indicate how same-sex sexual orientation might shape this group's health status or outcomes in a Jamaican context. Many women have had sexual relationships with men prior to becoming intimately involved with women. Some women, particularly those with children, also maintain sexual contact with prior male lovers, sometimes to ensure against any claims he might make to deny her parenting rights. In general, concern about women's sexual health is limited to countering effects of heterosexual sexual contact. As feminist scholarship has soundly documented, Jamaican women are generally disempowered in negotiating sexual relationships with men and often are forced to accept men's roles as the decision-makers about the conditions under which sexual relations will take place. Lesbian and bisexual women are often caught in this bind, and are also at high risk for experiencing rape, sexual assault, contracting sexually transmitted infections, and even death at the hands of a former male lover.⁴²

Similarly, individuals who live in Jamaica and who desire to undergo medical treatment to change their gender have limited choices in terms of accessing quality care from local health care providers. With sufficient planning and with the aid of friends who live abroad, anecdotal evidence suggests that most persons travel to Florida or New York to tap into existing networks to access the knowledge and services there. Invariably, their economic circumstances do significantly affect the quality of the treatment, as well as the length of time it takes for persons to completely transition. In a government-run health care system that is already fraught with many problems related to resources and inequality in terms of quality of care, few health care providers in Jamaica are willing to act as caregivers or advocates for transgender persons. This situation will change slowly as the LGBT community grows, and as more transgender persons become more visible within the community as well as act as their own advocates, and as LGBT activists and allies begin to talk more about these issues.⁴³

Arts-based organizations like Ashe Productions use visual arts—*theater, film, and musical performance*—as a medium for presenting information about HIV prevention and raising awareness about the connections between sexual identity, sexual behaviors, and health outcomes.⁴⁴ In doing so, the organization also provides an important space for LGBT persons, especially youth, who are interested in the performing arts and are seeking positive means of self-expression. Nonetheless, even the innovative work of Ashe does not directly address issues related to same-sex sexuality, because of the larger climate of intolerance that might deter people from hearing its broader message.

POLITICS AND LAW

Jamaica's political and legal climate has had a significant influence on the ways that LGBT persons are perceived and treated and on how groups have mobilized around issues related to homosexuality at any given historical moment.

Homosexuality is not criminalized in Jamaica. Rather, the core of the debates revolve around the statutes encoded in the *Offences Against the Person Act*, which address matters regarding bodily harm such as murder and physical assault, but focus more heavily on issues related to sexuality such as marital sex, adultery, rape, prostitution, the sexual abuse of children, abortion, and the age of consent for minors. All the statutes explicitly seek to define the limits of appropriate male sexual behaviors, with the assumption that women and girls are, or ought to be, the targets of men's attention. In other words, women are not defined as sexual subjects in the law, or as being sexuality distinct or disconnected from men. Sections 76–79 explicitly forbid and criminalize sexual contact between men; these statutes were first introduced in 1864, and have not been substantially revised since signed into law. Under the category of “unnatural offences,” Section 76 states the crime of anal sex (“buggery”) is punishable by imprisonment for up to 10 years' hard labor. Under the category of “carnal knowledge,” Section 78 notes that the only proof that is required for criminal prosecution is that penetration did occur. Under the category of “outrages of decency,” Section 79 states that any man who witnesses or otherwise participates in committing “an act of gross indecency” (i.e., intimate touching) with another man can be sent to jail for up to two years. In 2009, the Parliament voted in the *Sexual Offences Act*, which, along with several new provisions relating to rape, incest and other sexual crimes, stipulates that a man who is

convicted of buggery (i.e. having consensual anal sex with a man or a woman) may now be listed as a sex offender after his 10-year prison sentence ends. Despite the arguments presented in support of a gender-neutral definition of rape, the parliament chose to define rape in explicitly heterosexual terms (i.e., must involve a penis and a vagina) in order to avoid recognizing same-sex sexual contact as sex. Consequently, forced anal/oral penetration of men or women does not count as rape, but as a lesser form of sexual assault. While individuals and institutions (e.g., churches, schools, prisons, hospitals) often invoke the criminal codes as a justification for discriminating against or denigrating homosexuality, most people believe that the problem is a moral one, therefore, even though there is a general consensus that one's sexual orientation could and should be restricted to private settings, there is also broad support for state regulation of private sexual conduct if those behaviors are deemed immoral, sinful, or wrong, *a priori*.

Even though homosexuality has been taboo in Jamaica, the topic has not always been a lightning rod for the kind of vitriolic discussions that currently take place among citizens and politicians alike, nor has the question of legal reform necessarily been the direct focus of LGBT activism before now.

By the late 1990s, the political terrain had shifted tremendously for LGBT Jamaicans, and a far more dismal and difficult battle surrounded the possibility of changing the status of second-class sexual citizenship. Several issues emerged at once: antihomosexual sentiments were ignited through the popular culture and legitimized through nationalism and religion, there was an increasing prevalence of HIV/AIDS among homosexual men, and a growing stigma and pervasive discrimination against HIV-infected persons which prevented public health initiatives from stemming the spread of HIV among vulnerable populations, including homosexual men and prostitutes.

In 1998, the newly formed human rights group JFLAG (which originated as the country-specific chapter of C-FLAG, the Caribbean Forum for Lesbians, Allsexuals and Gays) launched a campaign to repeal the buggery laws and to change the terms of the debate about homosexuality in Jamaica. During the period of constitutional review, JFLAG petitioned for the removal of the statutes from the Sexual Offenses Act and for the constitution to be amended to include a bill of rights in which sexual orientation was a protected category, thereby extending full citizenship rights and protections to LGBT persons in Jamaica.⁴⁵ Their strategy and language were explicitly modeled after the success of LGBT groups in getting sexual orientation recognized under the South African constitution. This political action had two immediate effects: it formally brought homosexuality into the national dialogue about equal protection under the law, and transformed a loose-knit group of persons and alliances into a political constituency.

The consequences of this legal strategy continue to be borne out. On the one hand, various political entities have developed more hardened stances against recognizing the social rights of LGBT persons, using whatever opportunity is at hand to introduce new legal initiatives to punish LGBT persons for their "immoral lifestyle." Initiatives proffered by elected political leaders include questioning whether the constitutional right of LGBT persons to freedom of association or to bear firearms should be suspended, explicitly defining sex as heterosexual intercourse in the new rape statute, and recommending changes to the existing marriage laws to ensure that the relationship between two men or two women would not be legally recognized.⁴⁶

Since its founding in 1998, JFLAG's role has primarily been defined around its activism on legislative reform. However, one of the principal roles of JFLAG is to document and bring attention to persecution based on sexual orientation, and to advocate for LGBT individuals. For example, JFLAG has called for better police response to crimes that are reported to the police but are never adequately investigated. Indeed, LGBT persons have often been further victimized and harassed when they tried to make police reports, thus leading to a reluctance of LGBT persons to file reports of physical attacks and other violations. Gareth Henry, a JFLAG activist who was the public face of the organization, has also alleged police harassment against him given his and the organization's overt public stances on behalf of other LGBT persons. Through the high profile international attention brought to the cases of Brian Williamson and Lenford "Steve" Harvey, the Jamaican police were successfully pressured to investigate the murders and to bring the cases to trial. Ironically, the success of these two cases is now used to deny that there is any systematic bias against LGBT persons within the police force. They are held up as a sign that the political conditions in the country have significantly improved for LGBT persons. Despite these claims, at least three gay men have sought and successfully gained asylum in North America and England since 2005. For example, Gareth Henry decided to seek political asylum in Canada in 2008 on the basis of his history of experiencing persecution based on sexual orientation.

Nowhere are the consequences of stigma and discrimination more apparent than in Jamaica's prisons. In 1997, the former Commissioner of Corrections John Prescod recommended that condoms be distributed in the two largest male prisons, St. Catherine District Prison and Tower Street Correctional Center, in order to prevent the spread of sexually transmitted infections, including HIV. In response, the prison guards went on strike for several days, calling for the resignation of the Commissioner on the claim that raising the issue of sexual relations in a male prison cast aspersions on their sexuality as well; they also argued that providing condoms in the prisons encouraged sexual activity that was already explicitly illegal, thus making the guards complicit in this arrangement. As a result of prisoners being deliberately left unsupervised, a riot ensued, leading to the death of 16 inmates who were killed because they were suspected of being homosexuals; at least 40 more inmates were injured. The then-Minister of National Security, K. D. Knight, among many other high-level officials, agreed that condom distribution was not to take place. Subsequent ministers have not moved to change this policy.

As of this writing, the current Commissioner of Corrections Richard Reece continues to uphold this no-condom position and maintains that it is irrelevant whether there is sexual activity taking place in the highly overcrowded prisons, since the no-condom policy is consistent with the buggery laws.⁴⁷ Condoms are treated as contraband and are smuggled in by visitors when possible. Continued lack of access to adequate facilities, including health care, counseling, confidentiality, and safety seriously compromises the health and wellbeing of male (and female) prisoners, especially those who are HIV positive.⁴⁸ Since 2006, male prisoners who disclose that they are homosexual have been housed in a separate wing of a specific prison facility, alongside inmates with psychiatric disorders. While the Commissioner argues that this measure was taken to protect homosexual prisoners from harm, the seclusion of this population also creates new opportunities for abuse: the

location of these prisoners is undisclosed, making them even more vulnerable to mistreatment by prison personnel.⁴⁹

The link between the criminalization of sex between men and the spread of HIV/AIDS has been made most consistently by Dr. Peter Figueroa, who is a key figure in the Ministry of Health and has played an active role in trying to shape more responsive and comprehensive legislation and public policy regarding HIV/AIDS. He has consistently argued against the buggery law, by showing how it works to inhibit prevention and treatment measures by further stigmatizing members of socially marginalized groups: prisoners, men and women in prostitution, and other adult homosexual men.⁵⁰ While the significance of Figueroa's work on HIV/AIDS has been recognized through national awards such as the Order of Jamaica, his actual efforts to change public policy have been largely rebuffed by the legislature. As recently as 2006, when Figueroa testified before a parliamentary committee concerning the need for a nondiscrimination clause in the proposed Charter of Rights, members of the legislative body refused to listen to or review any of the scientific evidence and medical scholarship that he presented on the topic.⁵¹ While many legislators frame their refusal to consider the repeal of buggery law as an issue of duty (i.e., that their stances must reflect the opinions of their constituencies and the wider population), it is clear that political expediency rather than commitment to democratic principles inform legislators' decisions to maintain the status quo.⁵²

In 2004, Human Rights Watch (HRW), the international human rights organization, published the report *Hated to Death*, which argued that homophobia and antigay sentiment have fueled the spread of HIV in Jamaica by exacerbating the stigma surrounding the disease and by making it impossible for gay men to lead open lives that are not framed by fear, abuse, and exploitation.⁵³ According to the HRW report, removal of the antisodomy laws and decriminalization of sex between men would help to create a more open climate that would decrease the physical and psychological risks faced by young gay men, as they would be protected from harm and could access necessary services without fear of retribution by health care workers or the public. This highly controversial report has received considerable attention in the international community, putting Jamaica's human rights record and reputation as a welcoming place for tourists under additional scrutiny.⁵⁴ As a definitive analysis of the political conditions that LGBT persons face in Jamaica, the impact of this widely cited report cannot be overstated, given its controversial claims.

The Jamaican government rejected the report's criticisms as a form of imperialism and the work of the homosexual lobby. The report's claims were questioned or rejected on the grounds that a foreign institution with a vested interest in coercing Jamaica to accept homosexuality had produced it, and that the evidence of the persecution of LGBT individuals was exaggerated or contrived to support this view.⁵⁵ Internationally, the report has been used by grassroots, student groups, and religious and human rights organizations to orchestrate campaigns and protests at Jamaican embassies and consulates in order to pressure the government to respect the human rights of LGBT persons and to overturn the buggery law. For example, the British Broadcasting Corporation as well as Amnesty International's OutFront program followed suit with their own reports to highlight the repressive conditions in Jamaica and to provide an avenue for Jamaican activists to bring awareness to and create coalitions with international groups to bring about change.⁵⁶

In turn, the political and media landscape have also begun to shift under this intensified scrutiny and pressure from outside. That is, mass media, public opinion, and politicians in Jamaica have begun to register a growing, if uneasy, awareness of the repercussions of the negative publicity and reputation gained through the report. Not surprisingly, there has been significant backlash against LGBT persons in the wake of the HRW report. Various opinion polls have been conducted with the intent to show—and perhaps confirm—that the majority of political leaders and citizens alike remain opposed to the decriminalization of homosexual sex between men.⁵⁷

Between 2005 and 2008, there were at least six publicized incidents of mob attacks against men, in addition to the dozens of verbal and physical assaults and threats by individuals against men and women, and the deliberate spreading of rumors in order to foster fear, especially in the wake of the HRW report. In the context of international activism, which has been pressing for a governmental response on the very issue of violence against LGBT persons, the largely absent or ineffectual responses of the Jamaican government to these public and highly publicized episodes of violence have generated a new level of awareness among those who had largely ignored or downplayed the problem before. To this end, political leaders even went so far in 2005 as to invite a discussion about repealing the laws against homosexual sex and prostitution.⁵⁸ Similarly, after extensive media coverage about mob violence against gay men in several parts of the country between 2005 and 2007, local human rights groups and political officials formally called for increased and better responsiveness by the police when investigating and preventing these incidents.⁵⁹

A significant part of the backlash has been the rise of an organized conservative movement, with significant political support from North America, which seeks to influence the legislature to preserve or revise areas of the law in order to prevent any recognition of homosexual sex or same-sex relationships. In 2006, and in direct response to the efforts of JFLAG to petition for a nondiscrimination clause to be included in the proposed Charter of Rights and Freedoms, a coalition of religious fundamentalist groups including Family Life Ministries, Lawyers' Christian Fellowship, Operation Save Jamaica, and the National Church Alliance, with the support of North American groups like Focus on the Family, made a proposal to Parliament calling for various measures to prevent LGBT persons from gaining access to the same social and legal protections as heterosexual persons.⁶⁰

These right-wing groups were able to successfully derail the process by casting doubt on the real effects of extending universal human rights to all citizens, including LGBT persons. The groups argued that the proposed and long-delayed Charter of Rights and Freedom, an amendment to the Constitution to establish the basic human rights and freedoms accorded to all Jamaicans first introduced in early 1990s and that was enthusiastically supported by all the local human rights groups, needed to be carefully scrutinized in order to protect the rights of religious bodies to condemn homosexuality and to prevent any recognition of same-sex sexuality. Raising the specter of same-sex marriage as a logical outcome of extending full human rights to all citizens, the proposal offered by the right-wing groups specifically called for the exclusion of the wording “respect for private and family life, privacy of the home,” which, they argued, was tantamount to social acceptance of homosexual sex, even if it occurred in private.⁶¹ Going further, the group argued that the phrase “free and democratic society” was too vague and permissive, and

suggested that it be qualified with the phrase “and in keeping with the aspirations and norms of the Jamaican people” to reflect the importance they placed on public opinion, which supported their anti-LGBT stance. In other words, the group stridently argued against the right to privacy claiming that homosexuals were being unduly protected by such a clause, and claimed that any nondiscrimination clause would “open the door” to decriminalizing buggery, force Jamaicans to accept homosexuals as equal citizens, and thus limit the ability of religious organizations to denounce homosexuality or to refuse to conduct same-sex marriages.

Ironically, while many political leaders found the tenor of the right-wing group’s overall argument to be dangerously antidemocratic, they still ended up siding with the group on the need to preserve the buggery law.⁶² Such a move by these religious groups was important for bringing the Charter of Rights under undue suspicion by positioning it as a mechanism for “protecting” homosexual sex, and the public would probably reject it on that basis. Formal recognition of their position by the legislative body also paved the way for future legislative debates about sexuality-related matters to consider current dissenting public opinion offered by religious groups in deciding whether laws being enacted are “in the public interest.” Indeed, based on these efforts, individual legislators have indicated a willingness to introduce a law that would ban same-sex marriage and legal recognition of same-sex relationships, even though LGBT groups like JFLAG have not indicated any interest in the issue.⁶³

During the 2007 campaigns for national office, the current Prime Minister Bruce Golding made it clear that his future government would not consider a repeal of the buggery laws. In an earlier campaign, he also chose to use music championing antihomosexual sentiments as part of his effort to establish his credibility over the other contender, Percival Patterson, the Prime Minister at the time and who was rumored to be homosexual because he has been unmarried for most of his political life.

Like dancehall musicians who have come under similar scrutiny, elected officials argue that they refuse to be bullied or to “bow” (a pejorative term for anal sex between men) to the dictates of groups seeking to impose their agendas on Jamaica. In refusing to reconsider its role in protecting minority groups, representatives of the Jamaican government have consistently refused to acknowledge that there is a legitimate problem of social persecution of LGBT persons, instead framing the issue as one brought on by LGBT persons themselves and concocted by outsiders, rather than a genuine concern being expressed by Jamaicans at home.

In May 2008, the Prime Minister of Jamaica, Bruce Golding, ignited further controversy and debate during an interview with BBC-TV when he was asked how and whether he planned to address the persecution of LGBT persons in Jamaica. In response, he claimed that LGBT persons were not welcome in his Cabinet.⁶⁴ Reflective of a broader shift in the tenor of public discourse, such an overtly hostile stance that legitimizes discrimination and the mistreatment of LGBT persons is increasingly being met with questions and demands for more careful consideration of the issue of equal treatment of LGBT persons in Jamaica. While many Jamaicans, and especially conservative religious leaders, lauded Bruce Golding for defending what they saw as an issue of Jamaica’s cultural sovereignty, far more open and unexpected disapproval came from all sectors of the society, from religious leaders, journalists, and ordinary citizens alike, critiquing his stance as an embarrassment, a demonstration of poor leadership and myopic vision, pandering to

his political supporters and fomenting further division in a society already socially splintered.⁶⁵

As the media reports show, human rights abuses against gay men have become particularly rampant and visible, ranging from police harassment, arbitrary arrests, mob violence, and attacks with various weapons, to the denial of social services, the verbal abuse of prisoners, sex workers, and the forced removal from families and communities.

The record established over the 10-year period, from when the debates about the buggery laws began in earnest in 1997 until early 2008, point to a systematic effort by Jamaican cultural, political, and religious leaders, and with the explicit approval of many in the society, to deny LGBT Jamaicans basic social and human rights: the right of free association, the right to privacy, and the right to be free from persecution. Many individual men have sought asylum in North America and Britain, on the basis that they would be killed because of their sexual orientation if they remained in Jamaica.⁶⁶ The petitioners range from ordinary Jamaicans who have recently left the country, to those who emigrated during childhood and who are being asked to consider returning to Jamaica because of violations of other immigration-related statutes (e.g., expired visas or deportation orders), to LGBT activists like Gareth Henry and Larry Chang, who have sought asylum because the public roles they had taken as advocates and spokespersons in Jamaica also exposed them to more violence and threats against their lives.⁶⁷ Ironically, much of the evidence of these asylum claims are based on the many local media reports which seek to affirm that many Jamaicans desire that the country be, and remain, a largely inhospitable place for gay men. While women are far less likely to petition for asylum, it appears that women are more likely to do so in Britain, whereas men are more likely to make their petition, and successfully, in North America.

In general, the persecution of women on the basis of sexual orientation has only received scant attention by JFLAG or the international movement pushing for the repeal of the buggery law; as such, abuses against women are infrequently documented. Since public discourse has been driven by and focused on legal status of same-sex relations between *men* as a criminal act, it is only men who are formally recognized as persecuted subjects under these terms. However, lesbian and bisexual women are also subject to social sanctions in the form of verbal and physical harassment, sexual violence, death, ostracism, and estrangement from families, as well as denials of their parental rights. Violence is an effective method of social control of women's and girls' sexuality in Jamaica, and probably works in concert with the dramatic increase in violence at all levels of the society for the past two decades.⁶⁸ And yet far less effort, attention, and public outcry exists surrounding violence against lesbian and bisexual women because the nature of the harm is not, on the face of it, seen as distinct from the harm committed against women in general. As such, most of the public documentation has a built-in bias that shapes the interpretation of what persecution looks like; those records do not reflect women's experiences. For example, because there has not been any systematic investigation of the forms and nature of sexual violence against women in Jamaica, it is far more difficult for Jamaican lesbian and bisexual women who are seeking asylum in another country to gather sufficient documentation to establish that they have a well-founded fear of persecution based on their sexual orientation if they returned to live in Jamaica.⁶⁹ Since attention to gender-based violence is increasing internationally, it remains likely that lesbian and bisexual women's experiences of physical

assault and rape, especially when understood as a form of reprisal or punishment meted out against women who are suspected of violating the heterosexual sexual order, will be taken more seriously.

RELIGION AND SPIRITUALITY

Jamaica is a highly religious society, where there are few recognizable boundaries between the sacred and the secular. In general, antigay bigotry is more routinely expressed by religious leaders from the pulpits and through media venues (e.g., call-in shows, advice columns, religious radio stations) than by any other source, including dancehall music, which is often held up as the bastion of homophobia.⁷⁰ However, there is far less criticism targeted at religious individuals or organizations that promote social intolerance on matters related to sexuality. While the majority of (Christian) religious communities in Jamaica openly denounce homosexuality, many LGBT persons remain connected to and active in the denominations in which they were raised. As such their membership in these religious communities is fraught with anxieties; and yet, few alternatives are available to LGBT persons who wish to practice their religious faiths without harassment or vilification from the pulpit. The extent to which LGBT individuals in Jamaica might be inclined to engage in spiritual practices of indigenous religious communities such as Pocomania, or to reject Christianity altogether, remains an open question.

Even as Christian fundamentalist arguments about the immorality of homosexuality dominate the political landscape and shape public attitudes, clergypersons in more liberal denominations (e.g., the United Church of Christ) have begun to take strong stances against the widespread discrimination and violence against LGBT persons and to call for more dialogue.⁷¹ Some clergypersons do openly defend LGBT persons in the press, while others are willing to quietly offer spiritual support and services for funerals, christenings, and other rites, even if the denomination explicitly forbids clergy from doing so.⁷²

Liberal nondenominational groups from the U.S. have begun establishing places of worship in Jamaica, where they offer nonjudgmental interpretations of biblical scripture and address the spiritual needs of many LGBT people while offering them an opportunity to belong to an affirming faith community. Similarly, in 2007, the Metropolitan Community of Churches of South Florida worked with JFLAG to establish a new congregation, Sunshine Cathedral, in Jamaica.⁷³ In addition to ministering to LGBT persons in Jamaica, the denomination offers a critical community space where personal, political, and spiritual issues related to the ongoing persecution and marginalization of the LGBT community can be treated with the seriousness and compassion that the issues deserve.

MEDIA AND CULTURE

Representations of LGBT Jamaicans in mass media and popular culture are consistently negative, pejorative, and demeaning, further encouraging and justifying the forms of mistreatment described above. Public discourse about and against homosexuality in Jamaica generally takes three forms. First, by invoking conservative interpretations of biblical scripture to argue that homosexuality is a sin as defined in the Old Testament (e.g., the story of Sodom and Gomorrah in Genesis, rules about sexual conduct in Leviticus) and the New Testament (Paul and Jude's letters

explaining the consequences of sin). This is the most pervasive argument offered by Christians and non-Christians alike, and it is constantly circulated within the mass media, giving the arguments further traction and legitimacy. Cultural arguments that focus on homosexuality as a foreign import and as a tactic of imperial domination wielded by Europeans and Euro-Americans against persons of African descent also hold sway. The undue emphasis on same-sex sexual orientation as a moral issue (i.e., good vs. sinful/wrong/foreign), rather than as a human rights issue, dominates public debate in every domain, from talk radio to the opinion and advice columns in print media.

The Jamaican mass media has functioned as a core venue for fueling and shaping debates about homosexuality in Jamaica. Nonetheless, the mass media's treatment of JFLAG's petition in 1998, the international pressure to remove the antisodomy statutes from the Jamaican constitution, and the international movement to censure and challenge the role of dancehall music has ranged from openly inflammatory to veiled hostility to dismissive.⁷⁴ Generally speaking, it is fair to say that the absence of informed, balanced treatment of homosexuality by the mass media has helped to legitimize ignorance about and hostile sentiments and behaviors toward LGBT persons. In reporting the various challenges to dominant cultural attitudes—from calls for boycotts of dancehall artists and of Jamaica, to mob violence and the textbook controversy—the major newspapers have often reprinted editorials of other newspapers rather than offer their own analysis, and often present the biased perspectives of fundamentalist religious leaders who are members of antigay advocacy groups without any disclaimers. More common is the use of headlines that treat issues regarding homosexuality in a sensationalist fashion, and intentionally stoke public's resentment and fury. Recent examples include placing headlines that suggested that the police force was being overrun with gay men and lesbians under the watch of the deputy commissioner.⁷⁵ Stories have also been run announcing that adult lesbians were involved in recruiting and converting new members from girls' high schools.⁷⁶

Among newspaper columnists, the treatment of scholarship on homosexuality is fairly dismissive; when research is invoked, it is most often dated information with a conservative slant or misinterpreted altogether. For example, the *Jamaica Gleaner* presented a series of articles under the banner "Gays in Jamaica" in July and August 2001. The articles represented LGBT persons as sexual deviants with pathological personalities and were framed by specific legal, biological, and religious viewpoints that explained these behaviors. In terms of the content of reportage, not much has improved since the series ran several years ago; most stories that focus on LGBT persons are still not balanced or accurate, and generally present divergent positions about sexual orientation as only matters of opinion and as having equal merit and implications to homophobic arguments.⁷⁷ With the exception of the writings of John Maxwell, a veteran left-leaning journalist in Jamaica, there is a remarkable *absence* of criticism of how LGBT persons are represented in the Jamaican press; many media personalities simply use their columns to promote antihomosexual attitudes or to reinforce pervasive myths and stereotypes about homosexuality.⁷⁸ Hopefully, this pattern will begin to shift as more research is done by scholars in Jamaica, and as LGBT persons become more active in advocating for better representation of the community.

At the level of the editorial boards, however, there has been a perceptible shift toward more nuanced positions. At least one of the major newspapers, *The Daily*

Gleaner, has gone so far as to denounce the incitement of violence and discrimination against LGBT persons, has taken a public stance against the buggery laws, and now pushes for the decriminalization of homosexual sex.⁷⁹ The editors also took the bold step of criticizing the stance of Prime Minister Bruce Golding on the matter of LGBT individuals holding political office, citing the explicit discriminatory stance as a failure of leadership and a national embarrassment.

The LGBT community in Jamaica has a complex relationship with dancehall culture. On one hand, as a musical form that emerged in the early 1980s from urban working-class communities, the dancehall aesthetic is decidedly antiestablishment, thumbing its nose at all social conventions, much to the consternation of the middle class, elites, and religious conservatives. From the language that musicians use (only Jamaican Creole), to the settings (urban, poor, inner city communities), the style of dress (flashy, body conscious, sexually provocative, not sex-typed), styles of dance (unrestrained, sexually suggestive movements), to the lyrical content (aligning social critiques with heterosexual male bravado and sexually explicit songs), dancehall music taps into a rebellious spirit that is not visible or so clearly expressed anywhere else in Jamaican society. Many LGBT Jamaicans are also members of the “dancehall generation” and thus identify strongly with this popular cultural form.

On the other hand, the antiestablishment stance of dancehall culture has also promoted vitriolic homophobia and incited violence against LGBT persons. Steeped in nationalist arguments about homosexuality as foreign and corrupting even to the local elite, dancehall musicians operate by regularly calling through their music and performances for the excision and annihilation of the bodies of LGBT persons. In other words, dancehall culture invariably casts poor and working-class LGBT persons as *outsiders* by virtue of their non-normative sexual orientation. Pejorative references to “battymen,” sodomites, and lesbians, as well as condemnatory statements accompanied by threats of physical and verbal punishment, populate many of the top dancehall hits. Notably, while the cultural elite and social conservatives have criticized dancehall music for its “slackness” (i.e., violent, sexually explicit language in relation to women) and excess, there has been far less attention given to the hostilities against LGBT persons uttered in the music. Dancehall music remains the music of choice at the parties and social events organized by and for the LGBT community in Jamaica, with some (often unsuccessful) censoring of the music played; the most popular songs are often laced with homophobic lyrics that are tightly embedded in the song’s rhythm.

While many Jamaicans, straight or queer, do consider the hostile and violent sentiments directed at LGBT persons by dancehall musicians to be problematic, the charge that dancehall music is homophobic, and thus politically suspect, first emerged with any force outside of Jamaica, and came in 1994 from Britain-based director Isaac Julien in his film *A Darker Side of Black*. This film was prompted by the 1991 release of the song “Boom Bye Bye,” by Buju Banton, a young and rising star in dancehall music. The song explicitly incites violence against “battymen” and rejects homosexuality with an urgency that is palpable and thus distressing to many LGBT persons. A translation of the lyrics of the song “Boom Bye Bye” from Jamaican Creole into American English, along with its mass distribution through fliers, e-mail, and blogs, was used to galvanize LGBT activists in Europe and North America to protest against this song, and later, dancehall music.⁸⁰ With the initial leadership and local support of JFLAG, dancehall music has been consistently

portrayed as *the* primary conduit for antigay sentiments in Jamaica, and presented as a medium that posed harm to both the local and international LGBT population. Consequently, Buju Banton and his generation of dancehall artists have been a lightning rod for protests by LGBT activists in Europe and North America.

As early as 1997, London-based LGBT activist Peter Tatchell, of the organization OutRage, labeled dancehall music as “murder music,” touching off a series of debates in Britain’s Jamaican immigrant community and in Jamaica about the role of popular culture in shaping the social attitudes of Jamaicans regarding LGBT persons. The “Murder Music” campaign that Tatchell launched in 2005 quickly gained widespread popularity within LGBT communities outside Jamaica. The transnational campaign targeted the concerts of popular dancehall musicians such as Capleton, Beenie Man, Vybz Kartel, Elephant Man, and Baby Cham, who had expressed similarly strong sentiments as Buju Banton did, including inciting violence against gays and lesbians, through their music and on-stage performances. The campaign was waged primarily via the Internet and particularly blogs, spawning numerous protests, community forums, letters, e-mails, and phone calls to political officials, promoters, and sponsors wherever the artists were scheduled to appear.

These protests generated considerable visibility in Jamaican immigrant communities, as well as in LGBT magazines, Web sites, blogs, and political groups outside of Jamaica. As a result of the campaign, some dancehall artists have been banned from performing in major cities like London, and many shows have been cancelled in every major city in North America, causing the loss of publicity, promotion of their music, and most importantly, revenue. At least one artist, Beenie Man, lost a major recording contract. The campaign also created a contract called the Reggae Compassion Act, which is a statement by artists apologizing for writing and performing homophobic songs and pledging to refrain from performing them in the future.

While some artists, even those who have not been the target of the boycott, have felt obligated to sign the document, many deny doing so, for fear of accusations of ‘selling out’ from their supporters in Jamaica and Jamaican immigrant communities in North America. Nonetheless, the campaign succeeded in minimizing the number of high-profile venues accessible to the artists to promote their music outside of Jamaica, and raised public awareness about the content and impact of the music through the debate and the self-censoring it provoked. That effect has extended to Jamaica, where at least one corporation and major donor, Red Stripe, withdrew financial support from major shows, citing the lewd and problematic content and performances of dancehall artists. Supporters of dancehall artists have protested these various efforts, characterizing them as a form of censorship of their freedom of creative expression and threatening the economic wellbeing of the dancehall industry.

Another venue for international protest is Jamaica’s tourism industry. Dissatisfaction with the Jamaican government’s own stance, as well as its support of other Caribbean countries’ refusal to give docking privileges to cruise ships carrying LGBT passengers in the late 1990s, has led to calls for protests against the Jamaica Tourist Board, itself a governmental entity. The negative publicity by organizations like the International Gay and Lesbian Travel Association (IGLTA), the official body representing hundreds of organizations around the world involved in promoting and facilitating gay and lesbian travel, has amounted to an ongoing informal economic

boycott of Jamaica by gay and lesbian tourists. As a result of the other controversies and the sustained media attention to the violence against LGBT persons, the concerns first raised by LGBT groups outside Jamaica have come to the attention of mainstream media outlets and has sparked the awareness of heterosexual persons who are also potential visitors to a country that is heavily dependent on tourism for its economic stability. In 2005, *Time* magazine published an often-cited article labeling Jamaica as “the most homophobic place on earth.” The *New York Times* has also published articles on the persecution of lesbians and gays and the negative experiences of LGBT persons who traveled there for vacation.

In response to the negative international attention brought by these protests, many Jamaicans have come to herald the song “Boom Bye Bye” as an anthem of cultural resistance to what they perceive as the negative side of globalization. Nationalist sentiments have been heightened by the successful efforts of the campaign to censor some dancehall artists. Decrying the campaign and criticisms as a concerted effort by the gay lobby or gay mafia to force Jamaicans to accept homosexuality, the overwhelming response has been to embrace antipathetic sentiments even more strongly, and to pledge to defend the culture and its “norms” against the global influence of a “worldwide homosexual lobby” represented by mostly white gay men from Western Europe and North America who seek to bully countries they see as powerless and backward, like Jamaica, into “bowing down” and accepting these modern yet alien values.⁸¹

Despite its often vitriolic nature, the debate prompted by the campaign against dancehall music has had a noticeable impact in shifting local discussions about homophobia, same-sex sexual orientation, and the social rights of LGBT persons. Public opinion has become more bifurcated than ever before, even as there is growing recognition among engaged citizens that these pervasive social attitudes do not necessarily serve Jamaicans well in the long or short term. Moreover, while the tone and content offered through various media outlets remains negative and highly polarized, there is a distinct and positive shift in the positions of editors of the major newspapers who have begun to directly challenge the religious arguments, and to point out the flaws and negative effects on social relations in the society. Everyday then, there are more voices—through radio call-in programs, letters to the editor, and cultural programming—who are questioning whether such hatred and contempt for a particular group of people has any place in a democratic society, and are emphasizing the importance of social acceptance for those who are different and the full inclusion of LGBT persons as citizens in the nation.

Positive representations of LGBT persons on local programming are rare. More typical is for insinuations about same-sex orientation to be made as a joke, reminder, or warning to listeners. LGBT persons are often represented in political cartoons by their absence or a symbol (e.g., a closet, a sign), but not as speaking subjects. One exception is a local soap opera, *Royal Palm Estate*, which began airing in 1994 and centers on the lives of the members of an elite family in contemporary Jamaica. The program dramatically presents the social tensions around race, skin color, and social class, and did include a gay character in the early 1990s. Much suspense was built around the disclosure of his sexuality. He was written out of the show soon thereafter.

More recently, the comedic play *Bashment Granny*, which was written and produced in Jamaica for a local, working-class audience, has been wildly successful

since it was first staged in 2005; there is a follow-up, *Bashment Granny 2*, and plans are underway for turning the play into a film. The play's immense popularity lies in the performance antics of the character named Shebada, a young man whose sexuality is made ambivalent through his claim that "mi deh pon borderline" ("I stand on the border") but who is simultaneously being "named" as gay through his attire and his mannerisms. Shebada is assigned characteristics (e.g., bleached face, tight clothing, head wrap, style of speech, exaggerated gestures, quick to offer verbal insults and witty put-downs) that are excerpted from the gay subculture that exists in the inner-city communities of Kingston. Shebada's popularity lies precisely in the ways that he displays the very characteristics that the audience might explicitly reject and frown upon *outside* the theater, but are willing and able to laugh at *inside* the theater. The play has also been staged in several Jamaican immigrant communities in England and North America, and is often sold out, competing directly with and surpassing the popularity of dancehall artists. The audience's responsiveness to this character has been noted by other established comedians like Owen "Blakka" Ellis, who suggests that Jamaicans are more tolerant about sexual difference than they may be willing to admit, given the heavy-handed ways that musicians and politicians have been driving home the claim that Jamaicans are, by nature, averse to homosexuality.⁸² Noting the paradox of working-class Jamaican theatergoers' relationship to Shebada raises the question of whether the bold existence of a character like Shebada on stage is merely offering new, locally specific stereotypes about gay men that will eventually become used to marginalize them further; or, whether this stereotype does legitimize a particular existence, and thus can be mobilized by poor and working-class gay men in order to demand respect and greater autonomy albeit in limited ways.

Most knowledge and awareness about LGBT issues comes through the Internet and satellite cable, which beams programming from predominantly U.S. stations into the homes of many Jamaicans. There is little censoring of material shown on cable networks so that, depending on the cable company that one chooses, it is possible to get as many channels showing pornography as music videos. This uncensored access to information is a byproduct of the liberalization of the economy in the 1990s, which allowed for the emergence of several telecommunication companies. As such, Jamaicans who have access to cable television are more likely to be exposed to programming such as *The "L" Word* than many Americans because the structure of Jamaican cable television does not have the same kind of restricted access to the premium channels, such as HBO, Showtime, and Logo, that is present in the United States. Conservative religious groups criticize the wide availability of information and images, arguing that the introduction of cable is partially responsible for increased sexual promiscuity among youth and the sexual abuse of children.

The availability of imported images—and the absence of locally produced images and programming—clearly affect the perceptions and attitudes of Jamaican LGBT and heterosexual persons alike. While heterosexual Jamaicans may have an opportunity to engage with their own stereotypes and misinformation, the obviously foreign (mostly white) content produced for a mostly white North American audience may also legitimize their perceptions of homosexuality as a white or American notion.

Similarly, LGBT persons in Jamaica who look to other countries for both affirmation and information invariably find their society treated as completely intolerant

and unlivable, and as if they are not present (i.e., impossible subjects). Furthermore, what is presented in these imported media packages as the normative LGBT identity is highly misleading; consequently, Jamaicans (straight or LGBT) do not always recognize that what they are seeing are *products* of North American society and media, which are tainted by the social biases and political agendas relevant to those societies.

Currently, the primary forms of documentation of LGBT life in Jamaica are essays and visual documentaries featuring and emphasizing individual narratives of persecution based on sexual orientation (e.g., Johanna Bermudez's *Ex-Isles*, Phillip Pike's *Songs of Freedom*, Stacey-Ann Chin's memoir and performance poetry, and Makeda Silvera's critical essay "Man-Royals and Sodomites" and co-edited anthology *Maka: Diasporic Juks*). Similar themes emphasizing the effects of social prejudice on sexual identity and practice also exist in the form of fictional writing (e.g., Margaret Cezair-Thompson's *A True History of Paradise*, Patricia Powell's *A Small Gathering of Bones* and *The Pagoda*; individual poems and short stories by Michelle Cliff, Thomas Glave and Kei Miller). Notably, the majority of these works are produced by Jamaicans living outside of Jamaica, thus falsely suggesting that such work is not possible in Jamaica itself.

LGBT persons in Jamaica participate in all aspects of the society's cultural life: as popular radio announcers, performers, artists, writers, and cultural workers. While many persons, including LGBT individuals, subscribe to the notion that the arts are more welcoming to individuals with a same-sex sexual orientation, the overt and ubiquitous antipathies towards them makes it unclear whether individuals involved in this arena are more likely to voluntarily disclose their sexual orientations to others, or to question the representation of LGBT life in the broader society. What is more likely is that, within these domains, same-sex sexual orientations are not condemned, but are affirmed partly through the *absence* of direct questioning or verbal and physical hostilities. The annual and independently run Calabash Literary Festival held in Jamaica certainly operates as one such space, and is one where the presence of LGBT individuals—as writers and audience members—is not treated as a problem *per se* by the majority of the attendees. Rather, the intimate, literary setting offers an opportunity for persons of multiple perspectives to explore how sexual identity intersects with other forms of belonging. Whether LGBT artists, as individuals or as a community, in Jamaica will come to see their art as a vital tool for expressing social critiques about the relationship between sexuality and other spheres of existence, and articulating alternative visions about art, identity, and politics remains to be seen.

OUTLOOK FOR THE 21ST CENTURY

The LGBT movement for equal rights, protection, and recognition in Jamaica is still in its fledgling stages. For such a movement to gain momentum and credibility at home, it must be situated in a broader social justice framework that is steeped in *Jamaica's* history of social activism. As demonstrated in early models of feminist organization in Jamaica, the social landscape of a postcolonial, debt-ridden society demands a radically different approach to organizing for sexual justice than has been done in the past, or in other venues. Furthermore, a single-issue focus on sexual orientation to the exclusion of issues like sexism, illiteracy, housing rights, family instability, unemployment, absence of adequate or quality health care, police

mistreatment, interpersonal violence, and so on means that the material and political concerns of most LGBT persons will not be addressed by the existing organizations or frameworks for mobilizing for social change. LGBT groups in other Caribbean countries (e.g., Guyana, Trinidad and Tobago, Cuba) have developed innovative and successful strategies for addressing how social issues related to economic status, gender, and so on, intersect with and reinforce marginalization based on sexual orientation. There is much that Jamaican LGBT activists can learn from others engaged in similar struggles around the region. Given the growing visibility and strength of conservative antigay religious groups in Jamaica, as well as their ready access to support and resources of established right-wing groups in North America, coalition-building is critical for LGBT activists to gain the kind of legitimacy and broad-based support they need. Building coalitions with women's, environmental, human rights, and social justice groups in Jamaica (and the region) around issues of mutual concern such as violence, poverty, sexual assault, corruption, media reform, family support, and similar topics will also help to promote awareness and dialogue among the various groups about how their concerns are (and can be) linked to sexual rights and justice.

While it is not expected that the current national government will repeal the buggery law, the marginalized status of LGBT persons in Jamaica clearly undermines the democratic project begun in the early 20th century. Consequently, an important issue facing the LGBT community is building its capacity to articulate its diverse needs, perspectives, and visions in relation to a progressive democratic tradition. Whether through collective action focused at the level of national legislative reform or building strong institutions to serve the populations' needs for advocacy at the community level or creating opportunities for education, self-empowerment, and fostering creative self-expression at the individual level, giving form and sustenance to the LGBT struggle for sexual justice is a necessary and worthwhile step in the 21st century.

For scholars of various disciplines, a critical task lying ahead will be to define a comprehensive research agenda and create a body of knowledge about the relationship of sexualities to other aspects of identity and cultural conditions in Jamaica, from the standpoint of LGBT persons. Such knowledge can inform public policy, political organizing, and provide greater insight into what it means to be LGBT *and* Jamaican. Documenting the struggles of LGBT individuals will provide greater insight about the social dynamics of community formation in relation to sexuality, and make visible the structural and cultural forces that shape the lives and choices of LGBT people, as well as the kinds of identities, politics, and visions they create along the way.

RESOURCE GUIDE

Suggested Reading

Staceyann Chin, *The Other Side of Paradise: A Memoir* (New York: Scribner, 2009).

Debbie Douglas, Courtnay McFarlane, Makeda Silvera, and Douglas Stewart, eds., *Ma-Ka Diasporic Juks: Contemporary Writing by Queers of African Descent* (Toronto: Sister Vision Press, 1998).

Rosamund Elwin, ed., *Tongues on Fire: Caribbean Lesbian Lives and Stories* (Toronto: Women's Press of Canada, 1997).

- Thomas Glave, ed., *Our Caribbean: A Gathering of Lesbian and Gay Writing from the Antilles* (Durham, NC: Duke University Press, 2008).
- Linden Lewis, *The Culture of Gender and Sexuality in the Caribbean* (Gainesville: University Press of Florida, 2003).
- Kei Miller, *There Is An Anger that Moves* (Manchester, England: Carcanet Press, 2007).
- Patricia Powell, *A Small Gathering of Bones* (Oxford: Heinemann Books, 1994).
- Makeda Silvera, ed., *Piece of my Heart: A Lesbian of Colour Anthology* (Toronto: Sister Vision Press, 1991).
- Faith Smith, ed., "Genders and Sexualities," *Small Axe* 7 (special issue, 2000).

Organizations

- Jamaica AIDS Support for Life, <http://www.jamaicaaidssupport.com/>
- Jamaica Forum for Lesbians, All-Sexuals, and Gays (J-FLAG), <http://jflag.blogspot.com/>
- UNAIDS, e-mail: maluwam@unaids.org
- Women for Women, e-mail: wswsocial@yahoo.com.

Film

- Songs of Freedom*, video, directed by Philip Pike (Canada: Jahloveboy Productions, 2002).

NOTES

1. "News Talk under Threat," *The Sunday Herald*, March 29, 2008, <http://www.sunheraldja.com/article/show/552> (accessed April 5, 2008).
2. Winnifred Brown-Glaude, "The Fact of Blackness? The Bleached Body in Contemporary Jamaica," *Small Axe* (October 2007): 4–51.
3. There is a robust and growing debate about the value of Jamaican Creole or Patwa and its effects on the educational outcomes of poor and working-class children. Some proponents of Jamaican Creole argue that Patwa should be taught in schools and that English should be taught as a second language. See Louis Marriott, "Expect Developments in Language Debate," *Jamaica Gleaner*, August 21, 2008, <http://www.jamaica-gleaner.com/gleaner/20080821/cleisure/cleisure3.html> (accessed August 22, 2008).
4. Editorial, "Crackdown on 'Daggering' Songs, Soca," *Jamaica Observer*, Tuesday, February 10, 2009, http://www.jamaicaobserver.com/news/html/20090209T230000-0500_146000_OBS_CRACKDOWN_ON_DAGGERING_SONGS_SOCA.asp (accessed February 11, 2009).
5. For example, the phrase "bun fyah" is used repeatedly by dancehall musicians to call for retribution against both gay men and lesbians. The phrase is loosely translated as "homosexuals should be damned or destroyed." One example is Capleton's song "Bun Out di Chi Chi," which calls for the purification of the society by extermination of gay men who are being likened to termites, or chi chi in local vernacular. The reference to fire as ritual purification originates in Rastafarian ideology and is invoked as a critique, that is, to "bun dung Babylon" (i.e., to burn Babylon, the economic, cultural, and political center of Eurocentric, morally corrupt and politically oppressive ideas and practices that negatively affect the lives of "sufferahs" or poor and working-class black people).
6. United Nations Development Programme, "2007–8 UNDP Human Development Report: Jamaica," http://hdrstats.undp.org/countries/data_sheets/cty_ds_JAM.html (accessed July 10, 2009).
7. Damien King and Latoya Richards, "Jamaica's Debt, Exploring Causes and Strategies" (Working Paper# 0801. March 2008). Caribbean Policy Research Institute, Kingston, Jamaica.
8. United Nations Development Programme, "2007-8 UNDP Human Development Report: Jamaica."

9. Esther Figueroa and Diana Macaulay, *Jamaica For Sale* (Kingston, Jamaica: Vagabond Media, 92 minutes).

10. Amnesty International, “Gang and Police Violence in the Inner-cities,” April 2008, <http://www.amnesty.org/en/library/asset/AMR38/004/2008/en/d7801d73-0172-11dd-8daf-5b71323cd12c/amr380042008eng.pdf> (accessed April 20, 2008).

11. Statistical Institute of Jamaica, “Main Labour Force Indicators 2005–2007,” <http://www.statinja.com/stats.html#2> (accessed April 20, 2008).

12. Ibid.

13. There are no legal statutes that ban or punish incitement to harm. Given the widespread disapproval of homosexuality, and the perceived threat of external foreign influences on national mores, each episode of such threats has occasioned robust support for the sentiments, with few decrying the actions of the perpetrators. Indeed, gays and lesbians are usually blamed for the violence they experience. See, for example, Angelo Laurence and Edmond Campbell, “Witter Warns Gays—Flaunting Sexual Preference May Incite Violence,” *Jamaica Gleaner*, April 25, 2007, <http://www.jamaica-gleaner.com/gleaner/20070425/lead/lead1.html> (accessed April 25, 2007); Editorial, “Holding a Corner for Gays?” *Jamaica Gleaner*, April 26, 2007, <http://www.jamaicagleaner.com/gleaner/20070426/cleisure/cleisure1.html> (accessed April 26, 2007).

14. Makeda Silvera, “Man-Royals and Sodomites: Notes on the Invisibility of Caribbean Lesbians,” in *Piece of My Heart: A Lesbian of Colour Anthology*, ed. Makeda Silvera (Toronto: Sister Vision Press, 1994).

15. Daraine Luton, “Mothers Slain: Missing Bodies Found in Bull Bay Pit,” *Jamaica Gleaner*, June 29, 2006, <http://www.jamaica-gleaner.com/gleaner/20060629/lead/lead2.html>; Fabian Ledgister, “They Were Lesbians,” *The Jamaica Star*, July 7, 2006, <http://www.jamaica-star.com/thestar/20060707/news/news1.html> (accessed July 7, 2006).

16. UNICEF *Child-Friendly Schools: A Pathway to Achieving Quality Education*, <http://www.unicef.org/jamaica/index.html> (accessed July 10, 2009).

17. Editorial, “Teachers Could Face Criminal Charges Under Sexual Offences Act,” http://www.jis.gov.jm/parliament/html/20090212T090000-0500_18418_JIS_TEACHERS_COULD_FACE_CRIMINAL_CHARGES_UNDER_SEXUAL_OFFENCES_ACT.asp (accessed July 14, 2009); Alverston Bailey, “Childhood Under Threat,” *Jamaica Gleaner*, Saturday, October 10, 2008, <http://www.jamaica-gleaner.com/gleaner/20081018/talk/talk3.html> (accessed October 12, 2008).

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21. Andrew Wildes, “Alleged Homosexual Attacked at UWI,” *Jamaica Gleaner*, April 5, 2006, <http://jamaicagleaner.com/gleaner/20060405/lead/lead3.html> (accessed April 8, 2006). Staceyann Chin, a Jamaican writer and U.S.-based artist describes a similar episode in her recent memoir *The Other Side of Paradise* (New York: Scribner, 2009).

22. For example, Robert Carr, a member of the faculty of the Caribbean Institute of Media and Communication at the University of West Indies–Mona, conducts research on HIV/AIDS and stigma; Karen Carpenter is a member of the faculty of Social Sciences and

co-founded the Caribbean Sexuality Research Study Group at the University of West Indies–Mona in February 2009. <http://www.mona.uwi.edu/dllp/jlu/projects/csrg/index.php> (accessed June 5, 2009).

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24. See, for example, Carolyn Cooper, *Sound Clash: Jamaican Dancehall Culture at Large* (New York: Palgrave, 2004).

25. Lisa Norman, Robert Carr, and Julio Jimenez, “Sexual Stigma and Sympathy: Attitudes towards Persons Living with HIV/AIDS,” *Culture, Health and Sexuality* 8, no. 5 (2006): 423–33.

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31. The resolution of high profile cases such as of the deaths of Brian Williamson, Steve Harvey, and Peter King are clear exceptions to the ways that the majority of cases regarding crimes against LGBT persons are treated.

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34. See Byron McDaniel, “Burial Riot: Church Stoned at Alleged Homo’s Funeral; Pastor, Mourners Duck for Cover,” *The Jamaica Star* April 10, 2007, <http://www.jamaica-star.com/thestar/20070410/news/news1.html> (accessed April 15, 2007); Marc Lacey, “Attacks Show Easygoing Jamaica is Dire Place for Gays,” *New York Times* February 24, 2008, <http://www.nytimes.com/2008/02/24/world/americas/24jamaica.html> (accessed February 24, 2008).

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men and lesbians to refrain from disclosure in order to protect their own lives. See Editorial, “Homosexuals can be ‘Dead Right,’” *Jamaica Observer*, April 26, 2007, http://www.jamaicaobserver.com/editorial/html/20070425T220000-0500_122229_OBS_HOMOSEXUALS_CAN_BE_DEAD_RIGHT_.asp (accessed April 26, 2007).

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39. Zadie Neufeld, “Fear among Gay Men Said to Fuel HIV/AIDS Cases,” *Interpress News Service* March 2002, <http://www.aegis.com/news/ips/2002/Ip020302.html> (accessed July 11, 2008); See also Robert Carr, “On Judgements: Poverty, Sexuality-based Violence and Human Rights,” *Caribbean Journal of Social Work* 2 (2003): 71–87.

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80. In defense of dancehall music, Carolyn Cooper, a scholar of Jamaican popular culture and the first person to legitimize dancehall as a topic of inquiry, has argued that the translation of the lyrics of "Boom Bye Bye" was inaccurate and misleading, even though it was done by a Jamaican-American. As such, she argues, the claim that the song promotes violence against homosexual men is incorrect; in her view, the song is not about *actual* violence using a *real* gun. Rather, the reference is to a lyrical or rhetorical gun, that is, using the mouth to express discontent or disapproval. Since there is no formal sanction against incitement to harm in Jamaica, Cooper's argument holds considerable sway in a context where utterances that do lead to harm do not have legal import; only physical acts that lead to death or "grievous assault" are recognized as actionable. In the years since the debate emerged, the expressions of violence against LGBT persons in dancehall lyrics have only become more graphic and specific.

81. The term "to bow" has negative meanings and implications in the Jamaican vernacular. On one hand, the term refers to male homosexual activity, which is represented as men bowing or bending forward to be recipients of anal penetration. Because religious discourse often links homosexuality to the narrative of Sodom and Gomorrah, many people are led to believe that sexual activity between men cannot be consensual; rather, such sexual interaction between men is often viewed as an exercise of immoral power, resulting in something akin to rape of the unwilling, weak, and otherwise innocent man/boy, hence its ready conflation with pedophilia and pederasty. On the other hand, the term "bow" is also used to refer to oral sex (as in the pejorative term "bow cat," that is, a man who performs oral sex on a woman), which many Jamaicans view with disgust. Here, the possibility of Jamaica's recognition of homosexuality as a legitimate social identity and set of sexual practices is treated as synonymous with "bowing" to more powerful nations like the United States and Britain, and would be taken as a sign of the nation's moral and political weakness, as well as the failed masculinity of its political leaders.

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MEXICO

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OVERVIEW

Officially named the United Mexican States (Estados Unidos Mexicanos), Mexico is bordered on the north by the United States of America and on the south and southeast by Guatemala and Belize. Mexico's territory encompasses 1,220,606 square miles, including two extensive coastlines, which constitute one of its most important geographical characteristics. The country is bordered on the east by the Gulf of Mexico and the Caribbean Sea and on the west by the Sea of Cortez and the Pacific Ocean. Mexico's climate ranges from extreme desert to snow-capped mountains and tropical rainforests, although the majority of its territory is considered semiarid with a summer rainy season.

The Mexican economy is ranked tenth in the world and second in Latin America (surpassed only by Brazil). While Mexico's per capita income is the highest in Latin America (\$8,066 USD), the distribution of wealth is far from equal. This inequality is the main cause for Mexico's annual growth rate of 2.3 percent in the first part of the 21st century.¹ While some of the richest people in the world live in Mexico, approximately 47 percent of the population lives below the official poverty line,



and 11 percent live in extreme poverty.² This population with limited economic resources has had to emigrate to areas where transnational companies have opened large assembly plants (known as *maquiladoras*). Others decide to immigrate to the United States and often send back remittances to their families. These remittances make up the major source of income for a large portion of Mexico's population and are increasingly important in international economics.

In 2005, Mexico's population included 103,263,000 inhabitants, yet intense emigration to the United States has resulted in some 26 million Mexicans (from first to third generation) living in that country. Around 80 percent of Mexicans are Mestiza (primarily of a mix of Spanish, native populations, and Africans), 10 percent are native (indigenous), and 10 percent are white (European). Some 80 percent of the population claims to practice Catholicism, although syncretism between Catholic and pre-Columbian or African religions is one common way of preserving ancestral cultures. The predominance of Catholicism is the principal cause for Mexico's homophobic culture, which has made the development of a tolerant attitude toward sexual diversity difficult.

As the country with the largest Hispanic population in the world, Mexico is also a major cultural reference point for Latin America. Many important newspapers and magazines are headquartered there, and it is a major center of cinematographic and artistic production. This brings a large number of artists and intellectuals to Mexico from all over the Americas, a situation that allows the widespread broadcasting of diverse cultural expressions, including those in favor of sexual diversity that, despite socially rooted homophobia, have had surprising success.

OVERVIEW OF LGBT ISSUES

While there is a fair amount of historic documentation suggesting that homosexual practices were tolerated by various indigenous groups before the arrival of the Spanish in Mexico, the imposition of Catholicism during the colonial period was a determining factor in the prohibition of those practices. The Inquisition habitually organized raids against groups who were known to practice sodomy, a crime also known as the nefarious sin ("*el pecado nefando*") by canon law. During the 19th century there were few references to homoerotic relations, so perhaps speaking about them in public was not allowed. In November 1901, the police department of Mexico City surprised a party where a group of upper class men were dressed in drag. This event, known as the "dance of the 41" ("*el baile de los cuarenta y uno*"), makes it clear that homosexual relations during that period had to be carried out in secret because of the high levels of social surveillance. Although Mexican laws ceased to strictly prohibit the practice of sodomy in the first half of the 19th century, a great deal of social pressure still exists against homosexuality, which marks a contrast between written law and Mexico's deeply rooted Catholic tradition. As a part of this tradition, machismo, which remained until recent times a defining element of Mexican national identity, has been one of the factors responsible for the persistence of a homophobic attitude in Mexican society, making it difficult for homosexuals to find any type of social recognition. In the postrevolutionary period (1920s–1930s), a series of controversies about national identity paved the way for the revolutionary elite to define the nation as a virile state, which was subsequently understood to permit the institutionalization of homophobia in all types of public expression. The persistence of homophobia is manifest in different aspects of daily

life, in the application of justice, in the media and in the general treatment that major institutions offer this minority group.

In the early 1970s, as a result of the influence of the American gay rights movement, the first organizations in favor of homosexual rights were formed in Mexico. They were the first groups to define strategies and to act against the generalized homophobia in the country. While they may not be characterized by their solid political organization, these pro-gay rights groups have achieved widespread acceptance in the most liberal sectors of society, such that events like gay pride marches; today called “sexual diversity marches” (“*marchas de la diversidad sexual*”) take place not only in Mexico City, but also in various cities around the country. Another annual event that has continued on from the 1980s is the “Gay Culture Week” (“*La semana cultural gay*”), during which important intellectuals and artists participate in the activities. One of most recent political advances in favor of sexual diversity has been the passage of laws in favor of homosexual unions, such as the “society of cohabitation” (“*Sociedad de convivencia*”) in Mexico City and the “civil pact of solidarity” (“*Pacto civil de solidaridad*”) in the state of Coahuila, both passed in 2006.

Nevertheless, discrimination and antigay hate crimes have reportedly increased in recent years. As with other human rights issues, crimes against homosexuals have, for the most part, been ignored by the authorities, such that they have become one of the most important problems on the political agenda of sexual minorities. Despite the fact that the cultural and commercial proliferation of gay culture has produced favorable economic benefits, Mexico is still a society intolerant of those groups seen as “different”: according to government surveys, 66 percent of Mexicans would not accept having to share their home with a homosexual.³ The authorities show little interest in solving homophobic crimes; perhaps the majority of the population also supports homophobic actions. Therefore, the challenge is not only to reform the justice system, but also to imbue in Mexican culture a respect for diversity.

EDUCATION

Despite the fact that 24 percent of Mexico’s federal budget (which represents 6.8% of the Gross Domestic Product) is dedicated to education, 12 million children between 6 and 12 years of age do not attend school. Of every 100 students that enter primary school, only 14 finish high school, and only 1.7 percent continue on to college or graduate school. Two main obstacles that hinder Mexico’s educational progress include the poverty in large sectors of the population and the control that the Teacher’s Union (“*Sindicato de Trabajadores de la Educación*”) exerts over both public policy decisions and the use of government funding.⁴ Thus, as with almost all of the country’s social service institutions, education is affected by corruption, social inequality, and a conservative political agenda. Even private institutions are not exempt from this corruption, as their owners determine their educative content.

One of Mexico’s most problematic subjects in the first few years of the 21st century has been the conservative tendency to exclude sex education from primary and secondary school textbooks by order of the federal government and several individual states, as well as the Association of Parents (“*Asociación de padres de familia*”), an organization that proposes to restore religious control over education.

Members of this organization argue that sex education should be the exclusive domain of parents and not that of the school system. For this reason, they consider it inappropriate to teach students the functions of their sexual organs and the prevention of diseases transmitted by their use, not to mention nondiscrimination against homosexuals. For the defenders of sex education, these limitations instigated by conservative groups (many of whom are well-established in strategic positions, such as the Secretary of Public Education (“Secretaría de Educación Pública”) and constitute one factor that promotes the spread of sexually transmitted diseases, including AIDS). Standing out among these conservative groups is the Coalition for Social Participation in Education (“Coalición para la Participación Social en la Educación”), which has voiced its concern about official textbooks (which have included sex education since the 1970s) that “instigate sexual activity in children of 11 or 12 years of age.”⁵ Among the proposals pushed by these organizations (widely supported by the Catholic Church, business groups, and important conservative politicians) is the prohibition of the use of condoms and other contraceptive methods and the promotion of sexual abstinence and marital fidelity as the only permissible forms of prevention of sexually transmitted diseases. These proposals form part of a political agenda concerning sexual politics that is advocated by the Catholic hierarchy in the Vatican and is opposed to policies of a feminist nature or those in favor of sexual diversity. The central concern of this position is to defend heterosexual marriage and its reproductive function against what these groups see as propaganda for homosexuality and abortion.

One of the cases that best illustrates this controversy is that of the censure of the textbook *Biología y ciencias (Biology and Science)*, by Ana Barhona. This text was removed from classrooms in 2006 by the governments of the states of Morelos, Querétaro, and Baja California and was mutilated in Aguascalientes and Guanajuato. The censure exercised by the aforementioned states came in response to pressure from conservative groups closely linked to those state governments. The Undersecretary of Primary Education (“Subsecretario de Educación Básica”) of Baja California, José Gabriel Posada Gallego, concluded that the content of the book was “inadequate,” since it did not make reference to matrimony (that is, traditional heterosexual matrimony), and because it also invited students to visit Web sites at which they might find arguments in favor of sexual pleasure and homosexuality.⁶ The censure of this book constitutes a violation of the Law of Protection of the Rights of Children and Adolescents (“Ley de Protección de los Derechos de Niñas, Niños y Adolescentes”) that obligates Mexico to offer sex education to its citizens. This law is one of a great number of international laws dealing with human rights that has been ratified by Mexico. Mexico had received (until August of 2006) 78 recommendations from the United Nations’ Committee on the Rights of the Child expressing the need to improve the education of adolescents especially regarding sexuality, undesired pregnancies and sexually transmitted infections.⁷ The effects of this lack of sexual education in Mexico are reflected in these statistics: in the country there are 366,000 births to adolescents each year, only 37 percent of adolescents use a condom during their first sexual interaction, and by the year 2006, more than 128,000 cases of AIDS had been reported.⁸

Homophobia in schools is a theme that has appeared repeatedly in the national press. Even in institutions characterized for their tolerance and widespread democratic participation, such as the National Autonomous University of Mexico

(“Universidad Nacional Autónoma de México,” or UNAM), charges have been brought against groups for harassing homosexuals. According to university activists, the UNAM’s ambiguous internal regulations are what allow this discrimination. When students are assaulted on campus on account of their sexuality, they do not know which agency to which to turn for help.⁹ Because AIDS is often associated with homosexuality by much of the population, a group that, in general, is also homophobic, students who are HIV positive are denied entry to, or are later rejected from, certain schools on account of their illness. Thus, another form of discrimination occurs when HIV positive students who are not necessarily homosexual become victims of homophobia.

While it is possible to find an ample number of academic publications that deal with sexual diversity, not one Mexican institution of higher learning offers programs dedicated to the study of homosexuality, not to mention queer studies. There are a few programs at important academic institutions such as the UNAM, the College of Mexico (“Colegio de México”), and the Autonomous Metropolitan University (“Universidad Autónoma Metropolitana”), that focus on gender studies, but they most often prefer to dedicate their resources to women’s studies, relegating projects that deal with sexual diversity to a secondary role. As can be seen in the information made available by the Secretary of Public Education, none of the investigative projects financed by the National Council of Science and Technology (“Consejo Nacional de Ciencia y Tecnología,” commonly known as CONACyT), the government agency that most supports academic investigation, deal thematically with sexual diversity.

EMPLOYMENT AND ECONOMICS

The period of industrialization in Mexico, which began in the 1950s and intensified in the 1970s, has as one of its principle consequences the sudden growth of urban centers because of massive migration from the countryside. This rapid urbanization has an intimate relationship with the transformation of Mexican sexual culture. For homosexuals, migration to a large city offers access to spaces free from discrimination, especially in meeting places. As for the workplace, one can distinguish two strategies employed by the LGBT population: the first is to remain in the closet in the workplace, where most people choose not to talk about their private life, the second is to find employment in a job that is stereotypically acceptable for homosexuals, such as hair dressing, theater, sewing, or fashion design, among others. In the case of the transgendered population, these professions are often the only option.

Mexican laws are often unclear when it comes to defense against discrimination. The first article of the Constitution prohibits discrimination against any person for his or her “ethnic or national origin, gender, age, incapacity, social condition, state of health, religion, opinion, preferences, civil status or anything else that suppresses human dignity” (“*origen étnico o nacional, el género, la edad, las discapacidades, la condición social, las condiciones de salud, la religión, las opiniones, las preferencias, el estado civil, o cualquier otra que atente contra la dignidad humana*”). This article ratifies international commitments signed by Mexico, especially those that deal with human rights. Nevertheless, Article 3 of the Law of Employment, which prohibits discrimination, does not expressly mention sexual orientation, a fact that creates a legal loophole that is frequently taken advantage of by employers. Factors

like age, gender, and race are often considered in order to favor one individual over another when it comes time to award a contract or employment.

It would not be strange to find, for example, a job listing that specifies an age limit or skin color for employment. The *maquiladora* industry (assembly plants), one of the largest employers in the country, systematically violates the country's employment laws, without any official action taken against them. Under these conditions, discrimination for not being heterosexual is manifest with impunity in a large portion of Mexico's centers of employment.

Violations of employment law have been found in the most productive company in the country, *Petróleos Mexicanos* (PEMEX), which is owned by the state. In order to be contracted by PEMEX, workers are subject to many prerequisites, including an HIV test, which, if returned positive, disqualifies them from employment. Clause 106 of the collective bargaining agreement signed by the union (*Sindicato de Trabajadores de PEMEX*) and the company, establishes that this test should be administered yearly and that, if positive, the employee should be fired.¹⁰ This type of discrimination, which labels HIV as a danger to the workplace, has less to do with one's capacity to perform a job function and more to do with homophobia, because HIV infection is so intimately linked to homosexuality. In this way prejudice against a specific disease produces a series of legal contradictions that make discrimination possible.

Another legal contradiction that has facilitated homophobic discrimination in the workplace is one that disqualifies military personnel from service if they test positive for HIV. In 2007, 11 members of the Mexican armed forces brought forth a protective lawsuit to the Supreme Court of Justice of the Nation ("*Suprema Corte de Justicia de la Nación*") for having been expelled from the army due to their HIV-positive status. In this case, the unconstitutionality of the law proposed by the Institute of Social Security of the Armed Forces ("*Instituto de Seguridad Social de las Fuerzas Armadas*," also known as the ISSFAM) was made evident, explicitly because it had proposed that, if before completing 20 years of service, a member of the armed forces is debilitated for health reasons, he or she should be suspended and would not have the right to receive medical attention. During the trial, some magistrates judged the HIV-positive individuals to be a "severe biological" risk and "instruments of uncountable contaminations."¹¹ The comments made by the magistrates of this most important judicial organ in Mexico serve as an example of how difficult it is in the country to apply antidiscrimination laws.

One of the most recent and most well known cases of workplace discrimination based on sexual orientation is that of a civil suit brought by Roberto Mendoza Ralph against the consortium *Coca-Cola/FEMSA*. The Director of Human Resources for the company, Eulalio Cerda Delgadillo, fired Roberto Mendoza Ralph, arguing that while he was an administrator he would not stand for any "faggot" ("*puto*") as a director. The company offered him a settlement, with which the company thought that all the damages had been settled. Nevertheless, Mendoza Ralph sued the company for emotional damages.¹² Because of this suit, the company retaliated against Mendoza Ralph by convincing other employers not to offer him a contract as punishment for having dared to accuse the second-largest soft drink bottling company in the world of being homophobic. Another reaction by the company has been to pressure the media to not publish anything related to this case.¹³ *Roberto Mendoza Ralph vs. Coca-Cola/FEMSA* illustrates the state of homosexual rights in the workplace in Mexico. Despite the existence

of protective laws and special employment tribunals meant to end discrimination, it is still very difficult to apply justice faced with the influence of multinational corporations.

The First National Survey about Discrimination (“Primera Encuesta Nacional sobre Discriminación”), carried out by the Secretary of Social Development (“Secretaría de Desarrollo Social”) and the National Council to Prevent Discrimination (“Consejo Nacional para Prevenir la Discriminación,” known as CONAPRED) reported that 40 percent of people with nonheterosexual sexual preferences had been discriminated against in their place of work, while 75 percent earn a lesser salary for doing jobs similar to those of heterosexuals.

SOCIAL/GOVERNMENT PROGRAMS

Regarding the Mexican LGBT community, there are currently no specific programs financed by either the federal or state governments aimed at this population. Private institutions, such as the National Counsel for the Prevention of Discrimination (“Consejo Nacional para Prevenir la Discriminación, or CONAPRED), which has included antihomophobia campaigns among its programs, and the National Center for the Prevention and Control of HIV/AIDS (“Centro Nacional para la Prevención y Control de VIH/SIDA, or CENSIDA), which supports campaigns oriented toward the homosexual population due to the epidemic’s high incidence among that demographic, do exist.

SEXUALITY/SEXUAL PRACTICES

The array of nonheterosexual practices present in Mexico is ample yet barely visible since the majority of homoerotic practices in the country occur outside of the spectrum of specifically labeled gay and lesbian identities. Until the 1970s, sexual relations between men often took place in the form of an effeminate man playing the passive role (called a “*joto*,” among other derogatory terms) and a masculine (“*macho*”) man, who would not consider himself homosexual, yet would play the active role in the relationship (known commonly as a “*mayate*”). While the *joto* (faggot) often suffered various types of rejection, the *mayate* (active-straight) was accepted by society since he performed all the functions of a man by penetrating and placing his partner into a role as his feminine opposite. This traditional structure of the masculine homosexual relationship has coexisted since the 1970s with the international (“*internacional*” or “*inter*,” in Spanish), whose sexual position is versatile, and who is associated with a defined gay culture.

Be that as it may, inside the closet one can often encounter practices considered “at risk” for the spread of sexually transmitted diseases. This double standard, a type of bisexuality unaccepted by many men and women, is practiced in total secrecy and has been one of the main causes of the propagation of HIV among the self-identified heterosexual population, especially in rural areas.

In the past few years, a clandestine sexual economy has developed in Mexico that caters to sexual tourism in the main tourist centers of the country. Several criminal organizations have been prostituting children for the sexual service of tourists, and some organizations keep sex-workers (males and females) as slaves. Not only do these practices jeopardize their captives’ physical health, but also constitute criminal offenses of the most basic rights of children.

FAMILY

Nuclear families consisting of a father, mother, and children, or a heterosexual couple without children, make up 69 percent of the Mexican population, while 20 percent co-exist in an extended family setting in which additional family members live under the same roof as a nuclear family; the latter represents the traditional Mexican family. Seven percent of the population lives in single-person households, and one percent lives with nonfamily members.¹⁴ Eight and a half percent of Mexican families are single-parent households, a statistic that does not include the number of families that live separated on account of the emigration of a spouse. Official population figures do not detail the number of homes that are made up of same-sex partners, but it is estimated that close to 250,000 families of this nature exist in the country.¹⁵

Many gays and lesbians are inhibited about coming out of the closet to their families due to the socially conservative views prevalent in traditional Mexican society that privileges parenthood and a sexual double standard as norms of conduct. In the traditional family, the role of the homosexual and the lesbian, in or out of the closet, has been to care for elderly family members. The double standard requires heterosexual matrimony as a way to maintain the appearance of heterosexuality. This traditional form of shrouding homosexuality has been the main obstacle to the social recognition of sexual diversity in Mexico.

While the Mexican legal system is designed to protect and encourage the nuclear family, a few laws like that of the Mexican Institute of Social Security (“Instituto Mexicano del Seguro Social”) recognize the role of common-law unions in order to codify legal inheritance and to protect children born to unmarried couples. Yet, in the case of nonheterosexual families, the right to a common law union does not apply. It was not until 2006 that the Legislative Assembly of the Federal District in Mexico City (“Asamblea Legislativa del Distrito Federal”) voted in favor of a Law of Civil Societies (“Ley de Sociedades de Convivencia”), supporting members of unconventional households when dealing with benefits, the management of property, and civil rights in general. This law was first proposed in 2004, but at that time the Catholic Church managed to exert its influence on several members of Congress, and the passage was blocked by a single vote. In January 2007, the Congress of the State of Coahuila approved the Law of Civil Pacts of Solidarity (“Ley de Pactos Civiles de Solidaridad”), which also offers protection for domestic partners. While both laws open the possibility for protecting a nonheterosexual couple, neither addresses marriage or families, and both are limited to the guaranteeing of benefits and the distribution of property. Heterosexual marriage continues to be the only legal form of marriage, and adoption rights continue to be reserved solely for heterosexual couples. Even so, the gay and lesbian community treats these common law or solidarity pacts as marriage contracts.

COMMUNITY

With the advent of the first organizations formed in the 1970s, the gay and lesbian community has had a notable political and cultural presence in Mexico, especially in Mexico City. From the beginning, these groups’ activities have included participation in the media and the organization of support groups focused on

helping gays and lesbians to come out of the closet.¹⁶ Increased visibility and self-defense against police raids (“*razzias*”) and antigay discrimination were the first main currents of the political agendas of gay and lesbian organizations. The most important of these in the 1970s was the Homosexual Front of Revolutionary Action (“Frente Homosexual de Acción Revolucionaria, abbreviated FHAR), which was identified by a socialist ideology, and for that reason, its activist techniques were influenced by leftist parties. Along with the FHAR, the most notable groups that emerged in the 1970s also identified themselves with leftist movements. In 1982, this characteristic compelled the Revolutionary Workers Party (“Partido Revolucionario de los Trabajadores”), which followed a Trotskyist ideology, to become the first political party to demand sexual diversity as a part of its platform.¹⁷

The first gay pride parade in Mexico City took place in 1978, and since then has been celebrated without interruption. Another annual event that has grown in importance is Lesbian and Gay Culture Week (“Semana Cultural Lésbica Gay”), which was first held in 1987. The event includes theatrical performances, art exhibitions, and conferences, featuring top-rated artists and intellectuals as participants. Gay pride parades are also celebrated in the largest cities in the country and little by little, modest cultural activities have been helping sexual minorities gain visibility.

There are two great threats to the homosexual population in Mexico that keep these various groups active: the homophobia that permeates various sectors of Mexican society and the spread of HIV. Conservative groups continue to attack the gay rights movement and consistently protest against gay civil unions and even against HIV prevention campaigns, considered by them to be homosexual propaganda.

HEALTH

The Mexican government offers medical coverage to all employees and their dependents. The two most important social security institutions in the country at the federal level include the Mexican Institute of Social Security (“Instituto Mexicano del Seguro Social”) and the Institute of Social Security for State Employees (“Instituto de Seguridad Social para los Trabajadores del Estado”). In addition, state governments have their own clinical and hospital systems for the general public that offer services at a reduced rate. Nevertheless, as a consequence of neoliberal policies from the 1990s to the present, the budget for socialized medicine has diminished, which consequently has resulted in the reduced quality of services and supply of medicines. Given the high cost of medical attention, the budget provided for the treatment of AIDS has been classified as a “fund for catastrophic expenditures,” equivalent to those designated for natural disasters.¹⁸ Still, it is not unusual to hear complaints from patients about the shortage of medical supplies.

From 1983 to 2006, 107,625 cases of AIDS were been reported in Mexico. Of those, 83 percent were men and 17 percent women. Up to 2006, some 182,000 people were living with HIV, of which approximately 30,000 had received anti-retroviral treatments. The groups with the highest incidence of HIV are men who have sex with men (MSM) and people who work in the sexual services industry. A large portion of the MSM population and those who contract the virus for having unprotected sex do not identify themselves as homosexuals and in general maintain sexual relations with both men and women. Prevention campaigns have found this population the most difficult to access, despite the cooperation of practically all pro-sexual diversity organizations.

Denialist campaigns, spread in 2007 through television media, claim that the human immunodeficiency virus does not exist and have produced negative consequences since some carriers of this virus have decided to stop treatment. This has resulted in several deaths that could have been avoided with antiretroviral medication.

In addition to financial problems, denialist campaigns, and the difficulties in preventing the spread of the disease, carriers of HIV face social and institutional discrimination. According to polls carried out by the Human Rights Commission of the Federal District (“Comisión de Derechos Humanos del Distrito Federal”), in Mexico City 72 percent of health care professionals believe that HIV-positive individuals are to blame for their condition and, according to the National Youth Survey (“Encuesta Nacional de la Juventud”), 54 percent of young people express rejection toward people with HIV, which is certainly the most ostracized social group.¹⁹

POLITICS AND LAW

While practically all international treaties dealing with human rights have been ratified by Mexican laws, there are still many contradictions and legal loopholes that have obstructed the effective tracking of discrimination. One of these loop-holes can be found in the first article of the constitution in a paragraph dedicated to the prohibition of discrimination. Instead of specifying “sexual preference,” only “preferences” is stipulated, leaving open to interpretation the possibility to discriminate against sexual minorities. The same thing happens in state legislatures and specific laws, as has already been seen in the case of employment laws.

There are still some police divisions and government agencies that include “moral deficiencies” as a justification for the apprehension of any person whose public conduct is considered by the police as immoral. This has been the main rationalization for police abuse against homosexuals throughout the country. Even when local police forces, like that of Mexico City, no longer use the term “moral deficiencies,” the criteria adhered to by its agents in many cases supersedes that of the law. As a result, extortion and illegal police raids, which have been denounced by pro-diversity organizations since the 1970s, continue to manifest themselves in the present day. For example, in May 2006, two guards working in Mexico City’s subway system insulted and battered activist Manuel Amador Vásquez for distributing publicity flyers for the sexual diversity march that year. Neither Vásquez’s accusation presented to the Attorney General’s office nor his complaint filed for the Commission of Human Rights had any effect, and the case, as with many others, remained on record but without any consequences. The absence of accurate definitions of homophobia and hate crimes against the LGBT population is one of the most worrying legal issues affecting sexual minorities.

The legislative agendas that refer to sexual diversity have been focused on the production of laws that permit citizens to secure benefits for their domestic companions. It is in this vein that the Law of Civil Societies in Mexico City, in 2006, and the Law of Civil Pacts of Solidarity in the state of Coahuila, in 2007, were passed. Another initiative that was discussed in 2007 was the Law of Identities (“Ley de Identidades”), which would judicially benefit the transgender and

transsexual population by allowing them to change names according to the gender identity of their choice.

RELIGION AND SPIRITUALITY

The Metropolitan Community Church, with a chapter founded in Mexico City in 1981, is the only religious body related to the Mexican gay rights movement. Other religious institutions have primarily been hostile to the sexual diversity community. Gay Mexicans, when they come out of the closet, typically leave the Catholic Church (one of the most homophobic institutions in the country) and break with their families—which can be understood as an extension of the Church in its role as creator and enforcer of moral codes. Many members of the Mexican gay population are likely to live a life of double standards.

VIOLENCE

Most cases of homophobic hate crimes reported in Mexico remain unpunished or may even be turned around against the victim. The Citizen's Commission Against Homophobic Hate-Crimes ("Comisión Ciudadana contra los Crímenes de Odio por Homofobia") registered 290 murders of homosexuals and lesbians between 1995 and 2003, although it estimates that, when taking into account the tendency not to accuse one's aggressor, promoted by Mexico's reigning culture of impunity, some 900 homophobic hate-crimes may have been committed during that time.²⁰ This investigation has been undertaken by monitoring certain newspapers in the country, which seem increasingly disinterested in reporting these types of crimes due to the criticism that they have received from pro-diversity organizations based on their sensationalist treatment. One of the obstacles to the proper investigation of these cases in Mexico is the lack of a clear definition of hate-crimes in Mexican legislation. In cases that deal with the death of a homosexual or transsexual, judicial reports often refer to them as "crimes of passion," which can serve to criminalize the victim rather than the aggressor.

OUTLOOK FOR THE 21ST CENTURY

The current situation in Mexico reveals a strong antagonism between conservative positions and liberal tendencies. Since the presidential elections of 2000, conservatives have had a heavy influence in politics, economics, and society. Even so, liberal views continue to acquire greater visibility as time progresses. This emerging culture of diversity seems to be motivated by a growing conservative threat. While many institutions are managed by functionaries who may show hostility toward sexual minorities, the number of organizations that fight against homophobia, that work to prevent the spread of HIV and AIDS, and that denounce police abuse has grown in the first years of the 21st century. The same tendency can be seen in film, literature, academic investigations, newspaper reports, and in diverse artistic productions. The fact that two states have passed a law that protects the rights of domestic partners, and that similar laws have already been discussed in the majority of other states, indicates that the situation for sexual minorities in Mexico will gradually improve.

RESOURCE GUIDE

Suggested Reading

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- Fernando del Collado, *Homofobia: odio, crimen y justicia, 1995–2005* (Mexico City: Tusquets, 2007).
- Héctor Domínguez Ruvalcaba, *Modernity and the Nation in Mexican Representations of Masculinity: From Sensuality to Bloodshed* (New York: Palgrave, 2007).
- Robert M. Irwin, *Mexican Masculinities* (Minneapolis: University of Minnesota Press, 2003).
- Mauricio List Reyes, *Jóvenes corazones gay en la Ciudad de México* (Puebla: Benemérita Universidad de Puebla, 2005).
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- Norma Mogrovejo, *Un amor que se atrevió a decir su nombre: La lucha de las lesbianas y su relación con los movimientos homosexual y feminista en América Latina* (Mexico City: Plaza y Valdés, 2000).
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- Patricia Ponce, *Sexualidades costeñas* (Mexico City: CIESAS, 2006).
- Annick Prieur, *Mema's House, on Transvestism, Queens and Machos* (Chicago: University of Chicago Press, 1998).

Films

- Amor Chacal*, DVD, directed by Juan Carlos Bautista (2002; Producciones Pily y Mili, 2002). A documentary on tourism and traditional homosexuality in coastal Mexico.
- El cielo dividido*, DVD, directed by Julián Hernández (2006; Mexico City: Centro Universitario de Estudios Cinematográficos, 2006). A drama on the romance and separation of a teenage gay couple.
- En el paraíso no existe el dolor*, DVD, directed by Víctor Saca (1995; Mexico City: Instituto Mexicano de Cinematografía, 1995). Reveals the web of gay sexual encounters in the nightlife of Monterrey and the ways a middle class mother accepts and protects her HIV-positive son.
- Doña Herlinda y su hijo*, DVD, directed by Jaime Humberto Hermosillo (1986; Clasa Films Mundiales, 1986). Concerns the double standard of a middle class family where the son has to marry a woman in order to protect his homosexual relationship.
- Mil nubes de paz cercan el cielo, amor, jamás acabarás de ser amor*, DVD, directed by Julián Hernández (2003; Mexico City: Nubes Cine, 2003). The introspective story of a male prostitute in Mexico City.
- Muxe's, auténticas, intrépidas buscadoras del peligro*, DVD, directed by Alejandra Islas (2005; Mexico City: IMCINE, FOPROCINE, Ra' Bacanda Films, 2005). Documentary portraying the traditional homoeroticism in the countryside of Oaxaca.
- El lugar sin límites*, DVD, directed by Arturo Ripstein (1978; Mexico City: Conacite Dos, 1978). Fascination with a cross-dressing man leads to his persecution and death.

Organizations

- Academia Mexicana de Estudios de Género de los Hombres, A.C. <http://www.amegh.org/>.
Academic organization devoted to the interdisciplinary study of masculinity.
- Centro Cultural de la Diversidad Sexual, <http://www.diversidadsexual.com/modules.php?name=News>.
Promotes different gay and lesbian cultural events in Mexico City.
- Closet de Sor Juana, Tel.: 5590-2446
Defends the rights of lesbians.
- Colectivo Sol, A. C. DF.: colsol@laneta.apc.org.
Promotes sexual health and defends the rights of gays and lesbians.
- Comisión Ciudadana Contra Crímenes de Odio por Homofobia, <http://www.letraese.org.mx/contracrimenes.htm>.
Keeps records of homophobic hate crimes in Mexico.
- Grumale II Grupo de Madres Lesbianas, <http://www.prodigyweb.net.mx/grumale/>.
A support group of lesbians committed to developing alternative approaches to maternity.
- Grupo Universitario por la Diversidad Sexual (GUDS), guds@coreoweb.com, <http://www.gaymexico.com.mx/~guds>. A student organization devoted to sexual diversity at the Universidad Autónoma de México.
- Iglesia de la Comunidad Metropolitana, A.R.: Tel./Fax: 5396-7768.
- Jóvenes Gays por una Comunicación Asertiva, <http://www.laneta.apc.org/encuentrohombres/html/projogay.html>.
A group devoted to educating men about issues such as sexual health and violence.
- Musas de Metal, <http://musasdemetalgay.blogspot.com/>.
Defends the rights of lesbians and promotes cultural events related to women and sexual diversity.
- Nueva Generación de Jóvenes Lesbianas, <http://mipagina.aol.com.mx/geminismc/mipagina/clubes.html>.
Promotes the rights of young lesbians and organizes educational activities concerning lesbian issues.
- Red Democracia y Sexualidad, <http://www.demysex.org.mx/>.
A network of organizations concerned with sexual rights.

NOTES

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6. Mario Alberto Reyes, "Titular de Educación en BC señala a Letra S como promotor de la homosexualidad," *NotieSe Salud, Sexualidad y Sida*, August 11, 2006, <http://www.notiese.org/> (accessed July 14, 2009).

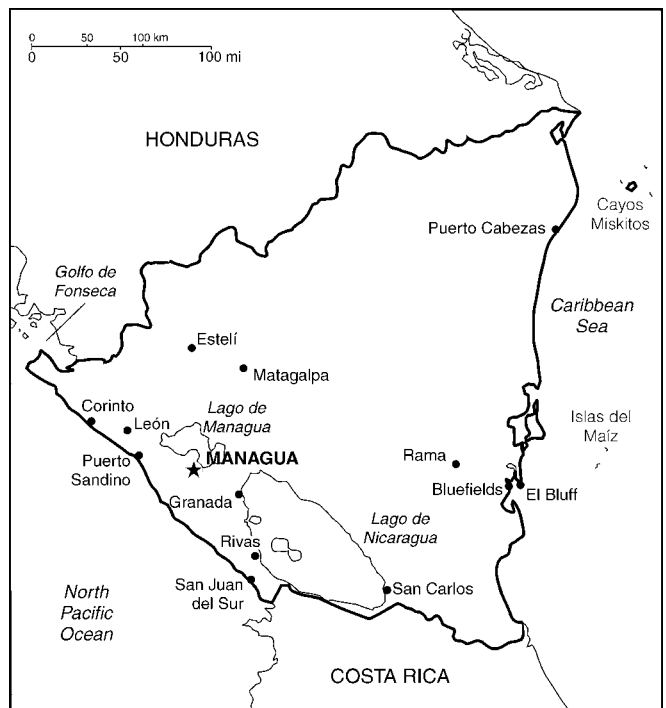
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NICARAGUA

Marco Díaz-Muñoz

OVERVIEW

Nicaragua is located in Central America, between Honduras and Costa Rica. It is the largest country in the region with an area of approximately 59,998 square miles—about the size of the American state of New York.¹ Its current population stands at 5,675,356 inhabitants,² and its capital, Managua, has one million inhabitants.³ The country's geography is diverse and includes extensive tropical forests (the largest in Central America), mountains, grasslands, numerous rivers, lagoons, and marshes. In addition, Nicaragua has 40 volcanoes and the two largest freshwater lakes in Central America (Lake Nicaragua and Lake Managua), which sustain a unique variety of fish species that normally live only in salt water. Nicaragua's topography can be subdivided into three major geographical regions: the Pacific coast lowlands or western region, the Caribbean lowlands or eastern region, which covers about half of the national territory, and the central highlands, which are most extensive in the north-west. Although Nicaragua is rich in natural resources, it is located in a region of notable geographic instability, prone to earthquakes on the western side and destructive tropical storms and hurricanes on the eastern side. These conditions have caused great devastation to the country's human settlements throughout its history. In recent decades, a powerful earthquake destroyed a major section of its capital, Managua, in 1972, and Hurricane Mitch devastated the settlements along the Caribbean coast and further inland in 1998, drastically affecting social and economic conditions.



Nicaragua's population is diverse and reflects its complex history and successive migrations. Its first inhabitants migrated to this land approximately 2,000 years ago from what is presently Mexico and settled mostly in the fertile western lowlands along the Pacific coast. Here they developed flourishing cultures with strong ties to their place of origin, the Mexican Nahuatl region. At the same time, minor groups that originated in the Caribbean islands sparsely settled the eastern lowlands prior to the Spanish conquest. Once the Spanish settlers arrived in the early 16th century and settled in the western lowlands, a Spanish-speaking mestizo (persons of mixed European and Native American ancestry) population emerged. With time, this group came to predominate in this region and in the central highlands side by side with a small, but dominant, European minority. Today, only a small number of native Monimbó and Subtiava Indians remain on the western coast. Black slaves who escaped from the West Indies during colonial times settled the Atlantic coast, which continued to be isolated from the rest of the country even after the Spanish conquest. It was during this period that the English forcibly took the area from Spain and brought with them more black slaves and settled in the Caribbean lowlands. This region remained intermittently under English control from the 17th century until well into the late 19th century, when it integrated with the rest of Nicaragua as a nation. During this long period, an African or Creole (English-speaking black) population settled in the region alongside black Caribs, also known as Garifunas (descendants of African slaves and Carib Indians), and the native Indians, the Mosquito (also called Miskito), the Sumo, and the Rama. Today, the number of Spanish-speaking mestizos has surpassed that of the earlier groups, even along the Caribbean coast. Most recently, a growing number of United States citizens have relocated to Nicaragua, attracted by the government's policies providing incentives to U.S. investors and retirees.⁴

As a result of its violent conquest by the Spanish, conditions of servitude have held the majority of the Nicaraguan population subject to the small, white European elite. Marked class and racial distinctions, sustaining a rigid social pyramid, became part of the background of all political dynamics that have ensued in Nicaragua. Today, at the top of the social scale is an elite group of Nicaraguans of white European descent (accounting for 17% of the population), followed by the majority mestizo population (69%), composed mostly of the poor working-class and a very modest middle class⁵ and at the very bottom, the black population (9%) and the native Indians (5%).⁶

Like its climate and unstable geographic setting, Nicaragua's history has not been spared major social turbulence. It is currently the second-poorest country in the Americas, after Haiti.⁷ Prolonged unstable political conditions in the past few decades have exacerbated poor economic conditions, leading to a state of continuous crisis and severe economic measures undertaken on the part of government in an effort to control the declining economy through drastic austerity programs. The impact of these political and economic conditions has disproportionately diminished the current possibilities of development for the majority poor and all marginalized groups, including the sexual minorities that, under more favorable conditions, could hope to rise and form more visible LGBT (called LGBTTTT in Nicaragua) communities.⁸

Distribution of wealth and opportunity in Nicaragua has traditionally been one of the most disparate in the world,⁹ reflecting the country's rigid social stratification.

From time to time, these social inequities have been the cause of violent conflict between the marginalized classes and different elites, as well as between the different elites themselves who sought to hold power through military force when necessary.¹⁰ Thus, in their pursuit of power, Nicaraguan elites established a long line of dictators. In recent history, the social movement that gave rise to the popular Sandinista Revolution (between the 1960s and 1970s), which deposed Nicaragua's last and most notorious dictator, Anastasio Somoza, and brought the Sandinista revolutionaries to power in 1979, also brought significant change to contemporary Nicaragua. Due to a debilitating economic embargo and a counter-revolutionary war, the Contra War,¹¹ promoted by the United States, and on account of the internal conflicts within the revolution itself, structural changes in the economy¹² were not successfully carried out by the socialist-oriented governments. However, substantial changes in societal attitudes did occur during the years of revolutionary government.

The revolutionary process changed the political culture significantly and promoted a new climate fostering citizens' rights. A popular ideology of social inclusion spread to all areas and culminated in the creation of a new constitution in 1987.¹³ One of the most visible changes in the new constitution was in the area of equal rights for women, which reflected women's active participation in the revolutionary process and their eventual inclusion in the decision making process.¹⁴ Gender issues were raised as one of the most pressing social inequities that needed to be urgently addressed. Thus, the momentum of the revolution gave rise to a strong women's movement¹⁵ that has also paved the way for relatively strong lesbian organizations and, in turn, the organization of other marginalized LGBT groups who now claim the right to equality before the law.

Beginning in 1990, after the revolutionary era and the counter-revolutionary war of the 1980s, subsequent neoliberal governments have attempted to restore conservative values and roll back some of these political gains.¹⁶ In the name of austerity measures to combat economic decline, as required by international lending institutions,¹⁷ recent administrations have eroded the strength of newly established civil society institutions and the force of the constitution with new laws that clearly contradicted it, yet were passed by the Nicaraguan National Assembly. One such case is that of an antisodomy law that openly promoted discrimination against LGBT people, and that clearly reflected the moral climate change after the Revolution. In 1992, the Nicaraguan National Assembly passed Law No. 150, the Law of Penal Code Reforms, which contained Article 204,¹⁸ a provision criminalizing sexual intercourse between persons of the same sex, including the act of promoting and/or disseminating information related to the subject. Article 204 clearly forbade the possibility of LGBT people organizing as such for the purpose of educating the public and promoting gay rights. It is against this background that LGBT communities have organized to fight back and the possibilities of development for the lesbian, gay, bisexual, and transgendered minorities¹⁹ have evolved in Nicaragua. After much LGBT activism, Article 204 was finally repealed in November 2007, but in spite of this accomplishment by LGBT communities, strong and pervasive prejudices against LGBT people remain a major obstacle to the development of an empowered LGBT community in Nicaragua.

Nicaragua has seen great changes in many areas since the Sandinista Revolution, and religion has not been the exception. Historically, a predominantly Catholic

country, Nicaragua's loyalty to the institutional church has wavered notably in the last few decades. With the revolution in the late 1970s and the challenge faced by all Nicaraguan society to reconstruct the country in the 1980s, religion became highly politicized and polarized. As the demand by the masses for more radical changes created a vacuum that was not filled by the traditional stance of the institutional Catholic Church, a growing number of new religious denominations and sects expanded rapidly in the 1980s and have continued to grow; this has been particularly true for evangelical Protestants. Both the Catholic and Protestant churches have constituted a force of opposition to the LGBT movement by backing the neoliberal governments.

Nicaragua's economy ranks amongst the poorest in the world.²⁰ The gross national income (GNI) per capita for 2006 stood at US\$1,000.²¹ The country has traditionally been very dependent on foreign markets for its economic subsistence, with ever-stronger ties to the U.S. economy as an export partner in the last century. This condition of economic dependence has drastically limited Nicaragua's possibilities for autonomous development, as the United States has greatly influenced its internal political affairs and decision-making. Prior to the Sandinista Revolution, Nicaragua had developed a robust agro-export economy from which the impoverished masses derived little benefit. The Sandinista Revolution attempted, though unsuccessfully, to redirect the economy away from such a dependence model towards a socialist-oriented mixed economy (combining both state-run public companies and the private sector), but the devastation from civil war and the subsequent economic collapse under the Sandinista government in the late 1980s left Nicaragua highly dependent on foreign aid during the following two decades. Its external debt grew exponentially, affecting even further its possibilities for sovereignty and self-determination. Similarly, its internal debt grew dramatically in the same period,²² and the debt has played a major role in limiting economic growth and drastically reducing social investment on the part of neoliberal governments.

The military has played an unparalleled role in Nicaragua's politics. Until recently, the country's history was characterized by autocratic governments and dictatorships sustained through violence by a national army.²³ The Nicaraguan military reached its apex as the strongest in Central America during the revolutionary years in the 1980s, when the Sandinista government sought to defend the revolution from foreign intervention. Subsequently, as the Contra War came to an end, Nicaragua drastically reduced the size of its army in response to peace treaties and the removal of the U.S. economic embargo.

OVERVIEW OF LGBT ISSUES

Nicaragua has experienced significant waves of change over the last three decades, as it has sought to transform itself from a traditionally undemocratic society ruled by autocratic governments, to a more inclusive civil society with the democratic participation of its population. With the Sandinista Revolution, Nicaragua opened itself to a period of questioning the past and rebuilding its foundations. Since the 1980s, issues of gender and women's rights have moved to the forefront, along with all issues dealing with sexuality, equality, and personal freedom. Under this new climate, many sectors of society claimed their right to inclusion; LGBT sexual minorities were no exception. LGBT issues,

however, have not played as major a role in Nicaraguan politics as they have in other countries with stronger LGBT movements, nonetheless significant progress has been made.

In Nicaragua, the question of LGBT issues extends to the larger question of the acquisition of basic human rights for most Nicaraguans. Thus, the most heated issues in the international debate about the LGBT cause, such as gay marriage, adoption, gays in the military, reparative therapy, defense of marriage legislation, or the intersex/transgendered controversy, are absent from or in a very distant place in the Nicaraguan agenda. Even LGBT Nicaraguans do not focus on these issues as much as their counterparts in other countries do. The vast majority of the population has experienced historical social exclusion on the basis of class and race and embraced the Sandinista Revolution to bring about change in those areas. Sexual minorities, in addition, have faced multiple other exclusions that do not resonate in the collective consciousness of most Nicaraguans.

To understand exclusion in Nicaragua, one must first and foremost also understand machismo in Nicaragua. Lesbians, gays, bisexuals, and transgendered people, as well as transsexuals, transvestites, and intersexed people, in addition to most women in Nicaragua, are the object of a deep-rooted machismo ideology that maintains rigidly fixed gendered differences. By imposing a strict vertical order, machismo in Nicaragua subordinates sexual minorities through a logic of social control over what is traditionally perceived as “feminine” or different and equated as defective or weaker, so that any cultural deviation away from what is considered truly masculine is repressed. Within the mentality of most Nicaraguans, fixed gender roles leave no other alternative to people who do not adequately perform those sexual roles except to be identified with and be classified under the opposite sex’s assigned gender role. Thus, a gay man who assumes a passive role in sex is immediately equated with the category of woman, as Nicaraguans conceive that category, and a lesbian who assumes an active role in sex is identified with the category of man, as Nicaraguans conceive that category. Both are outcasts for transgressing their assigned gender roles and proving themselves defective, and therefore weaker, more so than for transgressing heterosexuality.²⁴ The same can be said of any sexual minority who transgresses gendered differences. As in most countries in Latin America, LGBT people in Nicaragua experience this form of violence in particular ways, whether as homophobia, lesbophobia, biphobia, or transphobia.

From the *machista* perspective of most Nicaraguans, other possible options that transgress heterosexuality, though are not necessarily traditional gender roles, may remain unmarked and unnoticed. Thus, a male who assumes an active role in sex with a submissive male may pass unnoticed by the general public and actually reaffirm his masculinity both with a male partner and with a female partner.²⁵ The same can be said of a woman who assumes a passive role in sex with a dominant woman, as she confirms her submissiveness with a man as well as with a woman.²⁶ Regardless of their sexual orientation and in spite of their engaging in same-sex sexual dynamics, a sexually dominant masculine gay man or a sexually submissive feminine lesbian are more socially accepted than a sexually submissive effeminate gay man or a sexually dominant masculine lesbian, and these people will often go unpunished by society.

Being masculine in Nicaragua is reaffirmed whenever a partner, no matter what the sex, assumes a subordinated position during sex, and vice versa, establishing a

necessarily unequal and vertical dynamic.²⁷ The sense of power and honor a partner derives in being dominant is also a reaffirmation of the lack of power and the shame experienced by the dominated other. *Machista* socialization throughout all Nicaraguan society, in turn, echoes this inequality by applying different degrees of disapproval and punishment. In Nicaragua, two individuals engaged in a same-sex sexual relationship are affected by differing degrees of societal phobia and control, exclusion, and subordination, depending on how each one expresses sexual attraction. Thus, members of sexual minorities have differential experiences regarding their sexual identities and carry the burden of discrimination unequally. Machismo socialization affects the members of some sexual minorities more severely than others who are left relatively unaffected, and in some cases reaffirms their own privileged position through the degradation of others.²⁸ The rigid categories and boundaries established by machismo inevitably reinforce social inequalities and create hostile divisions and fragmentation within the LGBT population. This, in turn, results in a lack of solidarity. For instance, although they tend to be more prominent than men in organizations engaged in LGBT activism, lesbians in general are more invisible in social spaces than men due the disempowered and subordinate condition of women in Nicaragua. Such divisions are major obstacles to the integration of a stronger LGBT movement.²⁹ Social class and race only increase these differences. On the other hand, and beyond the scope of machismo in Nicaraguan culture, the revolution brought about changes that also impacted LGBT people, including their machismo. Although the Sandinistas proved incapable of adequately implementing major structural changes in the economy, the Sandinista Revolution indisputably brought about changes that affected the internal political dynamics in Nicaragua. They accomplished this by breaking the power monopoly held by traditional elites and by introducing a new constitution that has become the departure point for all discussions about social change.

This change became evident with the AIDS crisis and its connection to the emergence of LGBT organizing. As the threat of AIDS surfaced in Nicaragua in the late 1980s, making LGBT people more visible than ever to the general population, so did a general awareness of a new component in the national dialogue for change pertaining to the treatment of LGBT people in general and those with HIV/AIDS in particular. The intersection of a new political climate, a new constitution, and the AIDS crisis, as well as external influences, helped fuel LGBT organizing in the second half of the 1980s.

Although initially silenced in 1987 under the revolutionary government, with the support of international organizations,³⁰ LGBT organizing around the AIDS crisis resurfaced with more strength in the early 1990s. It was in this context that, in 1992 under the Violeta Chamorro administration (1990–1996), and as LGBT people were becoming more visible, Article 204 was passed in direct contradiction with the call of the new Nicaraguan constitution for inclusion of all Nicaraguans. This antisodomy law restricted all dimensions of LGBT life, creating a climate of heated debate about general citizens' rights that propelled LGBT organizing even further throughout the 1990s.

As Nicaragua entered the 21st century, LGBT issues had made their public appearance in the national consciousness modestly but successfully, and while there was a resurgence of conservatism with the neoliberal governments that followed the Sandinista defeat of 1990, numerous grassroots organizations and

nongovernmental organizations (NGOs)³¹ had also appeared to defend the rights of LGBT people. When Article 204 was passed, these organizations and their allies abroad cooperated together to counter the position of the government with a yearly campaign, using a “Sexuality Free of Prejudice”³² as their banner and carving a niche in the national discourse about human rights. With this campaign, a series of events, including a Pride Week celebrating the Nicaraguan LGBT presence, were inaugurated and have continued to be held since 1992 in June of every year. In many ways, the 15-year history of Article 204 was the catalyst that united and sustained the LGBT movement until recently.

EDUCATION

Nicaragua is not only one of the two poorest nations in the Western Hemisphere; it also has one of the poorest educational systems. While statistics vary, it is estimated that only about 67 percent of the population is able to read and write.³³ Literacy rates are disproportionate nationwide, and it is estimated that, in rural areas, 45 percent of the population is illiterate and only 10 percent of school-age children are able to attend secondary school. Of all the young people in the country, 62 percent do not have a secondary education, and only a privileged few can aspire to higher (tertiary-level) education.³⁴ Many children and adolescents are forced to work due to generalized poverty. This further reduces the educational opportunities for the majority of Nicaraguans, thus creating a never-ending cycle of poverty.³⁵

Despite the efforts made in the revolutionary years to make education a universal right and priority, Nicaragua remains an under-educated society. Its educational system continues to perform poorly, even by Latin American standards. Most affected by these conditions are women and other marginalized populations, such as the indigenous and black people in the Atlantic region communities. LGBT people are also impacted by limited educational opportunities. This manifests itself in the lack of access to scientific information about LGBT issues, in the lack of mobility and privacy with a consequent lack of control over one’s body, and in the perpetuation of *machista* myths and stereotypes about sexuality. These educational deficiencies are also clearly manifested in the spread of AIDS amongst the poorest and least educated people in Nicaragua. Because the magnitude of the larger problems facing the Nicaraguan educational system renders LGBT issues negligible, the possibility of addressing specific forms of discrimination against LGBT people in educational contexts, such as bullying or denying them access to schools, are drastically reduced. Opportunities for students to access LGBT information through schools has also been absent due not only to a general lack of resources, but also the illegal status that LGBT organizing experienced until recently in Nicaragua. Above these limitations, and with the collaboration of the neoliberal governments, the Catholic Church has also been successful in barring access to information on sexual matters in schools. It has been mostly through the limited efforts of NGOs that any educational programs disseminating LGBT information have reached the public. These efforts have also been limited due to the nature of the educational programs NGOs could officially offer prior to 2007, as these approached LGBT subjects indirectly and only as they related to general sex education in connection to AIDS prevention programs.

EMPLOYMENT AND ECONOMICS

Historically, Nicaragua has been characterized by an agro-export oriented economy on one hand, and a drastic imbalance of regional development on the other, particularly in the eastern lowlands of the Atlantic region.³⁶ Poverty in this region is severe and widespread, making Nicaragua one of the poorest nations in the Western Hemisphere.³⁷ Since the fall of the Somoza dictatorship in 1979,³⁸ Nicaragua has experienced drastic swings in government and economic programs. The decade-long Sandinista program for a socialist-oriented mixed economy in the 1980s yielded to powerful external economic pressures³⁹ and to the internal reaction of the population to hyperinflation (reaching 33,500% in 1988)⁴⁰ and general discontent with the Contra War. The Sandinista government itself yielded power to a radically different economic team when it lost the 1990 democratic elections. Since then, and in response to the lifting of the economic embargo imposed by the United States and the end of the active military struggle, Nicaragua's economy and infrastructure are gradually being rebuilt.

During their years in power, the Sandinistas attempted to restructure Nicaragua's economy through the redistribution of land and other resources and by creating small urban and rural cooperatives to benefit the poor. While the Sandinistas were out of power, three consecutive neoliberal governments (1991–2006) attempted to reverse Sandinista policies and reestablish the export-oriented market economy that dominated Nicaragua before the revolution. Although the profile under these governments can be characterized by steady GDP growth and general macro-economic progress in numbers,⁴¹ the growth was achieved at a very high social cost. Positive figures were attained at the expense of privatizing 350⁴² state-run enterprises and the majority of small-scale cooperatives created during the previous decade, as well as drastically reducing urgently needed social programs that benefited the impoverished majorities, thereby simultaneously drastically reducing the rate of public employment.⁴³ Further, the economic gains made have been devoted to the repayment of Nicaragua's huge external debt⁴⁴ and its equally onerous internal debt,⁴⁵ at the expense of condemning the marginalized majorities to continued poverty in the foreseeable future. This general trend towards dissolving social programs and weakening civil institutions and laws protecting workers and marginalized groups such as women also affects the possibilities of development for the LGBT community.⁴⁶

Currently, Nicaragua's economy is experiencing a general deceleration, as it has been hard hit by external factors such as the rising price of imported oil and internal factors, such as a potentially unstable political climate. With the return to power of a Sandinista administration in 2006,⁴⁷ the private sector has reduced its investments, fearing unexpected swings in economic programs with the return of a socialist approach to the economy; this in turn has been followed by a significant reduction in foreign investment. This renewed general instability will affect the economic possibilities of all groups in the following years, and especially the already-marginalized sectors, among them the LGBT population. This will also depend on how events unfold with the new government and whether the reservations of the private sector and those of other sectors affect decision making and the political climate. However, under the current circumstances and the great limitations for any realistic structural deviation from the neoliberal model, the return of the Sandinistas to power may only slow down the economy

and not represent an actual change of course in the neoliberal approach to the economy.

The U.S.–Central America Free Trade Agreement (CAFTA) was ratified by Nicaragua in late 2005 and it has been in effect for two years.⁴⁸ It has been shown to have increased trade at both ends, but no clear trend is yet visible in terms of trade balance (imports versus exports) that could be labeled beneficial to the lives of most Nicaraguans. Given the country's grossly unequal wealth distribution patterns, GDP increases in Nicaragua do not necessarily translate into better lives for the masses, as demonstrated under the Somoza regime.

Although foreign aid, specifically that in response to the AIDS crisis, contributed to the emergence of LGBT organizing, foreign aid for Nicaragua has also helped conservative causes to an even greater degree. Aid from around the world was given to the country as it opened up more to foreign influence under the Chamorro administration (1990–1996). However, such aid was given under strict conditions. As a major donor, USAID, in particular, required that Nicaragua not only reduce social spending but also change its nationalist-oriented education curriculum that fosters the notion of an autonomous Nicaragua in favor of a curriculum that portrayed the Nicaragua–United States dependence relationship as favorable to Nicaragua. Sex education and the focus on gender equality of the revolutionary education program were also modified in favor of a return to traditional Nicaraguan values, also at the request of USAID.⁴⁹ Following a similar path, more direly needed economic aid was issued by other major world lending institutions⁵⁰ further affecting Nicaragua's sovereignty.

Under the conservative stance of the Chamorro administration and subsequent neoliberal governments, the Catholic Church regained much of its power and exerted influence over these changes, ushering in a decade of dismantling revolutionary advances that has continued into the new millennium.⁵¹ Nonetheless, though in a significantly lower proportion, progressive donors have countered this conservative wave. Donor nations, such as the Netherlands and Scandinavian countries,⁵² and international NGOs from these and other progressive countries, have offered continued aid for liberal causes such as AIDS prevention, women's reproductive health, and human rights initiatives. This has fomented a liberal climate that helps keep alive the culture of debate that was the legacy of the revolution, which, in turn, has benefitted LGBT organizing. International LGBT organizations are also actively assisting LGBT groups in Nicaragua.⁵³ Notwithstanding these efforts, some LGBT populations remain completely on the margins of economic integration, as is the case for transsexuals.

Outcasted within the LGBT community itself, transsexuals have the least possibility of social integration and are most often denied jobs. In most cases, transsexuals turn to prostitution as their only means for survival. While reliable statistics are unavailable, it is known that most openly transsexual (male-to-female) individuals are sex workers. Even within that sector of society, they are typically rejected by organizations that support sex workers.

SOCIAL/GOVERNMENT PROGRAMS

As is the case in most other Latin American countries, the Nicaraguan government does not provide funding for social programs designed specifically for LGBT people. Such funding would have been considered illegal under Article 204

until 2007. However, the Nicaraguan government does provide a universal health care system, and, though extremely underfunded, it offers programs for AIDS and sexually transmitted diseases that reach out to populations at risk, including LGBT people. A great percentage of this funding and influence over these issues comes from international assistance sources.

SEXUALITY/SEXUAL PRACTICES

Since AIDS first appeared in Nicaragua in 1987 and until the late 1990s, the epidemic remained contained and the rate of increase was very low. However, this was followed by alarming increase in the new millennium. In fact, Nicaragua shows an inverse infection rate to that of richer nations like the United States, where the epidemic started to decline in the early 1990s after a previous decade of rapid increases.⁵⁴ In developed nations, aggressive intervention in the form of educational programs to reduce risky behavior has contributed to the decrease in the spread of the epidemics. The limited availability of such resources, along with the widespread ignorance and poverty of the Nicaraguan population, has contributed to the current, steady spread of the disease.

A major obstacle to the success of prevention programs has been the opposition of the Catholic Church to the distribution of condoms, the Church's opposition to the explicit discussion of sexuality in schools, and its general moral influence on the population and government.⁵⁵ In spite of this opposition, the Nicaraguan Ministry of Health (MINSA) and NGOs offer limited services through international cooperation from the United States and Nordic European nations.⁵⁶ However, these resources are scarce relative to the needs of the total population, especially in rural areas. Most efforts are concentrated in the capital and are modeled after campaigns and strategies implemented by contributing organizations in their respective home countries and do not necessarily reflect the specific needs and cultural context of Nicaragua.

Bisexuals

An LGBT population in Nicaragua where cultural differences manifest clearly with respect to sexuality are bisexuals. The concept of bisexuality is much more difficult to apply in Nicaragua than it is in the United States and other developed western societies. The expectation in the American mindset that one sexual category denies the possibility of another renders bisexual people invisible.⁵⁷ On the other hand, and in spite of its unique limitations, sexuality in Nicaragua is much more fluid than it is in the United States. A large number of people in Nicaragua form families around conjugal units, live together, and remain unmarried,⁵⁸ thus allowing for a degree of sexual freedom. This is particularly true for men. Machismo itself allows for a degree of homosexuality without necessarily erasing a man's or a woman's public heterosexuality. Within this system, a great number of LGBT people are rendered invisible and cannot be accounted for as either heterosexual, bisexual, or gay. With the exception of an elite group of Nicaraguans influenced by a more international LGBT worldview and those behind LGBT organizations, it is common and culturally accepted in the mindset of many Nicaraguans for people to maintain different relationships simultaneously. The large number of MSM who are statistically unaccounted for is evidence of the degree

to which bisexuality is prevalent in Nicaraguan society. MSM feel no societal or individual need to resolve the duality to one choice, either socially or legally. Bisexual women, on the other hand, remain mostly invisible and their bisexuality clandestine, in reflection of their greater disempowerment and subordinate position in society.⁵⁹

FAMILY

As in most of Latin America, kinship ties are fundamental to the lives of the Nicaraguan people. The nuclear family as the ideal forms the basis of family structure in the national mindset and determines cultural attitudes in the country. Families of origin are of enduring importance, and so are relationships with a large extended family network. This is no different for members of the upper class whose privileged position is closely tied to family connections.⁶⁰

Given the lack of economic mobility for the vast majority of Nicaraguans, other criteria determine a person's place in society. A person's family honor has a strong influence over many aspects in life. Individuals are judged on the basis of family reputations, which in turn are based on how closely one's family conforms to or deviates from prevailing moral values. Moral prestige or the lack of it may open or close access to scarce economic, social, and political opportunities. Family units and the individuals in them establish rigid dynamics of economic and emotional codependence from which it is almost impossible to withdraw.⁶¹

Guaranteeing family unity and prestige are of utmost importance for families as a whole, therefore a family member's noncompliance with norms jeopardizes it on a global level and disrupts the social networking it depends on for survival. The urban poor, in particular, are especially vulnerable, as they depend on mutual assistance among kin for survival. Thus, social control within the family can become quite repressive. Families impose and enforce traditional gender and sexual roles as established by *machista* and Catholic norms of femininity and masculinity. Any deviation from these norms is immediately controlled. LGBT people, who by definition fall outside prevailing cultural patterns, suffer under this control. Thus, LGBT people are often the objects of domestic abuse, particularly lesbians, whose condition of disempowerment makes them more codependent and vulnerable to family dynamics than their gay male counterparts. Ultimately, repression and silence about homosexuality are the usual forms of handling the condition of LGBT people in most families, and as a result most LGBT people develop only clandestine relationships and only a few dare to or are able to form families apart from their family of origin.⁶² In extremes cases, when a family member's noncompliance with norms cannot be silenced, as is the case for many transsexuals, families adopt drastic measures, and expulsion from the family home is a common decision. Although there are exceptions,⁶³ many transsexuals are rejected by their families, whose machismo traditions cannot accept them as an individual who is not a "real" man or woman.

In spite of such social control, Nicaraguan society exhibits clear double standards with respect to the definition and the actual composition of most families. Households are more often than not female-headed, without a paternal figure present. Outside of the upper and middle classes, heterosexual families are built around conjugal units, and relatively few couples formalize their marriages through the state or a religious body. In addition, due to generalized poverty, family units

often include extended family, with several generations living in the same household with no privacy.

Given the machismo culture, men in Nicaragua are allowed a significant degree of sexual freedom, and many have relationships with more than one woman and father children by different women. It is also not uncommon for women to have children by different men. Similarly, while silent about it, many men who have sex with men (MSM) but who do not consider themselves gay maintain heterosexual and homosexual relationships simultaneously. Significantly, a large number of gay men and lesbians in Nicaragua have been married and have children, which makes the possibility of independence more limited. Amongst the younger generations, some LGBT people are choosing to form families or to live single and apart from their family of origin.⁶⁴

Despite this prevailing diversity, the current Nicaraguan family law system is built on the concept of the nuclear family⁶⁵ and it is clearly not accommodating to LGBT people and those few who dare form families. Under the conservative swing of the 1990s and to counter what was perceived as moral disintegration, the administration of Arnaldo Alemán (1997–2002) created a repressive Ministry of the Family in 1998 to safeguard the heterosexual family and ensure that the nuclear family continues to be the only accepted model presented to society. As a result of these measures, a series of repressive consequences have daily been visited upon LGBT people and their families.⁶⁶

COMMUNITY

In spite of state repression and in reaction to it, the first LGBT groups in Nicaragua appeared in 1986 and continued to grow through the 1990s, forming a community of diverse NGOs and grassroots organizations. Their continued existence is the result of international cooperation and the efforts by hundreds of revolutionary activists, many of them feminist women,⁶⁷ who chose to extend the ideal of a social revolution to women and to all Nicaraguans. In many ways, LGBT organizing was the product of the social revolution of the 1980s. Continued state repression under neoliberal governments has also ignited further organization and cooperation amongst LGBT people. These groups strategically coalesced through the AIDS crisis to form NGOs in the 1990s, establishing connections with progressive governments and international LGBT organizations that provided funding. Centered in Managua with some regional offshoots, most of these organizations provide health services, educational workshops, leadership training, support groups, counseling, legal services, and activism.

Until 2007, NGOs could not be officially labeled gay or lesbian directly, nor could they fund services to the community, except for those pertaining to sexual health and AIDS. Article 204, which forbids the organization and dissemination of information concerning LGBT issues, prevented this kind of labeling and activity. Nevertheless, their organizers were mostly LGBT people who furthered LGBT organizing indirectly through AIDS prevention programs and by providing sexual and reproductive health services to marginalized women and youth. Many other groups have formed beyond those that originated at NGOs, particularly at universities, by individuals cooperating to address an individual LGBT population or cause. The Internet has played a major role in facilitating the rise of these groups, as many individuals have created new organizations and blogs in Nicaragua today.

It is true that fierce competition for funding between organizations can result in antagonism and fragmentation, yet the collaboration between organizations in the “Campaign for a Sexuality Free of prejudice” and corresponding Annual Pride Week celebrations that have been held since 1992 have marked an indelible LGBT space in Nicaragua. For the vast majority of people who live their LGBT lives clandestinely, these organizations are slowly paving the way for an ever-larger and more inclusive community. Nonetheless, inclusion in Nicaragua is a gradual process even within the LGBT community itself and it is not experienced the same by all LGBT groups.

Transsexual People

Transsexuals in Nicaragua tend to face greater obstacles to inclusion within the LGBT community than other groups. Yet, in spite of being very small and the least organized segment of the GLBT population, transsexuals are becoming more visible within the community. Until 2007, under Article 204, sex change surgeries were illegal in Nicaragua. Thus, with the few exceptions of those who underwent surgery abroad, most transsexual people in Nicaragua are only candidates for surgery who have, at best, gone through some hormone replacement therapy. Due to the greater moral intolerance of the upper segments of society and their strict class structure, most individuals who decide to adopt a transsexual identity in Nicaragua belong to lower socioeconomic sectors, where standards are more fluid. Individuals with higher social status and resources would be more likely to leave the country to carry on their lives as transsexuals somewhere else. In general, the transsexual community of Nicaragua is made up almost exclusively of individuals who would opt for a male-to-female sex change. They are the most discriminated against group due to pervasive machismo. Together with transvestites and transgendered individuals, transsexuals are the target of most gender-motivated violence and police aggression. Transsexuals, more than any other group, are the objects of unjust application of the law. The Nicaraguan legal system is far from accommodating of the challenges transsexual people and other LGBT people represent to existing laws. Transsexuals are also the least supported population by LGBT groups and their individual agendas—be it gay rights or lesbian rights. Nonetheless, a community is forming and it is establishing contact with important human rights organizations abroad for the support denied to them in Nicaragua.⁶⁸ The community has also created a landmark organization, La red Trans de Nicaragua (the Nicaraguan Trans Network), which is linking to stronger peer organizations in Latin America, particularly those in Mexico and Argentina, and gaining their support.

Intersexed People

While the issue of inclusion of intersexed people is part of the debate in the Nicaraguan LGBT community, and particularly in the voice of the trans community (composed of transvestites, transgendered people, and transsexuals), the possibility of an organized intersexed group has yet to be realized. Information about this population is mostly unavailable or is based on speculation.⁶⁹

Lesbians

Lesbians, for the most part, consider themselves a separate community from that of men. In general, lesbians are less empowered and much more limited than

gay men in Nicaragua. Unlike them, they are constantly socially controlled, making independent relationships with other women almost impossible. Following family and social pressure, many of them marry and have children very young and only question their sexuality later. Thus, many have children and are twice as much limited economically as men to develop an independent sexuality after divorce.

As is the case for most LGBT people in Nicaragua, gender identity for lesbians depends heavily on socioeconomic class and opportunities to access education and alternative information about gender and sexuality. Lacking alternative spaces and models, most lesbians tend to fulfill the stereotypical images of what is to be a lesbian and what is a lesbian relationship in a machista society. For most the adoptions of traditional gender roles and machista heterosexual power dynamics is something natural, and they align with one role or the other. Others, although much fewer, but who are more educated, try to distant themselves from such images, and yet some, mostly younger, do not identify with machismo and the traditional division between masculinity and femininity from the beginning and wish to develop dynamics of equality without subordination of either partner.⁷⁰

Given machismo and the subordination of all things feminine, lesbians pass as more invisible than gay men in social spaces, where gay men have a clear presence and an advantage, something that manifests itself also in the lack of attention to women's issues. The increasing spread of AIDS among young women in Nicaragua is an example of such generalized social neglect towards women. Yet, it was precisely this neglect that propelled the strong women's movement in Nicaragua, and lesbian activists have claimed strong support from it and excel in activism more than men.

HEALTH

The poor health of the majority of the Nicaraguan people was one of the clearest expressions of social exclusion that led to the Sandinista Revolution. Thus, one of the aims of the revolutionary government was to provide health care to all Nicaraguans. Neither the revolution in the 1980s nor the neoliberal governments that followed it were able to realize this goal. Nicaraguans have lived under constant economic crisis and under strict austerity programs that have limited public spending on the most basic of social services, such as health care. Even the return of the Sandinistas to power in 2006 has not made it possible to alter the course of the economy and its impact on these issues. The trend of underfunding social programs established by neoliberal governments will continue in the years to come as a required step for complying with economic measures imposed by major foreign aid lenders. Given these limitations, change will be slow and the mortality rate and life expectancy of Nicaraguans will continue to be significantly lower than those of developed nations.⁷¹

While Nicaragua has a universal health care system, the grossly underfunded Ministry of Health⁷² is unable to provide adequate care to the majority of the population. Its hospital infrastructure is severely underdeveloped and often lacks basic equipment. It is also highly centralized with limited resources outside the capital. While there are a number of private clinics serving the population concentrated in Managua, their services reach only the small elite of Nicaraguans who can afford them. This health crisis is particularly evident in connection to the HIV/AIDS epidemic, an area where resources are even more limited for the coverage of patients and for prevention programs. Most work in this area has become the lot of NGOs with external but limited funding based on international cooperation.

Since the appearance of the first HIV/AIDS case in 1987, and continuing until the late 1990s, the number of HIV/AIDS cases remained low in Nicaragua. However, the spread of the disease has increased at an alarming rate in the new millennium.⁷³ AIDS is becoming a growing public health concern, particularly since the overall Nicaraguan health system is deficient and unprepared to handle this or any other major epidemic. According to MINSA 2,296 cases of HIV/AIDS had been reported through September 2006. Of these, 622 people have died; in 94 percent of these cases, the virus was acquired through sexual contact.⁷⁴ This continues to be the case in the present day.⁷⁵ The population affected is mostly young, and 88 percent of those infected are between the ages of 15 and 44.⁷⁶

In the late 1980s, when the disease first appeared in Nicaragua, it was limited almost exclusively to males, gay-identified or bisexual—or MSM.⁷⁷ Male-to-male sex was the most common form of transmission, followed by the sharing of needles associated with drug use, and lastly heterosexual sex. While the predominant mode of transmission continues to be sexual (92%, according to 2005 estimates),⁷⁸ demographics have changed significantly over time and, of those currently infected, many are heterosexual men and women (76%), with a male to female ratio of 2.4:1.⁷⁹ Gay men and MSM are still disproportionately affected, but the disease has spread to women—mostly heterosexual ones—at an increasing rate. The ratio of men to women will continue to approach one to one as the population affected gets younger; it is estimated that more than half of all new infections today occur in young women.⁸⁰ This is a major concern because women represent a severely disempowered segment of the overall population in Nicaragua, and health services for women are often lacking beyond basic prenatal and reproductive care. This shift in the epidemic is also relevant to the lesbian population, many of whom live a double life much like that of MSM. Due to pervasive machismo attitudes in Nicaragua, lesbians can easily become infected by a male partner (possibly an MSM) who refuses to use protection. These risks increase even more for other LGBT populations, such as transsexuals, whose specific anatomical needs with respect to sex and AIDS prevention are overlooked by health organizations, offering them little or no medical attention and leaving them particularly vulnerable.

Another major concern given Nicaragua's machismo culture and ardent Catholicism is the greater invisibility of the masculine population classified as MSM. Due to their own machismo and the stigma associated with homosexuality and gay-identified men, MSM are more reticent about reaching out and are more difficult to reach with HIV prevention programs. On the other hand, as heterosexual transmission represents an ever-greater proportion of new infections in Nicaragua, NGOs and AIDS prevention groups are challenged by finding that their programs and safer-sex campaigns, fashioned primarily for the LGBT population, are not reaching the growing segment of heterosexual male and female victims with the same levels of success. As is the case with the LGBT community, the machismo of the heterosexual population is a major obstacle to overcome.

POLITICS AND LAW

Sodomy Laws

Discrimination is pervasive in Nicaragua and expresses itself daily in many forms of social exclusion, of which discrimination against LGBT people is perhaps the most socially acceptable. While Nicaragua has made great inroads in passing

antidiscrimination laws with regards to women, it does not have any legislation preventing discrimination against LGBT people (except for those infected with HIV/AIDS).⁸¹ LGBT people in Nicaragua not only lack protection before the law, but were also legally discriminated against under the law with antisodomy law Article 204, in effect from 1991 until November 2007. Contrary to the international tendency to decriminalize homosexuality in Latin America since the 1990s onward, Nicaragua took an ultra-conservative stance by passing its law in 1992. The struggle to overturn this law and advocacy for the enactment of antidiscrimination laws in its place grouped and propelled LGBT people under a single banner. Ironically, Article 204 became the centerpiece in the legal debate and the struggle for equal rights for LGBT people. And, although it was finally repealed, discrimination as a socially acceptable and hardly unquestioned behavior has not disappeared from Nicaragua; much legal work remains to be done in this area.

Antidiscrimination Legislation

Social exclusion of many types, some of which have yet to be addressed as discrimination, precipitated the Sandinista Revolution. By extension, it facilitated the rise of Nicaragua's strong women's movement. The new constitution reflects these groups' influence in multiple articles addressing discrimination and the right to equality between women and men. It is this right to equality applied to women under the constitution that is now facilitating the rise of the LGBT movement and validating their cry against discrimination. However, discrimination against LGBT people in Nicaragua is not all the same and manifests itself differently depending on a person's self-expression of his or her gender identity and sexuality. Furthermore, Nicaraguans express discrimination in varying degrees of violence, whether as homophobia, lesbophobia, biphobia, or transphobia. Nicaragua does not yet have a visible intersex community. How discrimination manifests itself against this population specifically has yet to be acknowledged.

Discrimination also varies according to region and specific community. Managua, as the largest and most crowded urban center and one fragmented and made up of many different communities,⁸² tends to offer greater anonymity and some degree of tolerance for LGBT people, while smaller cities and rural communities may offer more repressive environments. However, this is not always the case in rural communities, as other criteria besides church and state also influence how LGBT people are treated. Strong kinship ties between members of a community and loyalty to family over religion may override imported notions of discrimination, and a community may extend great tolerance to its LGBT members. Treatment of LGBT persons cannot be generalized, as it really depends on the particular dynamics of specific communities. Cities like Masaya, in the western lowlands, have traditionally displayed great tolerance towards LGBT people and, in fact, incorporate forms of transgenderism and transvestism in its religious and folk festivals with the active participation of its LGBT community.⁸³ In contrast, communities in the Atlantic region, such as Puerto Cabezas and Bluefields, where intolerance is perhaps greatest in Nicaragua, may reflect specific cultural influences, such as Protestantism.⁸⁴

Another facet of discrimination against LGBT people and politics at the community level is the legacy left by the former Sandinista Defense Committees (CDS),⁸⁵ which today forms a massive Community Movement (MC) throughout

Nicaragua. These were community-based committees in support of the revolution that fought against any counter-revolutionary movements; they have been instrumental in denouncing social injustice under neoliberal governments. They have also been vigilant against all elements that have attempted to roll back revolutionary gains and have often mistakenly placed LGBT people in that category. As it has been the case under other socialist movements in Latin America, LGBT people have been misunderstood to be a part of the decadent capitalist system. A legacy of the CDS and MC in the popular mindset has been the application of change and justice at the community level. Specific communities have literally assumed the role of taking justice into their own hands and punishing people who do not conform to the community standards—not only of *sandinismo* but of machismo as well. This is particularly true in larger urban spaces, such as Managua, where neighborhood groups apply their own sense of justice and often discriminate against LGBT people in the community.

While information about discrimination of LGBT people within the military is unavailable, it is well known that individuals who participated in the first organizing of LGBT groups between 1986 and 1987 were expelled from the military. Even during the years of the revolution and the presumably more progressive thinking of the Sandinista era, the military, as with most social spaces in Nicaragua then and now, closed its doors to LGBT people. It persecuted and incarcerated the first men and women who assumed positions of leadership in LGBT groups, but only temporarily stopped the rise of the movement during that decade. As in other socialist regimes in Latin America (such as Cuba), LGBT people were viewed by the military as dangerous to the revolution and as an extension of the old system of corrupt, bourgeois decadence.

Gay Marriage

The question of gay marriage legislation is not seen as realistic by most LGBT people in Nicaragua at this time, but LGBT groups in the country have expressed their enthusiastic support for the current movement in that direction in neighboring Costa Rica. The more democratic climate and progressive tradition of Costa Rica has made it possible to bring such a discussion to the table in its National Assembly. Given the geographic proximity and close relationship between the nations, the debate in Costa Rica is certain to have a strong impact in Nicaraguan politics in the years to come.

Speech and Association

As a more coordinated organizing effort by LGBT groups emerged in the early 1990s, Article 204 attempted to counter the rising movement by criminalizing all dimensions of LGBT life. This included the freedoms of association and speech; it also forbade the “gathering, organizing, educating and disseminating scientific information, and advocating publicly” notions in support of homosexuality. LGBT organizing in all its facets was criminalized. For 15 years, the law succeeded in preventing any LGBT organization from obtaining legal status, but it did not stop their efforts. LGBT organizing was accomplished through AIDS organizations and NGOs (usually lead by LGBT activists) working on human rights and sexual issues, but only as an indirect extension of the work by the host organizations. No funding was legally possible for the purpose of addressing LGBT issues per se. With the

abolition of Article 204, new possibilities have opened in Nicaragua to facilitate LGBT organizing and the free dissemination of more scientific LGBT information.⁸⁶ However, pervasive social taboos are still a major obstacle.

Church, State, and Reparative Therapy

In the absence of objective information, and influenced by machismo and strong religious beliefs, most Nicaraguans tend to place homosexuality and other non-heterosexual orientation(s) within the sphere of the pathological—as a perversion and a contagious disease, transmitted and committed by someone who should be cured.⁸⁷ Even the scientific community in Nicaragua tends to see homosexuality as a deviation and a “contagious disease.”⁸⁸ Most psychologists, sociologists, and even biologists seem convinced that homosexuality can be explained in terms of deviant and learned behaviors. They also reinforce the idea that homosexuality is curable, provided intervention is carried out at an early age. This attitude assumes that LGBT people are to be treated differently and are even deserving of punishment. Backed by these misguided views, the Nicaraguan state translated religious and social taboos into legislation, criminalizing homosexuality and other non-heteronormative sexual expressions.⁸⁹ In this context of repression, many LGBT people have been forced to think of themselves as sick. Some have considered the possibility of a cure and have sought some form of reparative therapy, but this is usually limited to those with means to pay for psychological treatment. In other cases, for a significant number of LGBT people, suicide has been the only way out.

RELIGION AND SPIRITUALITY

Traditionally, religion has been revered in Nicaragua and occupied a privileged position beyond questioning that was only challenged during the revolution, which the Catholic Church initially supported, but soon afterwards moved to block. It is also true that, during the last decade of the Somoza dictatorship (the 1970s), the Catholic Church distanced itself from the Somoza regime. However, it did so cautiously and as only a moderate advocate for change. During these years, as the bishops rejected their traditional alliance with the dictatorship to join the general opposition, the possibility for an alternative and vibrant grassroots church of the people developed from below.⁹⁰ By adopting an independent stance towards the hierarchical church and embracing a liberation theology approach⁹¹ to the conflict, grassroots, community-based Christian churches (CEBs)⁹² expanded rapidly in the 1970s and played a crucial role in the making of the revolution. Seeing themselves as co-participants in the making of a new Nicaragua and not simply as followers of the bishops’ declarations from above, Nicaraguans acted independently of the church and supported the Sandinista movement, a position that would set the stage for postrevolutionary conflict with the institutional church in the 1980s.

As the momentum of the revolution overcame moderation at the grassroots level in the late 1970s, and as the moderate reforms the Catholic bishops advocated were taken from them by a church of the people that supported more radical change after the 1979 Sandinista victory,⁹³ the institutional Catholic Church rose as a force of opposition to the revolutionary process in the 1980s. It showed

itself intolerant of change from below, rejecting the CEBs and their liberation theology. Thus, the Nicaraguan Catholic Church adopted an ultra-conservative role in the decades to follow on many issues, including those pertaining to LGBT people.

In the 1990s, under the neoliberal governments that followed the revolution, the Catholic Church regained its power and objected to many of the changes the revolution had brought about in the country. In exchange for a conservative morality, it lent its support to the neoliberal administrations in their objective of overturning revolutionary gains in favor of a neoliberal approach to the economy. This reflected itself in the area of women's rights and public morality. The church blocked the women's movement, calling for a return to the traditional family (or *machista* family values), and the state ignored the constitutional stance with respect to gender and sexual equality and women's reproductive rights. It was in this context that Article 204 was passed by the Nicaraguan National Assembly in 1992 under great pressure from the Catholic Church and other churches. It was justified by religious dogma offered by the church leaders in spite of any constitutional argument.

In the new millennium, unlike in the past, when the Catholic Church dominated the religious arena unchallenged, religious affiliation in Nicaragua has taken different routes.⁹⁴ Today, it not only reflects the changes since the revolution, it also mirrors Nicaragua's persistent class structure, social divisions, and political schisms. The elites and professional middle classes identify mostly with the traditional, hierarchical Catholic Church, while the working class and poor continue supporting a church of the poor (CEBs). Protestant churches have also claimed extensive membership among the poor, as much international attention was turned toward Nicaragua after the revolution and Protestant churches from the United States expanded their missionary efforts there. Protestant and fundamentalist denominations often show more intolerance for LGBT people than even the Catholic Church, thus playing an important role in blocking LGBT rights.

It is also in this context that new and alternative churches that extend more solidarity to the LGBT community, such as the Metropolitan Church of Nicaragua (with ties abroad),⁹⁵ have formed and coexist in a tense dialogue with the institutional Catholic Church and multiple other denominations.

The power of the Catholic Church and its influence over legislation is a part of everyday life in Nicaragua; so, too, is the opposition the Church may offer to any LGBT movement. However, religious opposition to the LGBT movement in Nicaragua has not yet become well organized, and an organized antigay movement, as it exists in the United States, has thus far been absent in Nicaragua. However, the country is currently experiencing rapid changes due to external influences from fundamentalist Protestant denominations that have been making inroads in the last two decades. These groups have brought with them to the Nicaraguan discussion on national morality the rigid anti-LGBT viewpoint already familiar in the United States. Thus, external fundamentalist Protestant influences are gradually adding another voice against LGBT people and their rights, and they have, at times, combined forces strategically with the Catholic Church to exert influence over legislation, such as abortion.⁹⁶ These groups are, to a significant extent, importing a degree of uncompromising hostility that does not reflect how Nicaraguans have traditionally dealt with LGBT people. While severe discrimination against LGBT people does exist in Nicaragua, it is necessary to say that there is also a degree of

tolerance for sexual deviation in the mindset of the Nicaraguan masses that is markedly more flexible and compromising than the rigid position adopted by religious fundamentalist groups in the United States and their local cells in Nicaragua. One area in which these churches are trying to join forces with the Catholic Church to influence government is in the passing of antigay legislation preventing LGBT people from adopting children in Nicaragua.

VIOLENCE

Statistics about hate crimes to measure violence against LGBT people are unreliable or unavailable because, until recently, the law overlooked violence against LGBT people. However, violence in Nicaragua is clearly reflected in everyday epithets used to refer to LGBT people. Pejorative labels express a diversity of cultural attitudes towards different populations and the categories into which Nicaraguans fit and how LGBT people classify themselves.⁹⁷ Labels express differing degrees of hate, according to the degree of deviation from traditional norms (of gender and sexuality) imposed by machismo and Catholicism, and have been known to translate into outward violence. The population most clearly affected by hate crimes are the transgendered and transsexual populations, as well as transvestites and, in particular, sex workers.

OUTLOOK FOR THE 21ST CENTURY

Violence in Nicaragua has manifested itself throughout the country's history via many forms of exclusion, poverty, segregation, social stratification, and war. The cumulative effect from each of these forms of violence harnessed unprecedented energy and gained the greatest momentum with the Sandinista Revolution of the 1980s. The revolution was the expression of a massive will for change and its legacy a cultural and political attitude towards the inclusion of all Nicaraguans in spite of widespread bigotry and ignorance. The revolution ended and structural economic changes were unrealized, but the idea most Nicaraguans took away from the experience was that change is possible, even in the midst of insurmountable obstacles. This notion remains alive in the minds of those who lived through the revolution and has been passed on to those who have come after. This is particularly true of the LGBT community in Nicaragua.

In spite of the great divisions of class, race, gender, and sexual expression that put the concept of "community" under serious question, most LGBT people are extremely resilient and aspire to help build a better Nicaragua. The recent repeal of Article 204 signals hope as the veil of fear that shrouded LGBT organizing was lifted and new opportunities for growth and cooperation were revealed. Severe economic conditions are on the horizon for Nicaragua, as its economy is experiencing a marked deceleration. Strong Catholic Church opposition, economic austerity programs, prolonged poverty, greater state control, and the possibility of repression are in the immediate view, but so is the economic and social impact that Nicaragua's integration into the Free Trade Agreement with the United States in 2006 is to have in the near future. Nonetheless, Nicaragua has come a long way and its popular leaders and activists have surprised the world in the past by surmounting even greater obstacles. Given this combination of strong will and resilience, the LGBT cause in Nicaragua is bound to move forward.

RESOURCE GUIDE

Suggested Reading

- Barry D. Adam, "In Nicaragua: Homosexuality without a Gay World," *Journal of Homosexuality* 24, nos. 3/4 (1993): 171–81.
- Florence E. Babb, *After Revolution: Mapping Gender and Cultural Politics in Neoliberal Nicaragua* (Austin: University of Texas Press, 2001).
- Florence E. Babb, "Out in Public: Gay and Lesbian Activism in Nicaragua," *NACLA Report on the Americas XXXVII* 6 (2004): 27–30.
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- María Bolt González, "Nicaragua," *Unspoken Rules: Sexual Orientation and Women's Human Rights* (San Francisco: International Gay and Lesbian Human Rights Commission, 1995), http://www.iglhrc.org/files/iglhrc/reports/19UR_Nicaragua.pdf.
- María Bolt González, *Sencillamente Diferentes: la Autoestima de las Mujeres Lesbianas en los Sectores Urbanos de Nicaragua* (Managua, Nicaragua: Fundación Xochiquetzal, 1996).
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- Gert Hekma, *Gay Nicaragua: Gay Cultures in Managua*, <http://www.globalgayz.com/g-Nicaragua.html>.
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- Roger N. Lancaster, *Life Is Hard: Machismo, Danger, and the Intimacy of Power in Nicaragua* (Berkeley: University of California Press, 1992).
- Roger N. Lancaster, "Subject Honor and Object Shame: The Construction of Male Homosexuality and Stigma in Nicaragua," *Ethnology* 27, no. 2 (1988): 111–26.
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- Sofía Montenegro, *La Cultura Sexual en Nicaragua* (Managua, Nicaragua: Centro de Investigaciones de la Comunicación, CINCO, 2000).
- Margaret Randall, "To Change Our Own Reality and the World: A Conversation with Lesbians in Nicaragua," *Signs* 18, no. 4 (1993): 907–24.
- Millie Thayer, "Identity, Revolution, and Democracy: Lesbian Movements in Central America," *Social Problems* 44, no. 3 (1997): 386–407.
- Marieke Van Gijssel, *Lucha por un Espacio* (Managua, Nicaragua: Fundación Xochiquetzal, 2003).
- Thomas W. Walker, *Nicaragua without Illusions: Regime Transition and Structural Adjustment in the 1990s* (Wilmington, DE: SR Books, 1997).

Videos/Films

- Freddy/Roberta*, DVD, directed by Eric Gijssen (2005: Managua, Nicaragua: jozefientje van bobbelareer vzw, 2005). A documentary about the oppression and suicide of a transgendered individual in Nicaragua.
- Historia de Amor con Final Anunciado*, DVD, directed by Bolivar Gonzalez (2007; Nicaragua: ANCI y Mirarte Films, 2007). Depicts the relationship of two gay men in Nicaragua and how the repressive environment causes a tragic end.

Sex and the Sandinistas, DVD, directed by Lucinda Broadbent (1991; New York: Women Make Movies, 1991). Presents interviews with gay men and lesbians speaking about their struggles in Nicaragua at the beginning of the LGBT movement.

Sexto Sentido, DVD, (2002; Managua, Nicaragua: Puntos de Encuentro, 2006). This is an award-winning popular television series in Nicaragua that has raised social consciousness. Video contains one episode from the series, a documentary about the making of the series, a sample of real-life stories dealing with the issues in *Sexto Sentido*, and a video of the cast visiting schools, organizations, and the media to discuss social issues, hand out materials, and connect young people to needed services.

Web Sites

Espacio, <http://www.espacionica.es.tl>.

Gay Nicaragua, www.gaynicaragua.net.

Recently created Web site, launched in 2007, dedicated to the gay community in Nicaragua and offering information about current events, social activities, and global gay culture, as well as chat rooms and classified ads. It also provides information about gay businesses in Nicaragua and the region, including bars, clubs, and hotels.

Grupo Espacio Comunicación Alternativa, <http://www.espacionicaragua.blogspot.com>.

Addresses sexual diversity in Nicaragua, including gay, lesbian, transsexual, and intersex content for the Nicaraguan community. Produced by Grupo Espacio Comunicación Alternativa, an organization formed in August 2007 that fosters communication about themes of human rights, sexual diversity, and LGBTTI social life in Nicaragua.

Grupo Lesbico Nicaraguense Safo, <http://www.gruposafogroup.org>.

Lesbian group founded in 2004 to promote solidarity in the lesbian community and empowerment of a lesbian identity. It provides psychological services as well as shelter, legal assistance, a resource information center, and support group meetings. The group receives funding from Fondo Centroamericano de Mujeres, Astrae, and Forum Syd.

NicaGay.com, <http://www.nicagay.com>.

The most recently created web site (launched in 2008) dedicated to the gay community in Nicaragua.

Red de Activistas Trans de Nicaragua, <http://www.redtransdenicaragua.blogspot.com>.

The first blog created by transsexual activists in Nicaragua. It is dedicated to the discussion of themes related to activism in the Nicaraguan transsexual community in at the national and international levels, with a focus on Latin America. Silvia Martínez, a key leader in the community, is the contact person.

Red Trans de Nicaragua, <http://www.redtransdenicaragua.es.tl> (under construction).

Organizations

AIDS

Centro para la Educación y Prevención del SIDA (CEPRESI), <http://www.cepresi.org.ni>.

Provides AIDS-related services to sexual minorities, primarily gay men. It claims to be the only group in Nicaragua whose mandate includes the promotion of gay and lesbian rights.

Fundación Puntos de Encuentro, <http://www.puntos.org.ni>.

First established in 1991 by a small group of women from the Nicaraguan women's movement, this group has maintained a feminist approach to addressing social change. While its work does not focus directly on LGBT issues and the population, LGBT issues are addressed indirectly as part of the group's larger work on sexuality. Its target population is primarily youth and women.

Fundación Xochiquetzal, <http://www.myspace.com/fundacionxochiquetzal>.

Founded in 1990, Xochiquetzal is a nongovernmental grassroots organization that works on HIV/AIDS prevention through an integral sex education curriculum free of prejudice. Its target population is primarily persons living with HIV/AIDS, homosexuals, lesbians, prisoners, sexual workers, and the youth of Nicaragua.

Fundación Nimehuatzin, <http://nimehuatzin.org>.

Founded in 1990, this is exclusively an AIDS prevention organization.

Political Action

Nicaragua Network, <http://www.nicanet.org>.

A member of the Alliance for Global Justice, the Network is an organization in the United States devoted to social and economic justice in Nicaragua.

Human Rights

Centro Nicaragüense de Derechos Humanos (CENIDH), <http://www.cenidh.org>.

A human rights organization based in Managua.

Activism

Asociación Movimiento Gay Lésbico Intermunicipal, <http://www.amglim.org>.

This is a regional LGBT organization serving northwestern Nicaragua.

Red de Jóvenes Nicaragüenses por los Derechos Sexuales y Reproductivos, <http://www.jovennica.org>.

Founded in 2000, this group seeks to promote and defend the sexual and reproductive rights of adolescents and youth (young adults) in Nicaragua.

Religious

Iglesia de la Comunidad Metropolitana Paz y Alegria, Managua, Nicaragua, <http://www.icmnic.org>, <http://www.tylerkelly.net/icmnic>.

This is an independent Christian church that is accepting of LGBT people. It holds ties to the Universal Fellowship of Metropolitan Community Churches (UFMCC). In addition to church liturgy, it provides social opportunities for the gay and lesbian community, and particularly gay-identified men.

NOTES

1. U.S. Department of State, "Background Note: Nicaragua," <http://www.state.gov/r/pa/ei/bgn/1850.htm> (accessed November 29, 2008).

2. U.S. Central Intelligence Agency, *The World FactBook* [electronic version], <https://www.cia.gov/library/publications/the-world-factbook/geos/nu.html> (accessed December 13, 2008).

3. U.S. Department of State, "Background Note: Nicaragua."

4. *Ibid.* (accessed December 12, 2007). An estimated 7,000 U.S. citizens reside in the country.

5. While direct sources in Nicaragua (CENIDH; Centro Nicaraguense de Derechos Humanos) indicate a rate of 80 percent, according to 2005 statistics, close to 50 percent of Nicaragua's population lives below the poverty line. U.S. Central Intelligence Agency, *The World FactBook*.

6. *Ibid.* (accessed December 13, 2008).

7. U.S. Department of State, "Background Note: Nicaragua."

8. The acronym used to refer to the community of sexual minorities in Nicaragua is LGBTTTI, which seeks to be ever more inclusive of the lesbian, gay, bisexual, transgendered, transvestite, transsexual, and intersexed population.

9. According to 2001 statistics, the household income of the poorest 10 percent of the population represented a share of only 2.2 percent of all national consumption, while the richest 10 percent represented 33.8 percent of national consumption. U.S. Central Intelligence Agency, *The World FactBook*.

10. After its independence, Nicaragua's traditional elites grouped into two opposing political parties, the Liberales and the Conservadores, establishing a two-party system that ended with the Sandinista Revolution in 1997, when the political culture changed drastically.

11. A struggle between the revolutionary and the counter-revolutionary forces, called the "contras."

12. Such as redistribution of land and other resources and the creation of cooperatives to benefit the poor.

13. The new constitution was approved on January 9, 1987, with reforms in 1995, 2000, and 2005. U.S. Central Intelligence Agency, *The World FactBook*.

14. Florence E. Babb, "Nicaragua," in *The Greenwood Encyclopedia of Women's Issues Worldwide*, ed. Lynn Walter (Westport, CT: Greenwood Press, 2003), 335–60.

15. Nicaraguan Women's Association, *Asociación de mujeres Luisa Amanda Espinoza* (AMLAE).

16. Babb, "Nicaragua," 335–60.

17. Such as the World Bank (WB) the International Monetary Fund (IMF), and the Inter-American Development Bank (IADB) Nicaragua has also received considerable assistance from the United States Agency for International Development (USAID).

18. República de Nicaragua, *Código Penal de la República de Nicaragua: Reformas, y Leyes Relacionadas con la Materia*, 8th ed. (Managua, Nicaragua: Impresiones La Universal, 2002), 53.

19. A clearly organized transsexual and intersexed community has not yet formed in Nicaragua. This is a particularly invisible population, given cultural taboos, and the communityfacing the most obstacles. However, things are rapidly changing.

20. U.S. Department of State, "Background Note: Nicaragua."

21. UNICEF, "At a Glance: Nicaragua," <http://www.unicef.org/infobycountry/nicaragua.html?q=printme> (accessed December 5, 2008).

22. This is as a result of compensating private citizens for property expropriated during the revolutionary years.

23. Historically, the United States played a major role in providing aid to Nicaragua's dictators to maintain a strong army and hold power in favor of U.S. interests. This was initially done with thoughts of building a possible canal through Nicaragua in the 1800s, but other considerations fueled continued interest later.

24. Marike Van Gijssel, *Lucha por un Espacio* (Managua, Nicaragua: Fundación Xochiquetzal, 2003); Roger N. Lancaster, "Subject Honor and Object Shame: The Construction of Male Homosexuality and Stigma in Nicaragua," *Ethnology* 27, no. 2 (1988): 111–26; Roger N. Lancaster, *Life is Hard: Machismo, Danger, and the Intimacy of Power in Nicaragua* (Berkeley: University of California Press, 1992); Roger N. Lancaster, "That We Should All Turn Queer? Homosexual Stigma in the Making of Manhood and the Breaking of a Revolution in Nicaragua," in *Conceiving Sexuality: Approaches to Sex Research in a Postmodern World*, ed. Richard Parker and John Gagnon (New York: Routledge, 1995), 135–56.

25. Roger N. Lancaster, "Subject Honor," 111–26; Gert Hekma, "Gay Nicaragua: Gay Cultures in Managua," <http://www.globalgayz.com/g-Nicaragua.html> (accessed June 21, 2007).

26. Van Gijssel, *Lucha por un Espacio*, 38.

27. Lancaster, "Subject Honor," 111–26.

28. Ibid.

29. Hekma, "Gay Nicaragua."

30. The first groups of lesbians and gay men from the United States, such as the San Francisco-based Victoria Mercado Brigade, arrived in Nicaragua to do volunteer work and build cultural bridges in Managua in 1984, followed by San Francisco AIDS workers in 1987. Numerous other international groups have established ties with Nicaragua since then. Nicaraguan gays and lesbians who have come in contact with these visitors have learned about gay and lesbian movements around the world and have become involved in organizing efforts in Nicaragua.

31. The notable NGOs still active, all of which formed in the early 1990s, are Xochiquetzal (established in 1990 to focus on health and sexual education services, serving the gay and lesbian community), Nimehuatzin (established in 1990 to focus on AIDS prevention and briefly served as a center for gays and lesbians), and Puntos de Encuentro (established in 1991 to focus on social change from a feminist perspective, serving women and youth). The following groups and collectives no longer exist: Nosotras (established in 1992 as a collective serving the lesbian community), Shomos (established in 1989, a collective serving the gay and lesbian community), and Neconi (established in 1993, a collective serving LGBT community in general). These groups provided a voice and opportunities for LGBT organizing in the early 1990s.

32. A series of public events are planned yearly to protest, Puntos de Encuentro, *Campaña por una Sexualidad Libre de Prejuicios: Carta Informativa* (brochure available from Puntos de Encuentro, Apartado Postal RP-39, Managua, Nicaragua, 1992).

33. U.S. Central Intelligence Agency, *The World FactBook*. The definition of literacy includes being 15 years of age or older and able to read and write. In Nicaragua, 67.5 percent of the population fit this definition in 2003.

34. Colectivo del CENIDH, *Derechos Humanos en Nicaragua: 2006* (Managua, Nicaragua: Centro Nicaraguense de Derechos Humanos, 2007).

35. U.S. Library of Congress, "Library of Congress Country Studies: Nicaragua," <http://lcweb2.loc.gov/frd/cs/notic.html> (accessed April 5, 2008).

36. Encyclopaedia Britannica, "Nicaragua," in *Encyclopaedia Britannica* <http://search.eb.com/eb/article-40993> (accessed March 7, 2007).

37. According to the United Nations Human Development Index Report 2007–2008, Nicaragua ranks 110 out of a total of 177 nations, http://hdrstats.undp.org/countries/data_sheets/cty_ds_NIC.html.

38. At the expense of a major revolutionary war costing Nicaragua \$600 million in infrastructure alone, not to mention the destructive earthquake in 1972 that precipitated political unrest.

39. These pressures included the U.S. embargo and the U.S.-supported Contra War.

40. U.S. Department of State, "Background Note: Nicaragua."

41. Ibid. This included steady GDP growth (in 2006 and 2007, it averaged 3.7% and 3.8%, respectively), inflation reduction from 33,500 percent in 1988 to 9.45 percent in 2006, and dramatic foreign debt reduction.

42. Ibid. (accessed December 12, 2007).

43. Ibid. Currently, unemployment is officially estimated at five percent of the economically active population, but an estimated 60 percent of workers belong to the informal sector and are significantly underemployed.

44. Ibid. Although dramatically reduced through the Heavily Indebted Poor Countries Initiative (HIPC), the Multilateral Debt Reduction Initiative, and a \$1 billion commercial debt buyback led by the World Bank, by the end of 2007, Nicaragua's external debt as a percentage of GDP was 59.1 percent, down from more than 400 percent in 1990. Other statistical sources, however, present a bleaker picture.

45. Colectivo del CENIDH, *Derechos Humanos en Nicaragua*. This amounts to approximately \$1.2 billion.

46. HIV/AIDS programs have been severely underfunded or nonexistent under neo-liberal governments, affecting many in the LGBT community, particularly gay men and MSM, and, in more recent years, lesbians as well.

47. Daniel Ortega, FSLN revolutionary leader and former president during the revolutionary era, won the 2006 elections.

48. U.S. Central Intelligence Agency, *The World FactBook*.

49. William I. Robinson, "The New Right and the End of National Liberation," *NACLA Report on the Americas XXXVII 6* (2004): 15–20.

50. Such as the World Bank (WB), the International Monetary Fund (IMF), and the Inter-American Development Bank (IADB). Nicaragua has also received considerable assistance from the United States Agency for International Development (USAID).

51. Ironically, this alliance with political power has proven true even under the current Sandinista administration, as the Catholic Church has cooperated with it in exchange for support to further conservative causes, such as the elimination of therapeutic abortions.

52. Manuel Orozco, *International Norms and Mobilization of Democracy: Nicaragua in the World* (Aldershot, England: Ashgate, 2002).

53. For instance, organizations sponsoring from (and sponsored by) Spain such as: Cooperación LGBT, Fundación Triángulo, and Cooperación Extremeña. Mulabi (Espacio latinoamericano de sexualidades y derechos), an organization funded from Holland, is also cooperating with groups in Nicaragua.

54. Chuck Stewart, "United States," in *The Greenwood Encyclopedia of LGBT Issues Worldwide*, ed. Chuck Stewart (Westport, CT: Greenwood Press, in press).

55. In 2006, the Catholic Church, in an alliance with the Evangelical Church in Nicaragua, succeeded in pressuring the Nicaraguan National Assembly to repeal existing legislation allowing therapeutic abortions under extraordinary circumstances.

56. Orozco, *International Norms*.

57. This invisibility is due precisely to the rigidity of such expectations more so than the ability of bisexuals to be so.

58. U.S. Library of Congress. *Library of Congress Country Studies*, not as a result of a major decline in the percentage of married people, but as what has traditionally been characteristic of the Nicaraguan family structure; Babb, "Nicaragua," 335–60; "The Nicaraguan Family Structure in a Time of Transition," *Revista Envío 34* (1984): <http://www.envio.org.ni/articulo/3853>.

59. Interview with Harold Sandino, an openly gay political leader, Granada, Nicaragua, August 5, 2007.

60. U.S. Library of Congress, "Library of Congress Country Studies: Nicaragua."

61. Van Gijssel, *Lucha por un Espacio*, 13–14, 49–53.

62. *Ibid.*, 49–53, 61.

63. Some families show more loyalty to family kinship than to the church or state, thus they are more accepting of members, regardless of their sexual orientation or gender expression.

64. Babb, "Nicaragua," 335–60.

65. República de Nicaragua, *Constitución Política de la República de Nicaragua: Actualizada Enero 2006* (Managua, Nicaragua: HISPAMER, 2006).

66. Van Gijssel, *Lucha por un Espacio*, 51.

67. Van Gijssel, *Lucha por un Espacio*, 16–17; Florence E. Babb, "Out in Public: Gay and Lesbian Activism in Nicaragua," *NACLA Report on the Americas XXXVII 6* (2004): 27–30.

68. Interview with Silvia Martínez, activist leader and coordinator of the Red Trans de Nicaragua (Nicaraguan Trans Network), August 10, 2007.

69. Interview with Silvia Martínez, August 10, 2007.

70. Van Gijssel, *Lucha por un Espacio*, 40, 43–44.

71. U.S. Central Intelligence Agency, *The World FactBook*. Statistics vary widely with respect to health issues. According to CIA information about Nicaragua, the infant mortality

rate is 27.14 deaths per 1,000 births, and the life expectancy at birth is 70.92 years; Colectivo del CENIDH, *Derechos Humanos en Nicaragua*.

72. Ministerio de Salud (MINSa).

73. Colectivo del CENIDH, *Derechos Humanos en Nicaragua*; República de Nicaragua, *República de Nicaragua: Informe de Seguimiento de la Declaración de Compromiso Sobre el VIH/SIDA* (Managua, Nicaragua: República de Nicaragua, 2005); López Hurtado and Carlos Emilio, *La Salud: un Derecho Humano, Compromiso Urgente* (Managua, Nicaragua: OPS/OMS, 2007).

74. Colectivo del CENIDH, *Derechos Humanos en Nicaragua*, 79.

75. Hurtado and Emilio, *La Salud*, 49.

76. Colectivo del CENIDH, *Derechos Humanos en Nicaragua*, 79.

77. These are men who have sex with other men as well as with women, but who do not identify as homosexuals. Statistics are not available due to the stigma experienced by these men, but the number is presumably high in Nicaragua. Rita Aráuz, Pascual Ortells, Antonietta Morales, Marco A. Guevara, and Michele G. Shedlin, *Sexo Inseguro: Investigación Cualitativa Sobre Comportamiento Sexual de Alto Riesgo Respecto al SIDA en Nicaragua* (Managua, Nicaragua: Fundación Nimehuatzin, 1997).

78. República de Nicaragua, *República de Nicaragua: Informe de Seguimiento*, 13.

79. Epidemiology records of MINSa, Colectivo del CENIDH, *Derechos Humanos*, 79.

80. República de Nicaragua, *República de Nicaragua: Informe de Seguimiento*, 9–10.

81. República de Nicaragua, “Ley 238: Ley de Promoción, Protección y Defensa de los Derechos Humanos ante el SIDA y Reglamento de la Ley No. 238,” in *La GACETA Diario Oficial* (Managua, Viernes 6 de diciembre, 1996).

82. Compared to rural areas, the crowded neighborhoods of Managua offer little or no privacy to LGBT people, but can provide some degree of anonymity in larger public spaces, like the central *Plaza de la Revolución*, cinemas, streets, and the most populated bars. Barry D. Adam, “In Nicaragua: Homosexuality without a Gay World,” *Journal of Homosexuality* 24, nos. 3/4 (1993): 171–81.

83. Cymene Howe, “Re-Dressing a Gender Revolution: Drag and the Politics of Identity in Nicaragua,” *Limon News* 17, no. 2 (2000): http://lani.unm.edu/solas/noticias/lasnoticias-display?solas_id=64 (accessed June 19, 2007).

84. Historically, the Atlantic region was influenced by English Protestantism.

85. Erica Polakoff and Pierre La Ramée, “Grass-Roots Organizations,” in *Nicaragua Without Illusions: Regime Transition and Structural Adjustment in the 1990s*, ed. Thomas W. Walker (Wilmington, DE: SR Books, 1997), 185–201.

86. A major obstacle was eliminated, though not the characteristic rigidity of the Nicaraguan legal system.

87. Van Gijsel, *Lucha por un Espacio*, 36–37

88. *Ibid.*, 12.

89. *Ibid.*

90. Phillip J. Williams, *The Catholic Church and Politics in Nicaragua and Costa Rica* (Pittsburgh, PA: University of Pittsburgh Press, 1989). The development of a grassroots church in Nicaragua was not independent of changes advocated by the Catholic Church itself at the Vatican II Council (1963–1965) and the Conference of Latin American Bishops in Medellín, Colombia, in 1968, whose documents allowed for a more decentralized church and called for a greater role for the laity in forming a church of the people.

91. Edward L. Cleary, *Crisis and Change: the Church in Latin America Today* (Maryknoll, NY: Orbis Books, 1985).

92. Williams, *The Catholic Church*, 43; Ecclesial base communities (CEBs) formed the base for a grassroots church in Nicaragua.

93. *Ibid.*

94. U.S. Central Intelligence Agency. *The World FactBook*. According to the 1995 census, 72.9 percent were Roman Catholic, 16.7 percent were Protestant denominations, 1.9 percent other, and 8.5 percent none.

95. The Universal Fellowship of Metropolitan Community Churches (UFMCC) in the United States.

96. In 2006, the Catholic Church and Protestant churches joined forces to pressure the National Assembly to repeal therapeutic abortion legislation and it succeeded.

97. Most labels cannot be assigned an equivalent translation in English. Some may be primarily masculine and others primarily feminine, depending on (mal)intention and the gender and sexual identity assigned by society to the individual being labeled. Many labels display the feminine element *mari* (from the archetypal woman, Maria) combined with an element associated with the gender identity of the opposite sex, *macha* (from the archetypal man, macho). The following labels are used to refer to both women and men: *cochon(a)*, *maricon(a)*, *raro(a)*, and *loca*. The feminine ending *-a* indicates the possibility of applying the same term to either gender/sex. Others are exclusively used for women: *marimacha*, *machista*, *tractor*, *tortillera*. Yet, others are exclusively used for men: *cochonero*, *pato*, *mari-posa*. The term *lesbiana* and the English borrowing *gay* are almost exclusively used by the middle and upper classes. This variety indicates a diversity of attitudes toward the individual labeled and different degrees of rejection and hate.

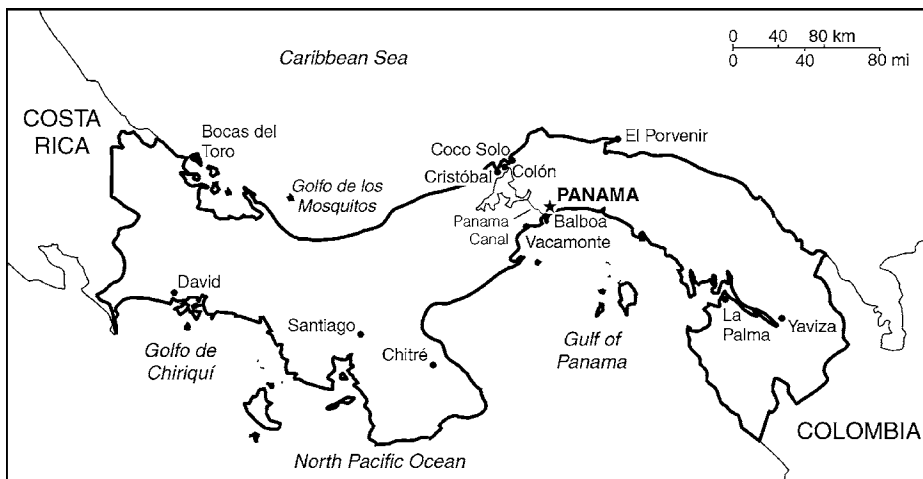
PANAMA

Eduardo Alfonso Caro Meléndez

OVERVIEW

Panamá is officially known as República de Panamá (the Republic of Panama). It is the southernmost country of Central America and connects North and South America. Panama is bordered by the Caribbean Sea to the north, the Pacific Ocean to the south, the Republic of Colombia to the east, and by Costa Rica to the west. Panama has 30,193 square miles of land and 853 square miles of territorial waters. It is divided into nine provinces, four indigenous communities, 74 districts, and 587 jurisdictions.¹

The Spaniard Rodrigo de Bastidas was the first *conquistador* to visit the Isthmus of Panama, in 1501; however, due to the poor condition of his ships, Bastidas suspended his expedition and returned to Spain. A year later, on October 10, 1502, during his fourth expedition, Cristóbal Colón arrived at the Atlantic coast of the isthmus. It was not until August 15, 1519, facing local fearless indigenous attacks, that Pedro Arias Dávila founded Panama City. With a great deal of indigenous opposition as well as other contributions, Panama City became the starting point not only for the exploration and conquest of Peru but also for the transit route for the



gold and other resources that were taken from the Americas to Spain. In 1671, Panama City was attacked by English pirate Henry Morgan's expedition with the intention of plundering it; however, Don Juan Pérez de Guzmán, aided by local citizens, impeded the attack. In 1821, Panama declared its independence from Spain and joined the Gran Colombia of Simón Bolívar. Later, in 1903, Panama declared its separation from Colombia, and Panama City became the capital of the new Panamanian nation.

During World War II, the construction of military bases and the arrival of a large number of American military personnel and civil workers brought new levels of business and prosperity to the city, to the point that, in the 1970s and 1980s, Panama City became one of the strongest banking centers of the world and one of the most powerful financial centers in Latin America. On December 20, 1989, in order to capture General Manuel Antonio Noriega, the U.S Army invaded Panama City. Noriega, the last dictator of Panama, was accused of drug trafficking by American courts. After several decades of sociopolitical conflicts, and with the intervention of the United States, a national referendum approved the reform of the Panamanian constitution, eliminating its army, in and, for the first time, initiating a political process involving transparent elections. In 1994, Ernesto Pérez Balladares was elected president. In 1999, Mireya Moscoso, the widow of ex-president Arnulfo Arias, won the elections, becoming the first woman to be elected president of Panama.

OVERVIEW OF LGBT ISSUES

As is the case throughout Latin America, LGBT citizens in Panama remain largely invisible in the political process and are targets of sociopolitical discrimination. There are no laws in Panama against homosexuality, that is, homosexuality is legal. However, in day-to-day social practice and in the different visible scenes of social life, LGBT persons are discriminated against. There are no laws that protect them, and, for instance, they are banned from serving in the police and armed forces.

As regards the AIDS problem in Panama, it appears that the first cases were identified in 1984. Since then, in general terms, there have been certain controls put in place to keep the epidemic low; however, the most vulnerable citizens continue to suffer the most. According to recent data, there were a total of 25,000 cases of AIDS in people aged 15 to 49; 59 percent of these cases were among adult males. It was estimated that, only in 1999, some 1,200 people died of AIDS in Panama. Out of these cases, 32.9 percent were detected among homosexual men and 50.3 percent were found in heterosexuals.² Regardless of the percentages, LGBT persons with AIDS are targets of discrimination in different forms and in different contexts.

The Panamanian National Constitution, in Article 19 under the section on individual and social rights and responsibilities, states that there will be neither privileges nor discrimination against anyone based on race, birth, social class, sex, religion, or political ideas. However, the situations LGBT citizens have to face and endure are but an example of the contradiction of this particular constitutional statement. Marriages between same-sex partners are not yet legal in Panama, though in June 2004 members of the organization *Asociación de Hombres y Mujeres Nuevos de Panamá* (Association of New Men and Women in Panama, or AHMNP) initiated a petition to present to the Legislative Assembly to legalize gay marriage and to fight for the rights of equal treatment. A resolution on this is yet to be seen.

According to AHMNP, as of 2004, there were some 300,000 homosexuals, lesbians, and bisexuals in Panama.

Given the sociopolitical situation of LGBT citizens in Panama and the still discriminatory and slow nature of government programs to benefit these individuals, psychology and reparatory programs for this community appear to be nonexistent. If they do exist, not everyone has access to them. That is, having access to certain services and programs is also an issue of socioeconomic status. Similarly, citizens who are openly LGBT are still seen as a threat to decency in the field of education; there still is discrimination in the different types of schooling in Panama. Thus, the voices of LGBT citizens are still unheard and their rights are not always recognized.

EDUCATION

The education system in Panama is made up of two subsystems: regular and nonregular. The former is organized into three levels: first level or basic education (preschool, primary education, and pre-middle school), which is free and compulsory and has duration of 11 years; the second level or middle school, which has a duration of six years for students between six and 11 years of age; and the third level or upper school that lasts three years for students between 12 and 14 years of age. Within all of these, there are programs for the indigenous population that seeks to prepare them and to develop their cultural perspectives and their life projects with dignity and equality.

Law 47 of 1946 establishes that education is a right and a responsibility of all human beings, regardless of their age, ethnicity, sex, religion, socioeconomic status, or sociopolitical ideas. Likewise, this law maintains that Panamanian education is based on fundamental, humanistic, civics, ethical, democratic, scientific, and technological principles on the idiosyncrasy of their communities and national culture. However, on the one hand going back some decades, public education continues to have its problems, mostly economic that, nonetheless, continue to affect the quality of education, yet at the same time, other private organizations seem to have better conditions and a more liberal curriculum. At any rate, openly LGBT citizens, just like in the workplace, are victims of discrimination and are stigmatized in educational settings at all levels.

EMPLOYMENT AND ECONOMICS

The official currency of Panama is the balboa, which corresponds to one American dollar. However, the Panamanian economy uses the American dollar for all sorts of transactions. The economic policies are based on the tertiary sector, which represents about the 63 percent of its national internal production. Because of its geographic location, Panama's economy is mostly serviced-based and heavily weighted towards banking, commerce, and tourism; however, there has been recent growth in the industrial and construction sectors. With the handover of the Panama Canal and American military installations, new construction projects continue to increase. The banking system is made up of 80 banks that are in charge of moving the economy in a nation that is, day by day, growing and becoming more competitive.³

In spite of the large revenues from the canal and tourism, it has been reported that Panama continues to have serious poverty issues, in fact, 95 percent of the

indigenous population lives in poverty. Likewise, income inequality is another problem, making it the one of the worst in the whole region, despite Panama's image as one of the wealthiest countries in Central America. Panama has the second-highest rate of unemployment in Central America (8.8%). Still, the percentage of population living in poverty is 27 percent. Nonetheless, it is estimated that the economy grew 8 percent in 2006. LGBT persons who are identified as such continue to suffer discrimination in the workplace. In order to secure a job, ones that are, for the most part, badly paid, LGBT citizens must remain hidden in the closet, otherwise they run the risk of being fired or discriminated against.

SOCIAL/GOVERNMENT PROGRAMS

In Panama, neither national nor urban government organizations provide funding for social programs specifically targeted at lesbians, gay men, transsexuals, or intersexed citizens. However, there are some social health programs—many of which are nongovernmental—designed specifically for AIDS and other sexually transmitted diseases, some of which have a strong component geared toward LGBT communities.

SEXUALITY/SEXUAL PRACTICES

The first cases of AIDS were known in Panama in 1984. Since then, the sexual scene in this Central American country has changed in many ways. As in the other Latin American countries, LGBT citizens were often seen as the main carriers of this disease, which worsened their sociopolitical situation and made them more frequent targets of discrimination and stereotyping. There certainly are a great number of contradictions about this topic. Even though there are spaces specifically for gay men and lesbians in different areas of Panama City (for example, at discotheques and bars), and in spite of the fact that LGBT people participate in certain cultural expression (like carnival celebrations), their sexuality is still perceived as abnormal and immoral by the Catholic and the dominant heterosexual society.

In regard to sexual practices and the issue of AIDS, the AHMNP conducted a study in 1997 in which 300 men were interviewed; all of them had some knowledge on AIDS; only 40 percent had been tested; 32 percent reported using condoms: 12 percent use them almost always, 8 percent almost never, and 48 percent never use them.⁴ In other words, there is a 56 percent unsafe sex rate in the country. As a result of this high rate, AHMNP (the biggest organization of its kind in the country) began a campaign of workshops on safe sex and the distribution of condoms in cities like Panama City and Colón. AHMNP was the group allowed to participate in the drafting and editing process associated with the *Ley de Salud Sexual y Reproductiva de la República de Panamá* (Law of Sexual and Reproductive Health of the Republic of Panama). In general, when it comes to sexuality and sexual practices, the most prevalent attitudes in Panama are of the “we don't talk about that,” “that is not to be done,” or “that is not to be touched” variety.

FAMILY

The family institution in Panama is still mostly male-centered; that is, men are the ones who rule. Women, in general, are considered dependent on men. Even

though women have gained certain rights and spaces, especially in the bigger cities, women are expected to stay home taking care of the household and the children, while men have a more independent lifestyle. Given the geographic location and the strong indigenous and African cultural identity associated with Panama, the family unit is often made up of a variety of ethnicities, including European and Asian immigrants. Certainly, there is a high rate of influence from the United States. In general, the idea of family in Panama is traditional: a husband (the active role, the *macho* who is expected to be stronger than the woman), a wife (the one with the passive role, physically and emotionally dependent on the husband), and the children. As a result of widespread homophobia, LGBT persons are not yet perceived as capable or worthy of organizing a family. Same-sex marriages, for instance, are neither socially nor legally accepted, and legal constitutional rights are still out of the question. Same-sex couples, for the most part, live in secrecy and are not looked upon favorably when it comes to adopting children to build families of their own.

COMMUNITY

The beginnings of the gay rights movement in the United States in the early 1950s affected Latin American countries in many ways. Since then, a number of groups and organizations in Latin America have come together to voice their concerns, to speak their minds, and to gain visibility. Because of the sociopolitical resistance of the heterosexual majority, this has been a slow process for the most part. However, some groups have been more liberal, proactive, and outspoken than others; therefore LGBT people have gained more space and visibility.

In the case of Panama, although it is strongly influenced by American culture, the national Catholic *macho* ideology, among other reasons, has played a negative central role in the recognition, visibility, and advancement of LGBT citizens to the point that it looks as though, currently, the only prominent alternative group is the AHMNP. The LGBT community in Panama is still invisible, although certain social spaces have been entered and negotiated. Besides what has been mentioned on the participation of gay cultures in the Panamanian Carnival, for instance, in 2008, a gay-lesbian international film event took place on the campus of University of Panama. Nonetheless, government or official funding for LGBT organizations has yet to be granted.

HEALTH

The Panamanian health system is organized around 14 regions. Like some other developing countries, Panama is presently undergoing a process of epidemiological transition characterized by the change in the features of illnesses. On one hand, infectious diseases tend to be minimized at the level of mortality, while on the other, chronic illnesses tend to increase. Illnesses that were supposed to be under control have come back, and even some new ones have emerged. The public health subsector is comprised of the Ministry of Health and the Social Security Office.

The main goal of the current government's health policies is to expand access to integral health programs and to improve the quality of services in order to reduce gaps in care. To achieve this, the Ministry of Health is seeking to advance

a new, decentralized model that emphasizes primary care. However, many of these plans and services, for different reasons, do not reach out to all of the communities that are in need of them, namely the indigenous, poor African-Panamanians, poor women in the countryside, poor families, and LGBT citizens. These communities are also hard to reach when it comes to offering and applying programs on sexually transmitted diseases, including AIDS. Because of their socioeconomic status, among other reasons, less privileged communities continue to face serious health problems.

POLITICS AND LAW

The Panamanian Constitution has established that legally recognized and accepted marriages may occur only between a man and a woman; LGBT citizens continue to be invisible in this regard. As a result of political activism, however, LGBT persons have gained certain spaces in Panama, yet they are not openly accepted in politics and are banned from holding political office. They cannot even be a part of the military system. The only organized LGBT group is the AHMNP, and it seems to be the group that fights the most for gay rights and for making sure that the Gay Pride events take place every June. There are certain places, like bars and discotheques, where LGBT persons can go; in addition, some LGBT publications circulate around the country, however there is no open recognition of LGBT persons' legal status and rights, which means that there is not really freedom of speech for them. This constitutes a form of sociopolitical violence beyond the physical violence of which they can so easily be targets.

RELIGION AND SPIRITUALITY

Although Roman Catholicism remains the largest denomination in the country (about 80%), in recent years there has been an introduction of increasing wide spectrum of religions as a result of the cultural diversity of the Panamanian nation. Some other groups include Evangelical Christians (about 15%); the remaining 5 percent is made up of Jews, Buddhists, Hindus, Jehovah's Witnesses, and Seventh Day Adventists.⁵ Even though LGBT persons can be as spiritual or religious as any other people, they are not openly accepted in many religious organizations. The Catholic Church, in particular, sees LGBT people as a threat to morality and Christian values. Many other priests and religious leaders outside the Catholic Church also prefer for LGBT parishioners to keep their sexual preferences and sexualities in the closet.

VIOLENCE

In spite of the current apparent economic and sociopolitical stability that Panama enjoys, different types of violence still take place in the country. Several studies have focused on physical and psychological violence against children, women, indigenous populations, and LGBT people. When it comes to violence, issues of socioeconomic status, race, age, gender, ethnicity, and sexual preference are still present as defining and influential factors. In other words, social and sexual minorities continue to suffer violations of their human rights. For instance, it has been reported that children and adolescents are victims of sexual assault, as are women

and LGBT people. The fact that this latter group is kept invisible in the margins with no legal rights is, indeed, another example of social violence. In a *macho* society like Panama, LGBT people continue to be stigmatized and targets of daily psychological and physical abusive.

OUTLOOK FOR THE 21ST CENTURY

Although LGBT people continue to fight for their legal rights throughout the Americas, they still have a long way to go in Panama. Homosexual acts are not illegal between consenting adults, but strong and widespread stereotyping, stigma, and discrimination against them, bisexuals, and transgendered individuals persists. These groups are, indeed, victims of all kinds of violence not only by society at large but by the police and state apparatuses as well. For this reason, many recognize that the Panamanian government needs to consider these sociopolitical inequalities, make positive changes in the constitution, and, most important, begin to institutionalize and practice social justice, equality, and real freedom of speech for all its citizens in order to promote fair principles for a society free of hate, in which everyone regardless of age, socioeconomic status, political affiliation, gender identity, or sexual preference can live in peace.

RESOURCE GUIDE

Suggested Reading

Andrew Reding, *Sexual Orientation and Human Rights in the Americas* (New York: World Policy Institute, 2003), www.worldpolicy.org.

Web Sites/Organizations

Asociación de Hombres y Mujeres Nuevos de Panamá (Association of New Men and Women in Panama), <http://www.ahmnpnpanama.org/>.

Defends the rights of LGBT persons and works on publications with themes of common interest to many men, and gay men in particular.

Ministerio de la Juventud, la Mujer, la Niñez y la Familia (Ministry of Youth, Women, Childhood, and the Family), Tel: (507) 279-1532.

NOTES

1. Central Intelligence Agency (CIA), "Panama," *The World Factbook*, <https://www.cia.gov/library/publications/the-world-factbook/geos/pm.html> (accessed November 23, 2007).

2. HIV Insite, "HIV/AIDS in Panama," <http://hivinsite.ucsf.edu/global?page=cr05-pm-00> (accessed June 17, 2008).

3. "Economy of Panama: The Economy Report," *The Panama Report*, <http://www.thepanamareport.com/panama-history/the-economy-of-panama-368-32.html> (accessed June 17, 2008).

4. UNAIDS, "Join the Fight Against Aids in Panama," http://data.unaids.org/publications/IRC-pub06/jc0844-partnershipmenu_panama_en.pdf (accessed June 17, 2008).

5. CIA, "Panama."

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PARAGUAY

Eduardo Alfonso Caro Meléndez

OVERVIEW

Paraguay is located in the center of South America and is one of the only two South American countries with no coastline (the other is Bolivia). Its official name is *República del Paraguay* (Republic of Paraguay), and its capital city is Asunción. Paraguay shares a national border with Argentina (to the south and southwest), Brazil (to the east), and Bolivia (to the northeast).

Paraguay has one of the most homogenous populations in Latin America. The Guarani language is understood by about 90 percent of the population. Most of the population is made up of *mestizos*, who are the descendants of *guaraníes*, indigenous peoples, and Europeans. The African presence is almost nonexistent. About 75 percent of the population speaks Spanish. A high percentage of the immigrants who have settled in Paraguay are from Germany, Japan, Korea, China, Brazil, and Argentina.

The population in Paraguay is unevenly distributed. Most of the people live in the eastern region of the country, towards Asunción, the capital and biggest city. The western region, known as *El Chaco*, contains about 60 percent of the land, but houses only to percent of the population. The country is predominantly Catholic, though the number of Protestant minorities has been growing since the 1990s. The most populated cities are Asunción (about 520,000), Ciudad del Este (about 220,000), San Lorenzo (about 202,000), Lambaré (120,000), and Fernando de la Mora (about 114,000). When the Spanish arrived in Paraguayan territory (the area between



the Parana River and Paraguay River), various indigenous ethnicities were already living there; they belonged to three main groups: *pámpidos*, *lágidos*, and *amazónidos*. The first Europeans arrived at the beginning of 16th century and founded Asunción on August 15, 1537.

The first Jesuits arrived in Paraguay under the government of Hernandarias in order to pacify, indoctrinate, and instruct the indigenous people already living there. As part of this plan, the aborigines were taught the principles of the Catholic religion, agriculture, and crafts. After many years of struggle, Paraguay declared its independence from Spain on May 14, 1811; it is said that this was the only victory in the history of independence movements of the American nations that did not involve bloody battles. However, one war that severely marked the history of Paraguay was the *Guerra de la Triple Alianza* (1865–1870), which led to many deaths (about half of the population at that time) and great destruction of the territory. Around 1870, Paraguay was a land of women, children, and disabled men. Due to territory disputes, the first half of the 20th century saw Paraguay involved in battles against Brazil and Argentina. In 1947, under the government of Higinio Morínigo, Paraguay was once again involved in a civil war that left about 30,000 dead. In 1954, the dictatorship of Alfredo Stroessner began a dark chapter in the recent political history of the country. Stroessner's regime lasted some 34 years, until 1989, when he was deposed. Paraguay returned to a steady democracy, with the Colorado Party (*Partido Colorado*) being the most visible member of the government. In spite of the country's newly established democracy, corruption and discrimination continue to be prominent social, economic, and political concerns.

OVERVIEW OF LGBT ISSUES

Historically, Paraguay has been a country where *machismo* (and the resulting rigid ideology of heterosexuality and straight culture) has been the norm. In this context, lesbians, gay, bisexuals, and transgendered citizens have been constructed as abject, abnormal, deviant, sick, a threat to straight moral values, and the like. In the whole sociohistorical panorama of Paraguay, LGBT people have been denied freedom of speech and have been kept in the margins. Nonetheless, national and international human rights activists have voiced their concerns in different ways, gaining some visibility and working towards raising social awareness and tolerance towards diversity, particularly sexual and gender identities.

AIDS continues to be a major social and health issue in Paraguay, not only in connection to LGBT citizens, but to all the society as well. The first case of AIDS in Paraguay was reported in 1985. Since then, there have been a good number of campaigns working to raise awareness and fight its spread through safe-sex education. However, the national government has failed to create and promote true massive social programs, not to mention programs designed specifically for LGBT citizens. Likewise, although concerns to fight discrimination and violence towards these individuals continue to be voiced in different ways, there is no constitutional antidiscrimination legislation yet. As a result, discrimination, physical, psychological, and social violence continue to be a common practice. Similarly, gay marriage is neither socially acceptable nor legally recognized. LGBT citizens also have to face discrimination and exclusion when the issue of the military is brought up. If a person with different sexual or gender identities or preferences comes out of the

closet while in the military, it is not surprising that they will be required to leave or go through a process called “negotiation,” thus being openly lesbian, gay, bisexual, or transgendered and being a part of the military institution is not yet an option in Paraguayan society and culture.

Many LGBT individuals must stay hidden in the sociopolitical closet in Paraguay. Since there are no visible organizations helping them and the process of recognition and legal acceptance and visibility of certain organization is still in its infancy, freedom of speech, integral health assistance, and psychological and/or reparative therapy are yet to be seen.

EDUCATION

According to the National Congress in Paraguay and based on the national constitution, all citizens have the right to an education free of any sort of discrimination. However, given the unfavorable social situation of LGBT citizens, in education, too, they are often subject to unfair practices. Just by analyzing the names and types of educational institutions in Paraguay (many, for the most part, associated with the Catholic Church and religious groups), one can easily see that tolerance towards diversity and pluralism, particularly in regard to sexual orientation or gender identity, is a major issue of concern. Indeed, LGBT students do not have any student organizations per se. They have to continue hiding their preferences and practices as they do not want to face discrimination, hatred, and the like.

EMPLOYMENT AND ECONOMICS

Paraguay’s domestic economy is based on agriculture. The formal economy grew about three percent between 1995 and 1997, but the GDP declined in 1998, 1999, and 2000. One of the biggest problems that the economy faces is the illegal trafficking of drugs. The corruption in the government and in the Paraguayan society at large, which is attributed to the Stroessner dictatorship, remains one of the main obstacles for national economic development. Indeed, Transparency International considers Paraguay to be the most corrupt country in South America.¹ Currently, the economy depends on small- and medium-sized businesses that employ about 68 percent of the working population.

About 50 percent of Paraguay’s population works in agriculture. Cattle ranching is found mainly in the region of Gran Chaco, in the west of the country. The main exports come from the agro-cattle activity: soybeans, meat, corn, and vegetable oil. Conversely, Paraguay imports machinery, electrical appliances, cars, and chemicals. The country also imports all of the oil that it consumes. In 2006, the exports totaled US\$1.9 million and imports US\$5.285 million.²

At present, there does not seem to be any research that focuses on discrimination against LGBT citizens in Paraguay. However, given the well-known discriminatory social practices against these individuals, given the number of reports on how LGBT people have to make their way through such a society, and given information from more informal news outlets, it can be said that LGBT persons are victims of discrimination in the workplace. In the workplace, those suspected or proved to be gay, lesbian, bisexual, or transgendered are subjected to being fired or discriminated against in many ways.³

SOCIAL/GOVERNMENT PROGRAMS

Currently, neither the national government nor local governments provide any sort of funding for social organizations or programs designed specifically to meet the health, work, and other needs of gay men, lesbians, bisexuals, or transgendered people. However, a few organizations are working on the AIDS issue and other sexually transmitted diseases that affect the whole population.

SEXUALITY/SEXUAL PRACTICES

Like any other Latin American country, Paraguay is a rather *macho*-centered society. For the most part, society has considered men to be the stronger sex and, therefore, the ones with the social power. Consequently, acceptable and expected sexual practices are those between male and female adults. Also, in theory, for the most part, sexual practices are considered legal and natural when they occur within the confines of heterosexual marriage. In such a strong Catholic-based society, anything contrary to this is often seen as unnatural, unacceptable, and illegal. Within heterosexual marriages, men continue to be constructed and expected to be the dominant authorities. Thus, women are generally seen and expected to be the ones who are emotionally and sexually dependent on men. Similarly, when it comes to financial sources, work independence, and active roles, it is the husband who is supposed to be the visible head, whereas the wife carries the more passive role in the household, staying home, doing the chores, and taking care of the children, especially in the more rural areas and small towns. Persons of the same gender cannot yet legally marry or can they adopt children to form a family. Homosexual sex is not illegal per se.

FAMILY

The Paraguayan constitution, in Articles 50, 51, and 52, clearly states that formation of a family is the responsibility of a man and a woman, and, as such, the state will, theoretically speaking, grant *all* social rights and benefits. The idea of a family is centered on Catholic principles, given that Catholicism is the most dominant religious ideology and practice in Paraguay. In regard to ethnicity and cultural backgrounds, families in Paraguay come in different forms as result of the high rate of immigration from other South American countries (such as Brazil, Uruguay, and Argentina), Europe, and the Asian countries. However, there is a strong presence of *mestizos* (biracial) and indigenous peoples. A typical immediate or nuclear family consists of the father, the mother, and two or more children. As is the case in all Latin American countries, the idea and presence of the extended family is also important in Paraguay.

COMMUNITY

The gay movement, as well as the promotion of human rights in the United States, in Europe, and in some other Latin American countries, continues to affect countries and regions of the world where this issue has been largely taboo for so many years. In Paraguay, a very *macho* society, LGBT citizens and organizations have gained more visibility than ever in the last 15 years. Although, as with some

other Latin American countries, many LGBT individuals continue to emigrate because of threats, some human rights organizations and LGBT organizations continue to voice their concern and continue to fight for more respect and tolerance. Two of these organizations are Aireana, a group that fights for the rights for lesbians, and the *Grupo de Acción Gay-Lésbico* (Group of Lesbian-Gay Action). The radio program *Dios los Cria* (God Raises Them) began airing rather recently; it is the first radio broadcast to focus on gay-lesbian themes. All of these organizations, although actively involved in their cause, face difficulties given the widespread homophobia present in the country.

HEALTH

The public health system is fragmented, although it has a central structure. The national Law of Health, created in 1996, operates on three levels: national, departmental, and municipal, all of which are dependent on the National Ministry of Health. There are, for this reason, many discrepancies between the real needs of the people and the decisions or proposals from the Ministry. The health service does not offer universal health care coverage. AIDS continues to be a major problem that affects the whole population, and particularly LGBT citizens. The first case of AIDS in Paraguay was found in 1985, and since then there have been about 4,500 cases, of which some 1,300 correspond to people suffering of AIDS, and some other 3,200 are infected with HIV.⁴ The public health system is insufficient and does not really provide what it is supposed to provide the community; furthermore, the Ministry does not offer any specific services for LGBT citizens who are suffering from HIV/AIDS.

POLITICS AND LAW

In Paraguay, because of the widespread stigma and negative attitudes towards them, LGBT persons participating in the government sphere continue to be hidden in the closet. In many instances, these people discriminate openly against other LGBT citizens just to remain unnoticed or unseen, which, given their political position and power, helps to promote and maintain discrimination against these social groups. Although homosexuality among consensual individuals is not supposed to be illegal in Paraguay, being homosexual, lesbian, bisexual, or transgendered still carries a great deal of stigma, prejudice, intolerance, and discrimination in all spheres of society. In real social practice, LGBT persons are easy targets of different sorts of violence by the hegemonic straight society. Same-sex marriages, remain illegal, and there does not seem to be any indication that the practice will be legalized in the near future. LGBT citizens are not allowed in the military or to be leaders of state religious groups or organizations or any government-sponsored institution. In this climate, being openly homosexual, lesbian, bisexual, or transgendered is thought of as being against decency and moral values and a threat to Christian, heterosexual principles.

RELIGION AND SPIRITUALITY

The most predominant religion in Paraguay is Roman Catholicism, mostly as a result of the evangelization of indigenous peoples by missionaries during the

16th, 17th, and early 18th centuries. However, there are at present some minority religious groups active in the country, identified mostly as Protestants and Jews. The 1967 constitution guarantees freedom of religion; yet, at the same time, it stresses the unique role that Catholicism plays in national life and social identity. Indeed, throughout the sociopolitical history of Paraguay, the Catholic Church and the government have been in an inseparable, twofold association. Certainly, in Paraguay many lesbians, gays, and bisexuals can be very spiritual; however, contrary to what is stated in the constitution, and given the many antigay sentiments and practices found in many religions, including Catholicism, LGBT persons have had to fight back, seek other religious alternatives, or abandon their religion completely.

VIOLENCE

The national constitution in Paraguay, in Articles 4, 5, and 6, clearly states that all persons, even before birth, will be protected by the state. Also, according to this document no one shall be mistreated or the victim of discrimination, torture, or violence. However, throughout its history, Paraguay has seen some of the most violent battles or wars in Latin America, one of which took place during the period between 1865–1870 when the *Guerra de la Triple Alianza* (The War of Three Alliances) took place and devastated Paraguay to the point of killing most of its men.

Similarly and more recently, there continues to be sociopolitical violence against *campesinos* (peasants), indigenous peoples and communities, women, children, senior citizens, disabled people, and LGBT citizens. Also, social activists and leaders continue to be targets of many forms of violence. This is contrary to constitutional principles; there is no freedom of speech, and the state does not seem to care about social inequalities and unfairness.

OUTLOOK FOR THE 21ST CENTURY

Paraguay has been plagued by many years of sociopolitical violence that continues to be expressed in many forms and applied to the same social groups that have been kept in the peripheries for centuries. Some citizens, such as LGBT persons, continue to be invisible and unheard, although they continue to clamor for respect, tolerance, acceptance, and social justice. It is expected that, in the future, the Paraguayan constitution and government apparatuses will begin to work towards more truly equal civil and legal rights in all senses for children, women, senior citizens, peasants, aborigine cultures, disabled people, and LGBT individuals. Only in this way, with true visibility, respect, tolerance, acceptance, and social justice, will Paraguayans, regardless of age, sex, gender, political ideology, and the like, be able to live in a safer and fairer society with equal opportunities for all and not just for a small, privileged minority.

RESOURCE GUIDE

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Grupo Aireana, “‘De invisibles a sujetas de derechos,’ Informe sobre DDHH de lesbianas en Paraguay 2006,” <http://www.codehupy.org.py>.

Mark Ungar, "Lesbian, Gay, Bisexual, and Transgender International Alliances: The Perils of Success," in *Forging Radical Alliances across Difference: Coalition Politics for the New Milenium*, ed. Jill M. Bystydzienski and Steven Schacht (Latham, MD: Rowman and Littlefield Publishers, 2001), 235–48.

Web Sites/Organizations

Aireana, e-mail: lsb@highway.com.py and aireanaparaguay@hotmail.com.

Group that fights for rights, particularly for lesbians.

Centro Paraguayo de Estudios de Población (Paraguayan Center of Population Studies), cepep@cepep.org.py.

One of the group's aims is to work on women's reproductive and sex-related issues.

Grupo de Accion Gay-Lesbico Paraguay (Group of Gay-Lesbian Action Paraguay), Telefax: 208 168 (0981) 98 40 24.

Paraguay: Unión e igualdad, <http://www.paraguay.org/nosotros.htm>.

Contains information on human rights and LGBT people in Paraguay, focusing on gay men and lesbians.

ParaGay, Telefax (9595–21) 232–8201

Focuses on the lives and needs of gay people.

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TRINIDAD AND TOBAGO

Jen Westmoreland Bouchard

OVERVIEW

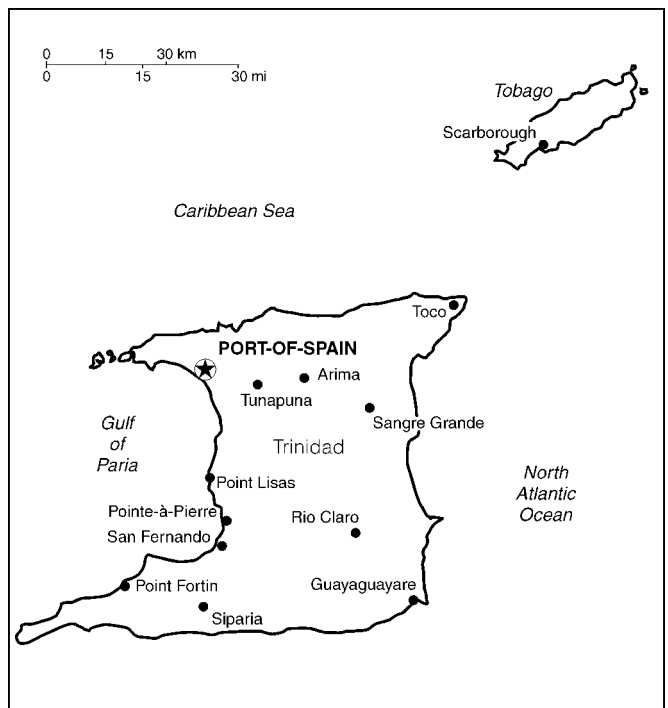
The nation known as Trinidad and Tobago consists of two separate islands located 23 miles apart in the Caribbean Ocean. The Spanish originally colonized these islands in 1498 before falling under British control in the early 19th century. Trinidad and Tobago gained independence in 1962. The islands' main exports have historically been sugar cane, cocoa, and oil. Thanks to the large amounts of petroleum and natural gas production on both islands, the country is one of the richest in the Caribbean.¹

The estimated 2007 population of both islands was 1,056,608. The population breakdown is as follows: Citizens aged 14 and under account for 19.5 percent of the population, with 105,994 males and 100,156 females, citizens 15 to 64 years of age make up 71.6 percent of the population, with 397,699 males and 358,755 females, and those 65 and older make up 8.9 percent of the population, with 42,039 males and 51,965 females.²

OVERVIEW OF LGBT ISSUES

On the whole, human sexuality is not discussed publicly in Trinidadian circles. The country's youth are never taught about sex in school. On the rare occasion that sexuality is addressed in a public or educational forum, heterosexual reproduction is the sole focus.

As a result of this conservative attitude toward sexuality in general, Trinidadian gays rarely have an accurate understanding of what it means (sexually, socially, and psychologically)



to be gay. Moreover, most never explore their homosexual feelings for fear of social rejection.

Socially speaking, as long as an individual is not open about his or her sexual orientation, most Trinidadian society will ignore what they consider to be outside the sexual norm (that is, anything not related to heterosexuality). However, the pressure to conform to a heterosexual lifestyle is constant. Anyone with same-sex preferences is condemned as a sexual deviant and, in some cases, a sinner.³

Trinidadian gays live the lives of second-class citizens. Many gays hope that their homosexual inclinations are only temporary, so they marry and hope that these feelings will shift as soon as they enter into a heteronormative lifestyle.

EDUCATION

There are few educational resources for gays in Trinidad and Tobago. Most of their information comes from the Internet or from other gays who are living in secrecy. In a country that barely offers AIDS education programs, one would not expect much more in terms of awareness and tolerance programs.

EMPLOYMENT AND ECONOMICS

Those who are suspected of being gay are regularly discriminated against in the workforce. If they are hired, many gays are targeted and victimized on the job. Since this type of discrimination is so ingrained in Trinidadian society, there is virtually no legal recourse for individuals who find themselves in discriminatory positions. To avoid these experiences, most homosexuals go to great lengths to hide their sexual identities from their co-workers and their employers.

SOCIAL/GOVERNMENT PROGRAMS

HIV focus groups have been organized by nongovernmental organizations to educate both homosexuals and heterosexuals about the dangers of HIV and AIDS. However, the government does not do much in the way of following up on these infrequent sessions. Extreme homophobia and a reluctance to appear sympathetic toward homosexuality have prevented the national AIDS program from disseminating HIV/AIDS prevention information within the gay community.⁴

SEXUALITY/SEXUAL PRACTICES

Since Trinidadian laws regarding sexuality and social mores are inherently anti-homosexual, the majority of the gay population is closeted. Many gay Trinidadians marry to hide their sexuality and subsequently engage in homosexual relations “on the side.”⁵

FAMILY

Homophobia is so pervasive in Trinidadian society that openness and honesty about one’s homosexuality can lead to being rejected from the family and being forced to leave one’s home. In a society where most unmarried young people live with their parents, homosexual behavior brings shame to the entire household. Many members of the gay community have been threatened by their own families.

COMMUNITY

Because homosexuality is illegal in Trinidad and Tobago, homosexuals must be secretive about their public interactions. However, even though the gay scene is not publicly visible, it is definitely still present. Some of the most popular gay clubs are in the city of Port of Spain, the nation's capital. They host parties during which gays are welcome to socialize in a safe environment. According to some Trinidadian gays, the underground homosexual scene in Trinidad and Tobago is larger than that of any other nearby country except Puerto Rico.

During Carnival, which occurs once a year in the days preceding Lent, many Trinidadians drink heavily and revel through the night. During the festival, sexual norms are eschewed and the community seems to be open to the novelty of homosexuality. However, as soon as Carnival ends, the intolerance for homosexuality returns.

One recent event of note was Elton John's highly publicized concert at the Plymouth Jazz Festival in Tobago in 2007. Despite opposition to the concert voiced by a group of fundamentalist Christian leaders based in Tobago, the gay musician was allowed to play. Most citizens of Trinidad and Tobago found the fundamentalist, antigay platform regarding the concert to be ridiculous.

HEALTH

The first cases of AIDS were diagnosed in Trinidad in 1983. Since that time, the epidemic has spread at an alarming rate. Perhaps even more worrisome is the attitude surrounding HIV/AIDS in Trinidad and Tobago. Usually, the idea of publicly admitting that one has HIV/AIDS is more frightening for victims than the actual disease. Families of those who die of AIDS often construct stories stating alternate forms of death (such as heart failure, lung problems, etc.). The shame of having a family member with HIV/AIDS is too much for many families to bear.

There is relatively little information on HIV/AIDS available to homosexuals. Most information available to them regarding HIV/AIDS is transmitted via word of mouth, the local HIV clinic, or the National AIDS Hotline. Instead of turning to these resources, however, many homosexuals who are HIV-positive choose to hide their illness and, in some cases, ignore it. If a gay Trinidadian does actually go to the clinic, he may refuse to give his true identity. Homosexuals who call the National AIDS Hotline often follow a similar pattern. They ask questions "for a friend," instead of being honest about their lifestyles and health concerns.

Those who are ill and dying from AIDS tend to live in anonymity. Society on the whole knows that AIDS exists, but prefers not to acknowledge those who have it. When a member of the middle or upper class dies from AIDS, friends and family are told that they died from a more acceptable disease. If an "out" homosexual dies of AIDS, he is quickly buried and barely given a funeral.⁶

POLITICS AND LAW

Not only is homosexuality illegal in Trinidad and Tobago, gay tourists from other countries are also unwelcome. The laws against homosexuality in Trinidad and Tobago were enacted under the rule of Britain's Queen Victoria, and the current government consistently refuses to repeal these outdated laws. However, the

laws are rarely officially enforced. Article 8 of the Trinidad and Tobago Immigration Act states that homosexuals are forbidden to enter the country.⁷

Section 13 of the Sexual Offenses Act outlaws “buggery” and provides a penalty of imprisonment for up to 18 years if both parties are adults, and up to five years if a minor is penetrating an adult. Section 16 of the Sexual Offenses Act (which addresses “serious indecency”) furnishes a penalty of up to 20 years in prison for the somewhat general category of “homosexual acts” between two adults. Though the government does not specifically arrest individuals based on these laws, some have been charged with “buggery” in conjunction with arrests for other crimes.⁸

RELIGION AND SPIRITUALITY

Most Trinidadians practice Christianity, Hinduism, indigenous religions (including voodoo), or a mixture of one or more of these. The statistics on religion are as follows: 26 percent are Roman Catholic, 22.5 percent Hindu, 7.8 percent Anglican, 7.2 percent Baptist, 6.8 percent Pentecostal, 5.8 percent Muslim, 4 percent Seventh Day Adventist, 5.8 percent other Christian, 10.8 percent voodoo and similar religions, 1.4 percent unspecified, and 1.9 percent none.⁹ Frequently, members of the aforementioned religions approach LGBT people on the street and ask if they believe in God. The expected answer is typically “no,” since in the minds of the “believers” asking the question, no “true believer” could practice homosexuality.

Regardless of the answer, an immediate effort is launched to “save” the victim of homosexuality. During this salvation effort, the Bible is quoted, religious literature and prayers are thrust upon the individual, and he or she is encouraged to attend religious ceremonies and support groups. These attempts at conversion are so intense and frequent that many homosexuals finally give in to the religious pressures and attend church. The two main factors behind these conversions are the fear of ostracism from peers and the spiritual threat of eternal damnation.¹⁰

VIOLENCE

Due to the fact that homosexuals are openly discriminated against in Trinidadian society, acts of violence against them are frequent and often go unreported. This type of violence is tacitly condoned, and perpetrators face mild forms of punishment, if any. A social organization called The Trinidad and Tobago Anti-Violence Project has carried out many campaigns on the local level to eradicate discriminatory violence. Their most recent efforts have included protesting against songs that include antihomosexual lyrics, calling for a ban on this music in nightclubs throughout the Caribbean.¹¹

OUTLOOK FOR THE 21ST CENTURY

Given that antihomosexual sentiments are so deeply ingrained in the Trinidadian psyche, the future looks bleak for gay rights in Trinidad and Tobago. Both Christianity and Hinduism, two major world religions that feature groups that continue to call for the conversion of gays to a heterosexual lifestyle, inform this pervasive cultural attitude.¹² In addition, the current government’s reluctance to do away with antiquated laws regarding homosexuality further reinforces this mentality.

These sociopolitical conditions, along with the Trinidadian government's refusal to acknowledge or improve the HIV/AIDS situation on the island, does not bode well for homosexuals living in this region as it progresses into the 21st century.

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- Godfrey Sealey, "HIV and AIDS: The Global Interconnection: We are our own Worst Enemies," UNDP, <http://www.undp.org/hiv/>.
- Gloria Wekker, "One Finger Does not Drink Okra Soup: Afro-Surinamese Women and Critical Agency," in *Feminist Genealogies, Colonial Legacies, Democratic Futures*, ed. M. Jacqui Alexander and Chandra Talpade Mohanty (New York: Routledge, 1997).

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International Gay and Lesbian Human Rights Commission, <http://www.iglhrc.org>.

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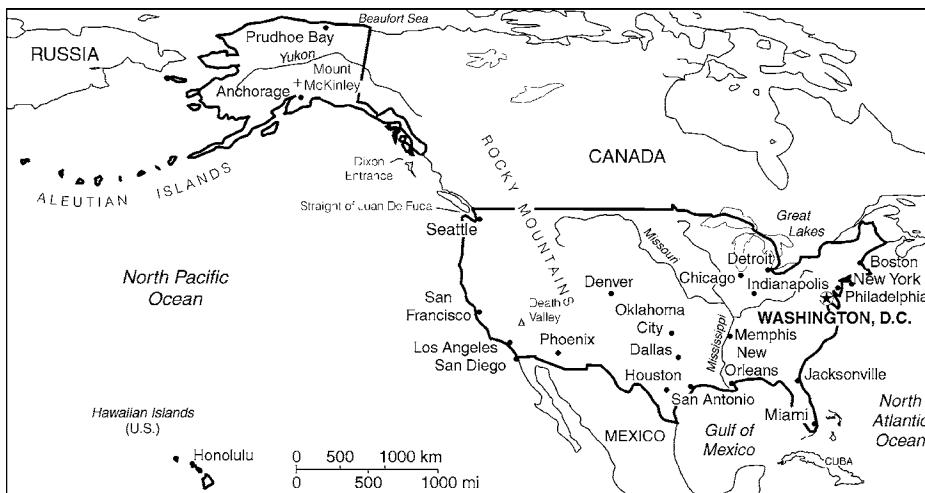
UNITED STATES

Chuck Stewart

OVERVIEW

After China and India, the United States of America is the world's third-largest nation by population; in geographical land area, it is about the same size as China. Only Russia and Canada are larger in land size. The United States stretches almost 3,000 miles from the Atlantic Ocean to the Pacific Ocean and is bordered by Canada to the north and Mexico to the south. This enormous landmass encompasses a wide range of ecosystems and climates.

The first humans to occupy the Western Hemisphere came from northeast Asia in a series of migrations across the Bering Strait and present-day Alaska. These indigenous American Indians (also known as Native Americans or People of the First Nations) controlled all the lands of the Americas for tens of thousands of years. They had prosperous societies with some of the world's largest cities until 1492, when they were devastated by diseases and warfare inflicted upon them by the Spanish and other European imperial powers. With entire indigenous cultures being wiped out, and other native peoples suffering depopulation rates in excess of 90 percent, the Europeans expanded their populations rapidly over the next



400 years. Most of the Europeans came as voluntary immigrants, but they captured millions of Africans and brought them unwillingly to the Americas as a slave labor force. Large numbers of immigrants later came to the United States from Asia and Latin America, in the 20th century. The result is that the United States today is a multiethnic nation of immigrants with a diverse population from all over the world. The mixture of peoples has not been peaceable, and, for much of U.S. history, Americans have been legally segregated by race and national origin.

Many African Americans, Asian Americans, and Hispanics have resisted unequal treatment enforced through segregation. In the 1950s and early 1960s, and with the overturn of the “separate but equal” doctrine by the U.S. Supreme Court in *Brown v. Board of Education*, legislators crafted and passed the 1964 Civil Rights Act. It enforced the Fourteenth Amendment, requiring all states and the federal government to protect the rights of all people with regards to due process and equal protection under the law. Many of the concepts promoted through the Civil Rights Act would later be used to secure the rights of LGBT people and protections based on sexual orientation and gender.

Approximately three-fourths of Americans identify themselves as Christians.¹ The predominance of conservative Christians has had a significant impact on the national debate over LGBT rights, and particularly over same-sex marriage. Conservative Christian organizations have been at the forefront of blocking LGBT rights.

The United States has become the world’s superpower both economically and militarily. It is estimated that the U.S. economy constitutes 20 percent (about \$13 trillion) of the world’s gross world product and is the world’s largest importer and second-largest exporter of goods.² Its robust economy helps support the world’s largest military. In 2006, the U.S. military spent over \$528 billion, which represents 46 percent of all military spending in the world.³ This level of spending exceeds the national military spending by the next 14 largest militaries combined. The United States has more than 770 bases and facilities in virtually every country in the world. With this economic and military might, the United States has a significant influence on policy decisions made by other countries.

OVERVIEW OF LGBT ISSUES

The early 21st century has often seen gay and lesbian issues at the forefront of public discourse in the United States. Whether it is gay marriage, gays in the military, “defense of marriage” legislation, or “reparative” therapies, LGBT concerns and the topic of homosexuality have played a crucial role in national and local politics, sometimes even influencing the outcome of presidential elections.

In the United States, AIDS continues to be a growing public health crisis. In the early 1980s, AIDS was limited mostly to gay males. Now, it has spread to women and racial and ethnic minorities. It is estimated that more than half of all new infections occur in African Americans.⁴ This is a concern because African Americans represent a small percentage of the overall population and health services for underrepresented minorities are often lacking. Further, the use of drug cocktails in the treatment of AIDS has given many young people the impression that AIDS is nothing more than a small nuisance and manageable, like diabetes. Of concern to public health officials, safe-sex programs seem to have begun to lose their effectiveness.

It is legal to discriminate against LGBT people in much of the United States. There are no federal-level antidiscrimination statutes forbidding discrimination against LGBT people with regard to employment, housing, or family relationships. Many states, cities, and local governments have implemented their own antidiscrimination statutes protecting a limited range of rights. As such, the United States is a patchwork of communities of legal safety interspersed with other communities that are dangerous for LGBT people. Hate crimes are a continuing problem against people perceived not to be heterosexual.

The advances made for the rights of people of the same gender to marry have lead to one of the most contentious political battles in the United States. As of 2009, only the states of Massachusetts, Connecticut, and Iowa allow full marriage rights for LGBT people. Soon the states of Main and New Hampshire will also allow same-sex marriages. A few other states have civil union or domestic partnership provisions that give some of the rights of marriage, but do not use the word "marriage." Backlash from religious and political conservatives has resulted in many states and the federal government passing antigay marriage laws (known as DOMA, Defense of Marriage Acts) in which marriage is defined as the union of one man and one woman and, further, allows states to refuse to recognize same-sex marriages performed in other states. The prospects of gay marriage will continue to dominate U.S. politics as the antigay stance has proven to be a major source of fund-raising for Republicans and other conservative politicians.

During President Bill Clinton's first term of office (1993–1996), he initially called for lifting the ban on homosexuals serving in the military, but after much public outcry by religious and conservative politicians and leaders, he abandoned this effort. A compromise was reached, and the policy of "Don't Ask, Don't Tell" was adopted in 1993. Instead of reducing the antigay witch hunts conducted by the military against lesbian and gay service personnel, the number of investigations and discharges increased significantly. The issue had died in the media by the late 1990s but was resurrected when Democrats gained majority control of Congress in 2006. The issue of gays in the military has again become a hot topic with the inauguration of President Obama.

Homosexuality was initially deemed a mental illness within the field of psychology. In 1973, the American Psychological Association reclassified homosexuality and removed it from its *Diagnostic and Statistical Manual* (DSM) as a mental disorder. Currently, anyone who is licensed in the United States to provide psychological counseling or treatment must approach lesbian and gay clients and the topic of homosexuality as being equal to and as valid as heterosexuality. In contrast, the religious right has taken a strong position against homosexuality and often provides spiritual counseling to help lesbians and gay men to become heterosexual through reparative treatment. It is expected that the topic of reparative treatment will continue to be controversial and in the public eye.

There have been and always will be homosexual students and teachers in schools. Great inroads were made in protecting the rights of lesbian and gay students in public schools in the United States through application of the Equal Access statute in 1984. It required all schools receiving federal educational funds to give access to all groups equally. Although this legislation was promoted by Christian groups wanting access to public schools to conduct Bible studies during lunchtimes and after school, it had the unintended consequence of also requiring schools to allow lesbian and gay groups to hold meetings on school grounds. The Gay, Lesbian,

Straight Education Network (GLSEN) has given guidance to many students regarding the formation of their own GLSEN chapters in public schools, often amid an outcry from conservatives. The battle between those who want schools to provide open and safe environments for all students, including lesbian and gay students, and those who want to turn schools into religious centers will continue into the future.

The final area for which continued controversy is expected in the United States concerns speech and association issues related to LGBT people. There are three issues to which this applies: access to the Internet, being open about one's sexual orientation, and the use of the legal argument that religious freedom allows for discrimination against LGBT people.

EDUCATION

The U.S. federal government provides very little funding (less than 10% of the total budget of all school districts) or guidance for public education. Instead, public education is mostly a state function that establishes and funds local kindergarten-12th grade school districts and public colleges and universities. As such, there is great diversity in access, funding, and programs in schools across the nation.

The federal government mostly provides funding for specific programs, such as the Elementary and Secondary Education Act (ESEA) Title 1 program designed to give additional funding to schools with large numbers of economically disadvantaged students, and the Individuals with Disabilities Education Act (IDEA) Part B, which targets children with disabilities.

However, the federal government has passed legislation related to civil rights that are applied to all public schools. Christian groups pressed Congress in the early 1980s to allow Bible study groups to meet during lunchtimes and after school in public schools. Because of the separation of church and state that is a cornerstone of U.S. policy and belief, schools were in a quandary and inconsistent in making decisions about which groups could meet on campus. Congress passed the Equal Access Act (ESA) in 1984 to clarify that all extracurricular groups had the right to meet on campus without preference. There was a rush by Christian groups to petition their schools for the right to meet. However, a few gay and lesbian groups also petitioned their local schools for this same right. Skirmishes occurred across the nation in many school districts. Attempts were made to classify gay and lesbian groups as not being related to the curriculum and, as such, not covered under the ESA. The courts ruled in favor of the LGBT student groups to the displeasure of the Christian groups. In some cases, schools canceled all extracurricular activities rather than allow gay students to meet.

The organization at the forefront for securing safe schools for LGBT students is the Gay, Lesbian, Straight Education Network (GLSEN). It has grown substantially since the late 1990s and early 2000s, and has chapters in many states. GLSEN has worked with legislators to sponsor anti-bullying bills at both the state and federal level. GLSEN believes schools should be safe for all students and that bullying of all kinds needs to stop.

Another tool used to create a safe environment in schools is the Title IX Education Amendment. It is a short, 37-word law passed in 1972 that states that "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any

education program or activity receiving Federal financial assistance.”⁵ The law has had far-reaching effects, including normalizing the expenditures in athletics for programs for both boys and girls.

The application of Title IX was clarified in 1997 to apply in sexual harassment cases—including those against LGBT students. This came about after a number of notable court rulings related to gay student harassment. One case in particular, *Nabozny v. Podlesny*, clearly showed the responsibility schools have for protecting gay students from sexual harassment. Here, Jamie Nabozny, a male Wisconsin high school student, was mock raped in his classroom by two students in front of 20 other students, urinated upon in the bathroom, and kicked so badly that he required surgery to stop his internal bleeding. The school administrators told him that he “had to expect that kind of stuff” and refused to apprehend or punish the perpetrators. Nabozny changed schools, graduated with an equivalency certificate, and filed suit against his old school. A jury found that the Wisconsin school officials had violated his rights under the Fourteenth Amendment’s Equal Protection Clause and the school district was forced to pay almost \$1 million in damages. Sexual harassment, whether against heterosexual or homosexual students, would not be tolerated under Title IX.

Schools can be a dangerous place for many students. It is estimated that a child will hear 25 antigay remarks every day in his or her public school and that, when these comments are made in front of teachers, 97 percent of those teachers will make no effort to stop them.⁶ The consequences of ESA and Title IX are only now filtering down to every school in every school district in the United States. Some states and school districts are crafting their own anti-bullying policies to clarify that bullying of any kind will not be tolerated on school campuses. This will benefit LGBT students.

EMPLOYMENT AND ECONOMICS

The United States has the largest economy in the world. It is a mixture of private capitalism, government programs, and social economic policies. Although the private sector represents almost 88 percent of the total economy, the U.S. government is country’s the single largest employer.

Private employers have nearly absolute control over hiring and firing of employees, as established in the doctrine of “employment at will.”⁷ Slowly, this absolute control is being modified by federal and state policies designed to reduce discrimination. The Civil Rights Act of 1964, the Americans with Disability Act, and subsequent acts have established categories (race, color, religion, sex, national origin, and disability) of people for which fairness must be ensured while making employment decisions to hire or fire. Many states and local governments have implemented their own, more stringent, civil rights laws to include more categories.

Sometimes states and local governments have given sexual orientation protected status during employment decisions. In states and cities that have no antidiscrimination statutes based on sexual orientation, LGBT employees can, and are, fired at will or discriminated against during the hiring process. Similarly, in states without antidiscrimination statutes, often LGBT people are precluded because of their sexual orientation from receiving certificates required for their profession. As such, they are prevented from working in their chosen profession by state mandate.

As early as 1973, the federal government issued a bulletin to the U.S. Civil Service Commission specifying that employment could not be denied to lesbians and gay men solely based on their sexual orientation. This was reinforced in the 1978 Civil Service Reform Act, and again by President Clinton in 1998 by executive order. However, not all federal employment was covered. Jobs in the military, or those that involve security or intelligence, may exclude workers based on sexual orientation. This has come about through the long-held belief that homosexuals pose a security risk (although research has shown this is not true).⁸ The FBI, CIA, and a few other intelligence agencies no longer discriminate against lesbian and gay employees, and it has not affected their ability to handle sensitive intelligence.

All branches of the U.S. military discriminate against homosexuals. This is in direct contrast to all other militaries participating in the NATO alliance. Without exception, each country accepts lesbians and gay personnel into service. Even Great Britain, which lifted its ban on homosexuals serving in the military in 2000, reported no difficulties with integrating them into their service. However, in the United States, the presence of homosexuals in the military remains a controversial topic. When President Clinton attempted to lift the ban on gays in the military in 1993, he instead met with intense political pressure and implemented the “Don’t Ask, Don’t Tell” policy. Under this policy, homosexuals were supposed to be allowed to serve as long as they were not found out (i.e., they stayed in the closet). Instead, major investigations were conducted and the discharge rate skyrocketed.⁹ More and more gay and lesbian military personnel were identified, tried, and discharged from the military. For those few personnel who fought back, the courts often rationalized their antigay position with what could be interpreted as illogical reasoning. For example, the Ninth Circuit U.S. Court of Appeals ruled in *Holmes/Watson v. California Army* that the “Don’t Ask” policy was not discriminatory because it treated “homosexuals and heterosexuals equally because neither are allowed to say they are gay.”¹⁰ The policy has failed and there is call for a complete overhaul of the system, if not outright rejection of the ban on gays in the military.

President George W. Bush implemented a “faith-based initiative” in 2004. Its goal was to make public money available to religious groups to provide social services that were typically handled by local governments and nonprofit secular organizations. Many civil libertarians expressed concerns over the initiative because they believed it invariably would lead these religious organizations to promote their religious beliefs at taxpayer expense—a condition expressly prohibited by the U.S. Constitution. Since its implementation, this problem has cropped up in many situations and many lawsuits have been filed. Many religious agencies have discriminated against lesbian and gay employees or clients. These employers claim they have the right to discriminate because homosexuality violates their religious viewpoint and, as a First Amendment Right to free speech, can choose not to hire or serve homosexuals. It is expected that many more lawsuits will be filed over this issue.

SOCIAL/GOVERNMENT PROGRAMS

Neither the federal, state, nor local governments provide funding for any social programs specifically for lesbians, gay men, transsexuals, or intersexed people. However, there are social health programs, specifically for AIDS and other sexually

transmitted diseases, that have a strong component of reaching out to the underserved LGBT community.

SEXUALITY/SEXUAL PRACTICES

In the first decade of the AIDS crisis, the 1980s, the new infection rate soared until the early 1990s when it leveled off and then began to decline. This came about through aggressive educational programs designed to reduce risky behavior. The United States initially shied away from behavioral intervention programs but later came to embrace them, including school-based programs, strategies to limit needle sharing, peer-to-peer interventions, client-centered counseling, and strategies to improve parent-to-child communication.

Initially, implementers of educational programs were reticent to discuss sex explicitly and often did not illustrate the proper use of condoms. Similarly, programs that attempted to distribute free condoms at schools, colleges, and elsewhere were blocked by conservative lawmakers. Political and religious conservatives were uncomfortable with public money being used to discuss sex, even if it was designed to reduce risky sexual behaviors that spread HIV. By the early 1990s, explicit “safer sex” programs were adopted nationwide and the new infection rates plummeted from over 150,000 per year (in the mid-1980s) to fewer than 40,000 per year.¹¹

Some promoters of safer sex programs in the early 2000s decided that it was more effective to combine prevention messages with positive images of sex, for example, a billboard put up in St. Louis showed two bare-chested African American men in an embrace with the message, “Before the love begins, get tested. Know your HIV status.” This program provoked the ire of Republican politicians and the St. Louis mayor ordered the billboards taken down.

FAMILY

American families come in many different forms. The culture promotes the idea that the preferred family arrangement is the nuclear family (consisting of a married husband and wife with their biological children). This may have been true at one time for the middle class, but very few families fit that description today. In 2000, the American family structure consisted of 24 percent nuclear families, 28 percent married but without children, 16 percent other family arrangements (parents, siblings, grandparents, etc. living together in a family unit), 25 percent single, and 6 percent other nonfamily arrangements (friends living as a family unit, or LGBT couples).¹²

The marriage rate has decreased 30 percent since the 1970s, while at the same time the divorce rate has climbed to about 40 percent.¹³ Approximately 50 percent of all first marriages end in divorce by their eighth year.¹⁴ Most Americans will marry and divorce at least one time within their lifetime.

These statistics represent a particular slice in time and do not reveal the reality of the nuclear family concept as a relic of the past. Often people will go through periods of being married, single, single raising children, perhaps raising children from a previous marriage, living together without matrimony, in a gay or lesbian relationship, married again, divorced again, and so on. Within a person’s lifetime, he or she may form many different family structures depending on circumstances, and each of these family structures has more or less differing degrees of legal protections.

The U.S. family legal system is built around the nuclear family concept. As such, it has not been friendly toward LGBT relationships and families. Some of the possible structures LGBT families can take include same-sex couples living together (with or without the legal benefits of being in a civil union, domestic partnership, or marriage), gay or lesbian single persons divorced from a heterosexual spouse, or gay or lesbian single persons who take care of an elderly parent or a child. In each of these family arrangements, there may be children who are from the biological mother or who have been adopted or housed through foster care.

Only Massachusetts, Connecticut, and Iowa allow full marriage for same-sex couples. Soon the states of Vermont and Main will allow same-sex marriages. A few other states allow domestic partnerships (DPs) (California, Oregon) or civil unions (Vermont, Connecticut, New Jersey, New Hampshire) that provide virtually all the same rights as those granted with marriage. However, since DPs or civil unions are not full marriages, there are many pitfalls concerning the rights and responsibilities for medical directives, inheritance, and child custody.

It is estimated that as many as one quarter of all gay men and half of all lesbians have been married at some time in their lives, and many have children.¹⁵ Many LGBT couples want the right to adopt the children of their partner so that both of them will have full responsibility for the child's welfare. Similarly, some LGBT couples want to adopt a child into their family who is not biologically related to either partner. Because there are no federal guidelines concerning adoptions, how these situations are handled depends on the state in which the couple resides. For example, in second-parent adoptions (where a same-sex parent desires to adopt his or her partner's biological or adoptive child without terminating the legal rights of the first parent), eight states (California, Connecticut, Illinois, Massachusetts, New Jersey, New York, Pennsylvania, and Vermont) have approved legislation or obtained appellate court rulings in favor such adoptions. There are an additional 18 states (Alabama, Alaska, Delaware, Hawaii, Indiana, Iowa, Louisiana, Maryland, Michigan, Minnesota, Nevada, New Hampshire, New Mexico, Ohio, Oregon, Rhode Island, Texas, and Washington) that have granted second-parent adoption rights either through trial court level or other means. Three states (Florida, Nebraska, and Wisconsin) have appellate court decisions ruling that the state adoption laws do not permit second-parent adoptions. Finally, it is unclear in the remaining states whether second-parent adoptions would be legal at all.

The problem is similar when considering outright adoption by gay men or lesbians (as individuals or couples). Most states allow LGBT individuals or couples to adopt children, however six states (Florida, Arkansas, Michigan, Mississippi, Nebraska, and Utah) have specific statutes prohibiting homosexual couples from adopting. The reasons given by these states for prohibiting homosexuals from adopting are in line with the antigay stereotypes that lesbians and gay men are unfit to be parents, that homosexuals molest children, or that homosexuals will turn their adopted children into homosexuals. All of these reasons have been proven by academic research in the past 40 years to be incorrect,¹⁶ but this has not swayed states from changing their adoption rules to allow homosexuals to adopt.

This patchwork of laws concerning adoptions or second-parent adoptions by homosexuals is also reflected in foster care. In some states, the child protective agencies are thrilled to have LGBT people interested in providing support for children through foster care. In other states, legal statutes make it clear that LGBT people cannot provide foster care for children.

One stereotype that seems to work for and sometimes against LGBT people in adoption or foster care decisions is the belief that gays and lesbians have higher than average incomes. In a thorough review of U.S. census data, it has been found that LGBT people earn decidedly less than heterosexual Americans.¹⁷ As a result, LGBT families have lower household incomes than heterosexual ones. This research is also important because it counters one of the arguments made by religious and conservative pundits: they claim that, since LGBT people have higher-than-average incomes, it is obvious that antidiscrimination policies are unnecessary.

COMMUNITY

Since the beginnings of the gay rights movement in the United States in the early 1950s, the LGBT community has grown and been organized through the participation of hundreds of thousands of individuals, rather than through governmental agencies. In fact, many of the demonstrations and organization have been the direct response to oppressive governmental actions.

Currently, most major American cities have some sort of LGBT community services center that is partially funded by the city. These centers are primarily funded to provide health and social services to the LGBT community. They are not gay centers *per se* as their names imply, but rather centers to provide health and social services to an underserved population. This same rationale is used to substantiate the existence of LGBT student groups at universities.

Thousands of LGBT organizations exist in the United States. They are as varied as the needs of human beings. Most are small, local groups providing support for local functions and include gay pride festivals and parades, AIDS support groups, dance and theater groups, gay rodeos, local politics, police issues, and more. Some LGBT organizations (such as the Human Rights Campaign, and the Lambda Legal and Servicemember Legal Defense Funds) are national in scope and address issues such as marriage, equal rights, antidiscrimination, national organizing, and student rights. These organizations form the backbone of what is termed the “gay community.”

HEALTH

The United States is the only Western nation without universal health care coverage. Instead, the United States uses a system of private insurance and public programs aimed at specific groups (such as the aged and the poor). It is estimated that more than 47 million Americans (or 16% of the population) have no form of health insurance coverage.¹⁸ The primary cause of this large and growing uninsured crisis is the decline in the number of employers who sponsor health insurance for their employees and families. Medical expenses are the most common cause for personal bankruptcy.¹⁹ The state of Massachusetts has become the first state to implement universal health care for its citizens. It is thought that universal health care will be adopted by many more states and, eventually, by the federal government.

AIDS has been a major health concern for the United States. Approximately one million people have contracted HIV in the United States since the beginning of the epidemic in 1981. Half of them have died. Currently, there are about 40,000 new cases diagnose each year. Initially the disease was primarily found in gay white males, but the demographics have shifted so that now more than half of

all new infections are found in African Americans; the number of women becoming infected has also increased substantially. Male-to-male sex is still the most common transmission route for HIV, followed by injection drug use and heterosexual contact.²⁰

A primary issue for the United States, given its history of racial strife and homophobia, is that minority men who do not identify as homosexual yet engage in sex with other men (known as men who have sex with men, or MSM) experience greater stigma and are more difficult to reach with HIV prevention messages. Similarly, heterosexual transmission is beginning to become a significant portion of new infections in the United States and the safer-sex campaigns designed mostly for the LGBT community are far less successful at reaching this emerging audience.

Other sexually transmitted diseases, such as syphilis, have increased at an alarming rate in the United States in the first decade of the 21st century. The group seeing the greatest increases is MSM. It is thought that the causes for this include the ease with which it is possible to contact casual sexual partners via the Internet, the resurgence of “bare backing” (i.e., engaging in anal sex without the use of condoms), and the mistaken belief that medical advances have made HIV and other sexually transmitted diseases easy to treat.

The health needs of lesbians have been overlooked in the United States. The Centers for Disease Control (CDC), the National Institutes of Health (NIH), and other government agencies and nonprofit organization all call for greater research into the specific health needs of lesbians, yet virtually no research is conducted. As such, there has been a grassroots approach with lesbians networking and establishing their own resource centers and projects, such as the Mautner Project for Lesbians with Cancer.

Transsexuals require the intervention of medical professionals. It is estimated that tens of thousands of sex-reassignment surgeries have been performed in the United States since the 1960s male-to-female (MTF) surgeries have predominated, but currently it appears that there are an equal number of female-to-male (FTM) surgeries.²¹ There is also a movement within the transsexual community to not seek sex-reassignment surgeries, but rather to cross dress and otherwise stay physically unaltered. The “non-op” movement is gaining ground but is causing greater confusion within an already confusing patchwork of laws and legal interpretation surrounding transsexual issues.

It is estimated that between one and four percent of all humans express a hermaphroditic (intersex) condition.²² That would mean there are approximately 2.8 to 12 million intersexed persons in the United States, and there is ongoing controversy about conducting corrective surgery on intersexed babies to make them conform to one of the sex norms (either male or female). The surgery often destroys the reproductive system and the capacity to feel sexual pleasure. As such, many in the U.S. intersexed community advocate being accepted for who they are without resorting to surgery.

POLITICS AND LAW

Sodomy

Until recently, homosexuality was illegal throughout most of the United States. The cornerstones of that oppression were sex statutes (sodomy laws) that made

sexual contact between persons of the same gender illegal. The sodomy statutes were inconsistent from state to state. In some cases, sodomy was defined as sex between persons of the same sex, whereas other states defined sodomy as sex between anyone other than a spouse. Even the sexual acts to characterize sodomy varied from state to state.

Illinois was the first state to eliminate sex statutes against consensual homosexual acts (in 1961). Eventually, half the states eliminated their sodomy statutes. However, that means that it is still unsafe for LGBT people to engage in sex in the remaining states.

Attempts have been made to challenge sodomy statutes on a national level. In 1986, the U.S. Supreme Court refused to strike down a Georgia law criminalizing sodomy (*Bowers v. Hardwick*).²³ Almost 20 years later, the U.S. Supreme Court revisited the issue in *Lawrence v. Texas*. Here, the Court recognized that it had erred in *Bowers* and struck down the Texas sodomy statute because it was applied unequally by criminalizing homosexual sodomy but not heterosexual sodomy. This leaves sodomy statutes enforceable in states where it is defined to apply equally to heterosexual and homosexual situations.

Although sodomy statutes are rarely enforced, they make LGBT people into criminals in many situations. For example, if a state (such as Utah) defines sodomy as any sex between unmarried partners and gay people are precluded from marrying, then LGBT persons who are in relationships are de facto criminals. This argument has been used in child custody cases to paint the homosexual spouse as criminal and therefore unqualified for parental rights.

Antidiscrimination Statutes

Most major cities and a few states in the United States have enacted antidiscrimination statutes based on sexual orientation. The protections are often limited to public employment only. However, a few are more comprehensive and apply to both private employment and accommodations. As LGBT people gain more protections, a backlash from religious and political conservatives often results. There have been many cases where legislatures have passed antidiscrimination statutes only to be overruled by voters at a later election and then overruled again as the result of court review. This seesawing between opposing forces continues throughout the United States and is reflected in the national debate over gay marriage.

Marriage

There has been a 20-year hysteria in the United States over the prospect of allowing same-sex couples to marry (in what is commonly called “gay marriage”). When it looked as though either Hawaii or Vermont was going to allow gay marriages in the 1990s, religious and political conservatives took massive action to thwart those efforts. Hawaii’s case eventually became moot when its citizens overwhelmingly passed legislation defining marriage as the union of one man with one woman, and that the state did not need to recognize gay marriages performed in other states. These DOMA legislations or constitutional amendments were eventually adopted by many states and the federal government.

Vermont took the course of creating a super domestic partnership in 2000 that conferred all the rights and responsibilities of marriage without using the word “marriage” when it created its civil union statute. Other states have passed domestic

partnership legislations similar to Vermont's. Massachusetts was faced with the same legal dilemma in 2004 and chose, instead, to allow same-sex couples to marry, thereby becoming the first state in the union to sanction gay marriages.

The political squabbles over gay marriage continue. Often when state legislatures approve domestic partnership or marriage, a backlash occurs and sometimes DOMA statutes are approved by the voters thereby creating a legal conflict between opposing statutes. These battles over gay marriage will likely continue for years as the issue works its way through each state.

An issue that has not been addressed by any legislature in the gay marriage debate is its effect on transgendered or intersexed people. For example, an intersexed person is biologically neither exclusively male nor female but both. Defining marriage as being between one man and one woman does not apply to intersexed people. Surprisingly, none of the laws that state "man" or "woman" define those terms. Most courts have conflated sex with gender in most instances, thereby further confusing the issue.

Speech and Association

The United States guarantees the right to free speech and association through the First Amendment to its Constitution. Courts have upheld the right to discuss homosexuality (through speech, books, magazines, pamphlets, radio, television, and other means), and form organizations (both privately and publicly) to educate about homosexuality and to promote the agendas in support of LGBT people.

Many religious and political conservatives are concerned about access to material on the Internet they believe is harmful to children. Attempts made by Congress to restrict the Internet (such as the Children's Internet Protection Act of 2002) have subsequently been determined by the courts to be unconstitutional. Legislators seem unable to construct an Internet protection law that clearly defines what *community standards*, *harmful*, or *offensive* means, or to devise regulatory schemes that do not violate equal access requirements. As American Civil Liberties Union director Stefan Presser stated, "The technology cannot block simply obscene speech, or speech that is harmful to minors, without blocking an enormous amount of speech that is constitutionally protected."²⁴

One area that is underdeveloped in the law is the right of LGBT people to be out and open about their sexuality. Some courts, such as the California Supreme Court, have ruled that affirming one's homosexuality is analogous to expressing a political view and, as such, is protected under its state labor codes, but is it not clear what it means to affirm one's homosexuality; for example, whether this includes sharing personal information (including sexual details), whether this applies to both children and adults and whether this applies to the workplace, or school, or other public places. For example, there are cases where teachers have shared the status of their homosexuality with other teachers and experienced no problems but sharing the same information with students will often lead to accusations that the teacher engaged in "unprofessional conduct" because he or she "talked about sex" and "promoted homosexuality" and thus was fired.

A legal strategy used by some antigay religious groups in the United States to circumvent antidiscrimination statutes that include sexual orientation as a protected class is to claim "religious freedom" in their employment choices. Here, they claim they have the right not to hire LGBT applicants or to fire LGBT employees

because their religious beliefs require them to do so. Since the U.S. Constitution holds the protection of religious belief in the highest regard, they claim that their right to discriminate supersedes local ordinances protecting gay people from employment discrimination. State and local courts have been mixed on these challenges. In general, courts have affirmed antidiscrimination statutes by clarifying that the employer retains the right to his or her religious beliefs, but that those beliefs cannot interfere with decisions concerning public employment.

Bisexuals

Bisexuals are virtually invisible in U.S. society. When bisexuals form opposite-sex relationships, they are viewed to be heterosexual. When they form same-sex relationships, they are presumed to be homosexual. The ability to form relationships with either sex is confusing to many people. Bisexuals, more than any other group, have a unique awareness of the uneven application of laws in the United States when sex or gender is involved. When bisexuals are involved in an opposite-sex relationship, they receive all the rights and benefits provided heterosexuals; when they are in a same-sex relationship, they are exposed to antigay discrimination and hate.

Transsexuals

Transsexuals pose a unique challenge to the U.S. legal system. When they transition from one gender to another, they defy the binary distinction between male and female. Much of the problem stems from U.S. laws that have never defined what is meant by the terms *man*, *woman*, *male*, *female*, *sex*, or *gender*. The “plain” meaning of the words ignores much of the scientific research. Most laws and regulations in the United States use the word *sex*, yet many courts, legislators, and administrative agencies think *gender* when interpreting law. Thus, the terms *sex* and *gender* have been conflated and are used interchangeably.

There has been a confusing range of court decisions concerning transsexuals. Some courts have decided that transsexuals have protected status under the Gender-Motivated Violence Act, whereas other courts have ruled that Title VII of the Civil Rights Act of 1964 does not apply because transsexual’s “sex” does not conform to being either male or female. This is even more challenging if transsexuals are married before transitioning. Once the transition is complete, the married couple (if remaining married) would now be a same-sex couple, a status that is illegal in 49 states.

Intersexuals

Intersexed people pose even a greater challenge to the U.S. legal system than transsexuals. Intersexuals are born with partially or fully developed genitalia, gonads, or chromosomes that are not distinctly male or female, but instead are some combination of both. This creates a life-long series of problems. From the initial birth certificate to the final death certificate, it is unclear how one indicates on a form that has only two boxes (male/female) someone who does not fit into either box. As such, there is a patchwork of court decisions throughout the United States that either recognizes the unique needs of intersexuals or forces them into one of the boxes. For example, altering the sex indicated on a birth certificate is allowed

in some states (by petition, court order, or physician's note) yet forbidden in other states.

A wave of lawsuits were filed in the first decade of the 21st century by intersexed adults in the United States who were surgically altered as children to make them better conform to one sex. Many of these people think they were sexually mutilated without their consent and demand that the practice of surgically altering babies and children stop. They believe that only an adult has the right to elect such drastic surgery. As such, the medical profession has become much more cautious about performing surgery on intersexed infants and children.

RELIGION AND SPIRITUALITY

Many lesbians and gay men are deeply spiritual and religious, however antigay sentiments found in the teachings of some religions have forced some LGBT people to fight back, seek alternatives, and sometime abandon their faith completely. Through years of effort by openly gay and lesbian activists in the United States, a few mainstream denominations have made tremendous strides in their acceptance of homosexuality. The Episcopal Church (U.S.), Reform Judaism, Unitarian Universalists, and United Churches of Christ have come to embrace their lesbian and gay members. Presbyterians and United Methodists have hundreds of "welcoming and affirming" congregations for LGBT people even while the central body still struggles over the acceptance of homosexuals and homosexuality.

The religious right has spearheaded many of the efforts in the United States to deny equal rights to LGBT people. Led by Christian fundamentalists and huge evangelical organizations, the religious right was initially successful at blocking anti-discrimination legislation and stopping the acceptance of gay marriage. However, they are having less and less an impact on people's opinions about homosexuality, as evidenced by the number of cities and states that have passed antidiscrimination legislation that includes sexual orientation, and by the advances made in domestic partnerships and same-sex marriage.

A major tool used by the religious right to keep their members agitated and to bring in money is reparative therapy. Here, the religious right claims that a person's sexual orientation is chosen and can be changed through therapy (i.e., a homosexual can become an "ex-gay"). The religious right has tied ex-gay ministries to its agenda to deny equal rights to LGBT people.

In what is known as the "first wave" of "ex-gay activism," the first therapy treatment program designed to change sexual orientation was set up in San Francisco in 1973. Fundraising by religious right churches linked the "special rights" arguments with the concept that sexual orientation could be changed. They claimed that, because sexual orientation is chosen, then homosexuals should choose to be heterosexual and be rewarded with all the rights and privileges provided heterosexual marriage. As such, homosexuals would have no basis to advocate for equal rights.

At first, churches were uncomfortable with the open talk about homosexuality and the reparative therapy programs remained few in number. The "second wave" hit the media in 1998 when John and Anne Paulk appeared on the cover of *Newsweek* magazine proclaiming that they were ex-gay and married, giving proof that homosexuals could "heal" themselves and alter their lifestyle choice.²⁵ Ex-gay ministries sprung up everywhere. This all came crashing down a few years later

when John Paulk was caught in a Washington, D.C., gay bar. He was forced to resign from his positions with Exodus International and Focus on the Family. Many other leaders of the ex-gay movement were also found still to be active homosexuals. Because of the scandals, many religious organizations have sought to distance themselves from the ex-gay movement.

A strategy change occurred in 2005 with the ex-gay movement redirecting its reparative therapy program toward children and teens. In this “third wave,” there was less emphasis on “curing” adult homosexuals and more on building fear in parents that their children may become gay or lesbian without direct intervention. Counseling programs such as “Refuge” or Focus on the Family’s “Love Won Out” encouraged parents to commit their children for treatment, even if it was against the desires of the child.

It is expected that reparative therapy programs and ex-gay ministries will continue to operate in the United States for some time to come. Although reparative therapy does not work and violates ethical standards established by the American Psychological Association, it keeps religious and political conservatives agitated enough to donate money to their churches and causes, and to engage in antigay political activism.

VIOLENCE

The United States is considered one of the most violent societies in the world, relative to other developed countries. In 2005, there were 5.6 murders per 100,000 persons.²⁶ By contrast, in the same year, Germany had a homicide rate of only 1.0 and Canada had a rate of 1.9 per 100,000 persons.²⁷ The United States also has the highest incarceration rate and total prison population in the world, with approximately 468 people out of every 100,000 Americans in prisons or jails.²⁸ The incarceration rate has more than tripled since 1980 and far exceeds what is found in member countries of the Organization for Economic Cooperation and Development (OECD) by a factor five or more.²⁹ African American males are incarcerated at a rate six times that of white males and three times that of Hispanic males.³⁰

In 1990, the federal government passed the Hate Crime Statistics Act. After much political debate, it was decided that sexual orientation should be included as one of the characteristics of victims of violence to be tracked. The reported incidents of antigay and antilesbian violence have increased significantly since the early 1990s. It is thought that this increase in violence is related to the increased visibility of gay issues as discussed in the media and politics, and the increased number of LGBT persons who are living their lives openly.

Many states have passed hate crime laws that impose additional sentencing in crimes motivated by bias or prejudice toward particular classes of citizens. Almost two-thirds of the states have hate crime laws that include sexual orientation (some also include gender identity). There are on-going efforts to convince the other states and the federal government to pass hate crime legislation that includes sexual orientation.

OUTLOOK FOR THE 21ST CENTURY

The modern gay rights movement parallels the civil rights movement. Gays and lesbians have gained many rights, but not all, and are legally positioned where

African Americans were before *Brown vs. Board of Education*. Marriage is a prime example of this problem; only in Massachusetts may same-sex couples marry, but because the marriages are not recognized by most other states or the federal government, same-sex marriages are not equal to opposite-sex marriages. In states with domestic partnerships or civil unions, the legislatures have attempted to craft unions that enjoy all the rights and responsibilities of marriage but do not use the word “marriage.” Here, the inequalities are even greater. Creating unions without making them equal to marriage is an attempt to create a separate-but-equal legal status. It does not work, as was seen with blacks under segregation. Gays and lesbians are fighting to overcome their separate-but-equal status.

It is expected that, in the future, courts will rule that any attempt to define legal rights for LGBT people that are the “same” as those enjoyed by heterosexuals but without giving the exact same rights is inherently unequal. Eventually LGBT people will become fully integrated into society and have full rights equal to those of other Americans.

RESOURCE GUIDE

Suggested Reading

- J. Dawson, *Gay and Lesbian Online*, 4th ed. (Los Angeles, CA: Alyson Publications, 2000).
- B. DeGeneres, *Just a Mom* (Los Angeles, CA: Alyson Publications, 2000).
- A. D. Dreger, ed., *Intersex in the Age of Ethics* (Hagerstown, MD: University Publishing Group, 2000).
- L. D. Garnets and D. C. Kimmel, eds., *Psychological Perspectives on Lesbian and Gay Male Experiences* (New York: Columbia University Press, 1993).
- J. C. Gonsiorek and J. D. Weinrich, eds., *Homosexuality: Research Implications for Public Policy* (Newbury Park, CA: Sage Publications, 1991).
- G. Herdt and B. Koff, *Something to Tell You: The Road That Families Travel When a Child Is Gay* (New York: Columbia University Press, 2000).
- G. M. Herek and K. T. Berrill, eds., *Hate Crimes: Confronting Violence against Lesbians and Gay Men* (Newbury Park, CA: Sage Publications, 1992).
- G. M. Herek, ed., *Stigma and Sexual Orientation: Understanding Prejudice against Lesbians, Gay Men, and Bisexuals* (Newbury Park, CA: Sage Publications, 1997).
- K. Jennings, ed., *One Teacher in 10* (Los Angeles, CA: Alyson Publications, 1994).
- J. N. Katz, *The Construction of Heterosexuality* (New York: Penguin, 1996).
- E. Marcus, *Is It a Choice?: Answers to 300 of the Most Frequently Asked Questions about Gay and Lesbian People* (San Francisco: Harper, 1999).
- K. I. Mills, “Why Reparative Therapy and Ex-gay Ministries Fail,” *Human Rights Campaign 1999*, www.hrc.org/publications/exgay_ministries/chage.asp.
- C. Stewart, *Sexually Stigmatized Communities—Reducing Heterosexism and Homophobia: An Awareness Training Manual* (Thousand Oaks, CA: Sage Publications, 1999).
- C. Stewart, *Gay and Lesbian Issues* (Santa Barbara, CA: ABC-CLIO, 2003).

Videos/Films

Brandon Teena Story, DVD, directed by Susan Muska and Greta Olofsdottir. (1998; United States: Wolfe Video, 1998). This documentary uses interviews and still shots to recreate the story of Brandon Teena, a transsexual young man. He was 20 years old and dating a woman while dressing and acting like a man. When it was revealed that he was a woman, he was brutally murdered. This movie inspired the Academy Award-winning film *Boys Don't Cry* (1999).

- Coming Out Under Fire*, DVD, directed by Arthur Dong (1994; United States: Wolfe Video, 1994). Documentary profiling the experiences of nine gay and lesbian veterans who were discharged from the military for being homosexual. The movie combines declassified documents, interviews, rare archival footage, and photographs.
- Common Threads: Stories from the Quilt*, DVD, directed by Rob Epstein and Jeffrey Friedman (1992; United States: Telling Pictures, 1992). This Academy Award-winning film recounts the history of the first decade of the AIDS epidemic in the United States and the formation of the NAMES Project AIDS Quilt.
- Dear Jesse*, DVD, directed by Tim Kirkman (1997; United States: Wolfe Video, 1997). Documentary where filmmaker returns home to rediscover his roots. There, in North Carolina, he interviews antigay Senator Jesse Helms and others.
- Disarming the OCA*, DVD, (1992; United States: Flying Focus Video Collective, 1992). A panel of influential lesbian and gay activists and academics discusses attempts by the Oregon Citizen's Alliance to curb gay rights.
- Edge of Seventeen*, DVD, directed by David Moreton (1999; United States: Wolfe Video; tlavideo, 1999). One of the better coming out stories about a Midwestern boy confronting his homosexuality.
- Gay Lives and Culture Wars*, DVD, directed by Elaine Velasquez (1994; Democracy Media, 1994). Gay youths are interviewed and tell their stories in contrast to the antigay propaganda used in Oregon's Ballot Measure 9.
- Johnny Greyeyes*, DVD, directed by Jorge Manzano (2001; United States: Wolfe Video; tlavideo, 2001). A Native American woman struggles to maintain strength, love, and spirit while in prison for murder. There, she falls in love with her female cellmate. Nominated for Best Picture at the 2000 American Indian Motion Picture Awards.
- Milk*, DVD, directed by Gus Van Sant (2008; San Francisco: Focus Features, 2009). Details the political and personal life of Harvey Milk and his rise in San Francisco City as California's first openly gay elected official. Won two Academy Awards including best actor for Sean Penn and best writing by Dustin Lance Black.
- Out of the Past*, DVD, directed by Jeffrey Dupre (1998; Salt Lake City: Wolfe Video, 1998). Traces the formation of a Gay Straight Alliance at a Salt Lake City high school.
- Philadelphia*, DVD, directed by Jonathan Demme (1993; Philadelphia, PA: Wolfe Video, 1993). Tom Hanks won an Academy Award for his portrayal of a gay attorney who is fired for having AIDS. The movie also won the Best Film category.
- Serving in Silence: The Margarethe Cammermeyer Story*, DVD, directed by Jeff Bleckner (1995; United States: Wolfe Video 1995). Glenn Close stars as Margarethe Cammermeyer, a decorated Army colonel who challenged the U.S. military's antigay policy. The film won Emmy Awards for Best Actress, Best Supporting Actress, and Best Screenplay.
- Silverlake Life: The View from Here*, DVD, directed by Peter Friedman and Tom Joslin (1994; Silverlake, CA: Wolfe Video, 1994). Video diary of the last days of two men, one dying from AIDS. The film is real and gritty, touching, and difficult to watch.
- Stonewall*, DVD, directed by Nigel Finch (1995; New York: Wolfe Video, 1995). A fictional retelling of the events leading up to the 1969 Stonewall Riots, using humor, song, and pathos.
- The Times of Harvey Milk*, DVD, directed by Rob Epstein (1984; San Francisco: Telling Pictures, 1984). Documentary telling of the events leading up to the assassination of San Francisco City Supervisor Harvey Milk.
- The Right to Marry*, DVD, directed by Demian (1996; United States: Partners Task Force for Gay & Lesbian Couples, 1996). Interviews with Mel White (founder of Soulforce), Phyllis Burke (a lesbian activist), Richard Mohr (an academic), and Kevin Cathcart (of the Lambda Legal Defense Fund) discussing the issues around lesbian and gay men's rights to marry.
- Who's Afraid of Project 10?*, DVD, directed by Scott Greene (1989; Pasadena, CA: Friends of Project 10, 1989). Documentary interview with the founder of Project 10, Virginia

Uribe; gay and lesbian students; political and religious opponents to the program; and the mother of a teen who committed suicide over being gay.

Antigay Videos

- The Gay Agenda*, DVD, produced by Bill Horn (1990; Lancaster, CA: Springs of Life Ministries, 1990). One of the most famous antigay videos ever made, this film weaves together controversial clips from gay pride parades showing simulated sex, testimony from expert witnesses on the deviancy of homosexuality, and sadomasochistic behaviors. Bill Horn claims to have sold more than 60,000 copies by 1993 and arranged to have a screening for the Joint Chiefs of Staff. The religious right used it to effectively influence members of Congress and state legislators in stopping President Clinton from lifting the band on homosexuality in the military. Currently, *The Gay Agenda* seems impossible to locate but it is available for viewing at some libraries. Also available at the Stonewall Center, 256 Sunset Ave., Crampton House/SW, Amherst, MA 01003-9324, 413-545-4824, 413-545-6667. www.umass.edu/stonewall/library/videos/tvcoverage.html and at the ONE Institute and Archives, 909 W. Adams Blvd., Los Angeles, CA 90007, 213-741-0094, 213-741-0220 (fax).
- It's Not Gay*, DVD, (2002; Tupelo, MS: American Family Association, 2002). Looks at the gay "lifestyle" and claims that it leads to empty lives and to contracting AIDS.
- Why and How to Defeat the "Gay" Movement*, DVD, produced by Scott Lively (2000; Citrus Heights, CA: Abiding Truth Ministries, 2000). Based on the book of the same name by Scott Lively, this video attempts to show how to defeat the gay movement.

Web Sites

- Blackstripe, <http://blackstripe.com/index.html>.
Leading Web resource for culture, information, and politics affecting LGBT people of African descent.
- GayLawNet, <http://www.gaylawnet.com/main.html>.
Provides leads to attorneys and online resources.
- Gay/Lesbian International News Network (GLINN), www.glinn.com/books/lar1.htm
List of LGBT archives and libraries in the United States.
- Gayscape, <http://www.jwpublishing.com/gayscape>.
Over 68,000 mostly commercial indexed sites by topics.
- Gay/Lesbian Politics and Law: WWW and Internet Resources, <http://www.indiana.edu/~glbtpol/>
Designed by students at Indiana University, offers selected annotated guide to the best and most authoritative resources on politics, law, and policy.
- International Gay and Lesbian Human Rights Commission (IGLHRC), <http://www.iglhrc.org/world/resources/index.html>.
- Lesbian.org, <http://www.lesbian.org>. Promotes lesbian visibility on the Internet.
- Queer Resources Directory, <http://www.qrd.org>.
One of the oldest and largest Web sites devoted to linking to everyone possible. It contains more than 26,000 files. However, this directory is often out of date.
- Transgender Forum's Community Center, <http://www.transgender.org>.
Links to transgender organizations in the United States.
- UC Davis—Sexual Orientation: Science, Education, and Policy, <http://psychology.ucdavis.edu/rainbow/>.
List of major books on the topic.
- University of Washington Libraries, <http://faculty.washington.edu/alvin/gayorg.htm#ARCHIV>.

Organizations

CDC National AIDS Hotline

Phone: 800-342-AIDS (2437)

Spanish Service: 800-344-7432

TTY Service: 800-243-7889

Provides 24-hour telephone support for AIDS.

National Minority Aids Council (NMAC)

<http://http://www.nmac.org>

Formed in 1987, NMAC provide information on AIDS that focuses on the special needs of minorities.

Parents, Families and Friends of Lesbians and Gays (PFLAG)

<http://www.pflag.org>

Founded by Jeanne Manford in 1972 as a response to the needs of parents who have gay or lesbian children to meet others like themselves to learn how to acceptance their children's homosexuality.

American Civil Liberties Union (ACLU)

<http://www.aclu.org/issues/gay/hmgl.html>

ACLU is one of the oldest civil rights organizations in the United States. Its primary goal is to protect the First Amendment right to free speech.

Gay and Lesbian Advocates and Defenders (GLAD)

<http://www.glad.org>

New England's only local public interest organization that focuses on the rights of LGBT people.

Lambda Legal Defense and Education Fund

<http://www.lambdalegal.org/cgi-bin/iowa/index.html>

Uses impact litigation to help promote LGBT rights.

National Center for Lesbian Rights (NCLR)

<http://www.nclrights.org>

Founded in 1977, NCLR focuses on the legal issues of lesbians, in particular, child custody and reproductive rights.

Libraries and Archives

June L. Mazer Archives

<http://www.lesbian.org/mazer>

Home to the largest collection of lesbian materials on the West Coast.

The New York Public Library Gay and Lesbian Collections

<http://www.nypl.org/research/chss/spe/rbk/igic.html>

This collection began as a private holding of LGBT books and artifacts and was donated to the New York Public Library. It now represents the largest collection of such material on the East Coast.

ONE Institute and Archives

<http://www.oneinstitute.org>

By far the largest collection of books, magazines, and artifacts related to the LGBT community. With over one million pieces, it is housed on the campus of the University of Southern California.

Stonewall Library and Archives (SLA)

<http://www.stonewall-library.org>

Focuses on the LGBT books, magazines, and artifacts from the South and southeastern portions of the United States.

Media

The Gay and Lesbian Alliance Against Defamation (GLAAD)

<http://www.glaad.org>

Helps to monitor the media for accuracy in its portrayal of and reporting on LGBT persons.

Gay/Lesbian International News Network (GLINN)

1107 Key Plaza, Box 306

Key West, FL 33040

Phone: 305-849-5020

Fax: 305-296-2015

E-mail: mediamaster@gaydata.com

<http://www.glinn.com>

GLINN is a clearing house of publishers and writers on LGBT topics and acts as its own news service.

Outfest

<http://www.outfest.org>

Hosts a number of LGBT film festivals on the West Coast. It has become one of the premiere film festivals for independent directors and producers.

Military

Gay, Lesbian and Bisexual Veterans of America, Inc. (GLBVA)

<http://www.glbva.org>

Works at a national level to try and overcome the discrimination LGBT people experience in the military.

Servicemembers Legal Defense Network (SLDN)

<http://www.sldn.org>

Because of the witch hunts to out LGBT military personnel, SLDN helps to defend soldiers against charges of homosexuality. SLDN is at the forefront of trying to overturn the military policy of excluding homosexuals.

Minority Focus

National Latina/o Lesbian, Gay, Bisexual, and Transgender Organization (LLEGÓ)

<http://www.llego.org>

Nonprofit organization made up of approximately 172 ally networks who focus on serving the needs of Latina/Latino LGBT communities.

National Association of Black and White Men Together (NABWMT)

<http://www.nabwmt.com>

Committed to overcoming racial and cultural barriers in the gay male community.

Political Action

ACT UP/ New York

<http://www.actupny.org>

Founded in 1987 to bring political and public action to the AIDS crisis. They have staged many large public demonstrations.

BiNet USA

<http://www.binetusa.org>

BiNet helps to educate on the special needs and concerns of bisexuals.

Gay and Lesbian Victory Fund

<http://www.victoryfund.org>

Has become the leading national organization to recruit, train, and support open LGBT political candidates and officials.

Human Rights Campaign (HRC)

<http://www.hrc.org>

Largest LGBT organization in the United States. Its fundraising capabilities have allowed it to finance many political organizations fighting for gay equality and LGBT political candidates.

National Gay and Lesbian Task Force (NGLTF)

<http://www.nglhf.org>

Helps build local capacity for LGBT organizations and state-level legislative work. It researches and publishes many position papers that can be used for educating the public.

Professional Organizations

Gay and Lesbian Medical Association (GLMA)

<http://www.glma.org>

GLMA is the largest national organization focused on the needs of LGBT medical professionals and in educating the medical community of the special needs of LGBT patients.

National Lesbian and Gay Law Association (NLGLA)

<http://www.nlgla.org>

Helps bring attention to important litigation on LGBT rights.

National Organization of Gay and Lesbian Scientists and Technical Professionals (NOGLSTP)

<http://www.noglstp.org>

Leading science organization to serve LGBT scientist and technical professionals. NOGLSTP has been instrumental in convincing the American Association for the Advancement of Science (AAAS) to openly accept LGBT members.

Religious

Affirmation: Gay and Lesbian Mormons

<http://www.affirmation.org>

The Mormon religion is antigay. Affirmation has formed to provide emotional and spiritual support for LGBT Mormons.

Affirmation United Methodist

<http://www.umaffirm.org>

Affirmation is the largest Christian LGBT organization in the country, with hundreds of congregations and thousands of individuals who promote the inclusion of homosexuals in the United Methodist Church.

Dignity USA

<http://www.dignityusa.org>

The Catholic Church does not accept homosexuality and considers it a sin. Dignity is a large organization with many chapters that brings together LGBT of the Catholic faith in a loving and accepting community.

Gay and Lesbian Atheists and Humanists (GALAH)

<http://www.galah.org>

Within the Atheist and Humanist movement, LGBT formed their own support group (GALAH) to address their specific needs and concerns.

Lutherans Concerned/North America (LC/NA)

<http://www.lcna.org>

Independent organization that accepts all people into its faith without discrimination.

Presbyterian Parents of Gays and Lesbians, Inc. (PPGL)

<http://www.presbyterianparents.org>

Jan Loflin, the mother of a gay son, saw the need for a Presbyterian ministry for mothers and fathers of homosexual children. She founded PPGL in 1993 and soon chapters formed in many other states.

Soulforce, Inc.

<http://www.soulforce.org>

Mel White, once a speechwriter for many of the leaders of the Christian right, founded Soulforce to bring together people of many different religions with the goal of influencing mainstream religions to modify their antigay stance.

Universal Fellowship of Metropolitan Community Churches (UFMCC)

<http://www.ufmcc.com>

Rev. Troy Perry founded MCC to be a Christian church accepting of and supporting LGBT people. It has grown into the largest independent Christian church almost exclusively ministering to the gay and lesbian community.

Antigay Organizations

American Family Association (AFA)

<http://www.afa.net>

Watches the media and identifies advertisers who promote homosexuality, and organizes national boycotts of those advertisers.

American Family Association

<http://www.abidingtruth.com>

Believes it is the duty of every Christian to fight evil with good as revealed in the Holy Scripture. Promote strategies opposing the homosexual agenda.

Christian Coalition

<http://www.cc.org>

Pat Robertson founded the Christian Coalition in 1989 to give Christians a voice in government. It raises tens of millions of dollars every year and is vehemently antigay.

Concerned Women for America (CWA)

<http://www.cwfa.org>

Beverly LaHaye founded CWA in 1979 to help defeat the Equal Rights Amendment. Since then, CWA has been at the forefront of helping block the passage of gay rights.

Exodus International North America

Fax: 206-784-7872

<http://www.exodusintl.org>

Founded in 1976 to help counsel homosexuals into heterosexuality through the power of Jesus. It is the leader in the reparative therapy and ex-gay movement.

God Hates Fags

<http://www.godhatesfags.com>

Rev. Fred Phelps founded a small church whose members travel the country to demonstrate at the funerals of LGBT people or those he believes are supporters of homosexuality. Westboro Baptist Church (WBC) claims to have picketed at more than 20,000 events.

Homosexuals Anonymous (H.A.)

<http://members.aol.com/haweepage>

Ministry of men and women who help each other live free from what they see as the sin of homosexuality.

National Association for Research and Therapy of Homosexuality (NARTH)

<http://www.narth.com>

Physicians Charles Socarides, Benjamin Kaufman, and Joseph Nicolosi founded NARTH in 1992 to promote the scientific truth about homosexuality. The antigay pamphlets they create are not based on any accepted scientific research, yet their work is quoted by the Religious Right as evidence of immorality and psychological pathology of homosexuality.

Scriptures for America

<http://www.scripturesforamerica.org>

Peter J. Peters is the pastor of LaPorte Church of Christ and evangelistic head of Scripture for America. He believes that homosexuals should be put to death.

Education

Gay, Lesbian and Straight Education Network (GLSEN)

<http://www.glsen.org>

Largest organization in the United States that is focused on providing a safe place for all students in public schools. GLSEN has been successful at establishing chapters in many schools and has been at the forefront of the legal battle to allow LGBT children to meet on school campuses.

Transgender (Transsexual, Transgendered, Intersexed)

Female-to-Male International (FTM)

<http://www.ftm-intl.org>

Nonprofit that provides educational material on FTM to its members and public and provides a safe place for its members to explore their gender and sexual identities.

Intersex Society of North America (ISNA)

<http://www.isna.org>

Educational organization that seeks to bring accurate information about intersexuality to the public, social and medical professionals, and its own members.

The Transgender Fund

<http://www.tgfund.org>

Nonprofit devoted to financially supporting political initiatives that advance the interests of the transgender community.

NOTES

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2. United States, "U.S. Top Trading Partners, 2006," U.S. Census Bureau 2007, <http://www.census.gov/foreign-trade/top/dst/current/balance.html> (accessed August 1, 2008).
3. "The Fifteen Major Spender Countries in 2006," *Stockholm International Peace Research Institute*, 2007, http://www.sipri.org/contents/milap/milex/mex_major_spenders.pdf/download (accessed August 1, 2008).
4. Centers for Disease Control and Prevention, "HIV/AIDS Surveillance Report 2005," 17. Rev ed. (Atlanta: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, 2007). Also available at <http://www.cdc.gov/hiv/topics/surveillance/resources/reports/>.
5. 20 U.S.C. § 1681.
6. K. Carter, "Group Monitors Pervasiveness of Comments: Gay Slurs Abound, Students Say," *The Des Moines Register*, March 7, 1997, B3.
7. *Payne v. Western Atl. R.R.*, 81 Tenn. 507, 519–20 (1884), *rev'd on other grounds sub nom. Hutton v. Watters*, 132 Tenn. 527, 179 S. W. 134 (1915).
8. K. Dyer, *K. Gays in Uniform: The Pentagon Secret Report* (Boston: Alyson Press, 1990).
9. *Antigay harassment in military surges even after pentagon announces "zero tolerance" for harassment* March 10, 2000, press release by the Servicemembers Legal Defense Network, <http://www.sldn-list@digitopia.net>.
10. *Holmes/Watson v. California Army*, No. 9615855 (9th Cir., April 7, 1997).
11. Centers for Disease Control, "HIV and AIDS—United States, 1981–2000," Centers for Disease Control, 2007, <http://www.cdc.gov/mmwr/previw/mmwrhtml/mm5021a2.htm> (accessed August 1, 2008).
12. B. Williams, S. Sawyer, and C. Wahlstrom, *Marriages, Families and Intimate Relationships* (Boston, MA: Pearson, 2005).
13. M. Gallagher, *The Abolition of Marriage* (Washington, D.C.: Regnery Publishing, 2007).
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URUGUAY

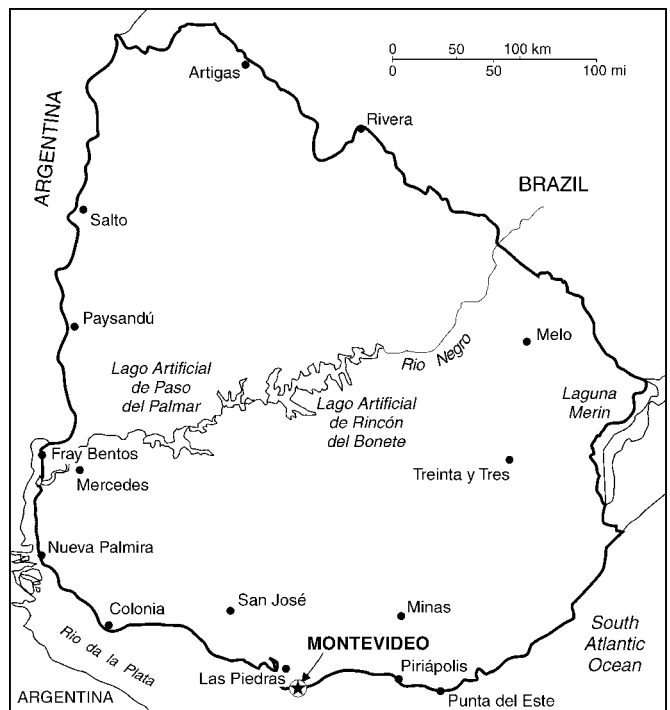
Diego Sempol, Translated by Álvaro Queiruga

OVERVIEW

Uruguay is a small country located between Brazil and Argentina, with an area of 8,037 square miles and a population of 3,509,373.¹ Uruguay is a former Spanish colony that gained its independence in 1830. Most of its population descends from Spanish, Italian, and other European immigrants, although a sector has Indo-American descent. Native cultures were exterminated during the first years of independence. It is also estimated that Afro-Americans amount to 8 percent of the population. To this day, this sector has preserved its distinctive cultural features.²

In the early 20th century, President José Batlle y Ordóñez (1903–1907, 1911–1915) set the foundations for the modern state, promoted a deeply integrated social system, completed the state's secularization process, encouraged the development of a strong and educated middle class, passed major social laws for the lower class sectors, and recognized women's right to divorce by their sole will (1907 and 1913). In 1932, women's right to vote was legally recognized, and between 1933 and 1935 abortion was legalized, although it was criminalized afterward due to pressures from conservative Catholic sectors.

This progress of social legislation added to the state's expansion and the strengthening of public services, and it consolidated a welfare state that made Uruguay stand out in Latin America, enabling it to develop its image as the "Switzerland of South America." But



social and economic prosperity eroded in the late 1950s when a new crisis began for the international economic insertion of Uruguay's model, based on agricultural exports.

In the early 1960s, the solid democratic system began feeling the pressure of powerful social unrest due to the recent economic crisis, the emergence of guerrilla groups, and growing government authoritarianism. The process ended on June 27, 1973, with a coup d'état that led to 13 years of harsh military dictatorship. Human rights were systematically violated during this period, with imprisonment, tortures, forced disappearances, and kidnappings for political reasons, as well as serious economic crimes and the censorship of mass media. The failure in 1980 of a referendum that sought to introduce a constitutional reform enabling the armed forces to remain in power marked the beginning of a democratic transition period, and led to the election of President Julio María Sanguinetti in March 1985.

Throughout its history, Uruguay developed a model of agricultural exports based on *latifundios* (large landholdings) and extensive crops (exporting beef, leather, and, most recently, rice, soybeans, and cellulose), which coexisted in various historical periods with a fragile industrialization process aimed mostly at meeting domestic demand.

Currently, the country is beginning a forestry process (in 2005, 8.6% of all available lands) and the installation of several cellulose paste plants owned by international firms.³ In 2004, Uruguay had imports worth \$3.7 billion and exports totaling \$4 billion, with a strong foreign debt (\$12.4 billion).⁴

Although Uruguay has a strong secular tradition—religion is not taught in the public schools and religious symbols are banned from display in state hospitals and agencies; 66 percent of Uruguayans consider themselves Catholic, 2 percent are Jewish, and 2 percent are Protestant while 30 percent are atheists. This does not stop a large sector of the population from taking part in ceremonies and celebrations involving Afro-Brazilian rites.⁵

OVERVIEW OF LGBT ISSUES

Beginning in 2000, the LGBT agenda in Uruguay took on an important role and has occupied a significant part of the public debate. The gradual strengthening of Uruguayan LGBT organizations, their growing membership, and influence among political parties has led to major legal transformations that have guaranteed the respect of the LGBT community's human rights.

In late 2007, Uruguay became the first country in Latin America to pass a law granting homosexual couples the same rights as heterosexual couples, except for adoption. This process led to an important debate within the ruling Frente Amplio (Broad Front)⁶ party about the need to reinterpret the most classic notions of human rights and to consider the centrality of class struggle in social transformation processes.

EDUCATION

Uruguay has a public, secular, and free education system at the primary, secondary, and higher education levels. This system coexists with a private, three-tiered

education system that does not receive government subsidies of any sort and is mostly denominational. The first nine years of the education cycle are compulsory. These systems have brought basic education to Uruguayans: 98 percent of the population is literate and 30 percent have attended university.⁷

In Uruguay there are no measures or programs aimed at preventing bullying or discrimination in schools due to sexual orientation, gender identity, or ethnic origin.

The implementation of sex education in the classrooms has long been discussed in the education system. Between 1990 and 1995, and in 2000, there were two attempts to implement such programs, but these were blocked mostly by pressures from Catholic groups opposed to the notions of homosexuality as normal and that of recreational sexuality.

In November 1990, the National Public Education Administration (ANEP) launched the National Sexuality Education Program. The initiative came from the teachers themselves, and at first the program started training them and forming work teams in the system's various levels. However, in 1995, when almost 7,000 teachers had been trained, the education authorities abruptly decided to cancel the program. Officially it was argued there had been disagreements among Central Directive Council (ANEP's top board) members, especially from its vice-president José Claudio Williman, about the program's general features and the contents of the materials sent out to teachers. The most controversial book, said Williman, showed "a marked inclination towards showing sexual behavior differences as a mere cultural phenomenon, disregarding other values that heterosexual behavior can include, and logically includes."⁸ Neither the National Party,⁹ whose government launched the experience, nor the Colorado Party,¹⁰ which was in power at the time, nor the left defended the plan.

Five years later, a ninth grade biology book titled "*¡Escucha, aprende, vive!*" (*Listen! Learn! Live!*)¹¹ led to strong media controversy. The text had been jointly published by the Ministry of Public Health (MSP), ANEP, and the Joint United Nations Programme on HIV/AIDS (UNAIDS), seeking to prevent HIV/AIDS infections, other sexually transmitted diseases, and teenage pregnancy. The book, among other things, said that "There are different ways of achieving sexual satisfaction and pleasure, whether in a transitory or permanent fashion. Achievement can be reached with your own body (self-eroticism, masturbation) or with other people.... These people can be from the opposite sex (heterosexuality) or from your own sex (homosexuality)."¹²

Uruguay's Conference of Bishops complained that ANEP was violating secularism by circulating a book that was not "philosophically neutral"¹³ and recommended that Catholic schools not use it. Halfway through that year, ANEP decided to discontinue distributing the book to students.

When the Frente Amplio party won the elections in 2004 and changed the education authorities, a new discussion process began in education through the creation of a specialized commission. Finally, ANEP authorities decided (after carrying out training workshops for teachers in 2007) that sex education would be taught starting in 2007 at all public education levels, but its contents were not wholly defined, and although the different LGBT organizations had demanded the inclusion of sexual diversity, the commission in charge of designing the contents and work methodology still has not officially decided on the matter.

EMPLOYMENT AND ECONOMICS

Uruguay has an emerging capitalist economy. Some 40.2 percent of the population is economically active, with a 17 percent unemployment rate (as of 2004). Most women and men who work do so in the service sector (85% and 62%, respectively).¹⁴ Foreign debt payments amount to 34.9 percent of exports (in 2004) and the GDP per capita in 2004 was \$9,421.¹⁵

Although there are social laws and wage councils, the informal workforce is significant. No specific labor laws protect the rights of the LGBT community. The transgender community is the most affected by labor discrimination and its members are often forced to work in the sex industry in order to survive.

SOCIAL/GOVERNMENT PROGRAMS

Uruguay has no government programs targeting the LGBT population. There are HIV/AIDS programs targeting the population in general and the LGBT community in particular.

SEXUALITY/SEXUAL PRACTICES

In Uruguay, HIV/AIDS campaigns only started to gain political weight in the public realm by the end of the 1990s. Although at first the recommendation to use condoms was not explicitly included, gradually Health Ministry authorities started to introduce the issue. Therefore, raising awareness about safe sex is relatively recent and was mainly advocated by local NGOs working specifically in the prevention area.

FAMILY

Divorce was legalized in 1907, but while only one couple was divorced that year, another 6,400 were married. In 1969, there were 23,000 marriages and some 2,000 divorces. By 2004, almost a century after the first divorce was granted, the situation had changed dramatically: that year there were 13,123 marriages and 14,300 divorces.¹⁶

Although legislation and civil law continue to include rhetoric about the nuclear family (father, mother, and children), the social reality has undergone major transformations, so much so that civil matrimony as a social institution is in clear crisis. The percentage of couples choosing to live in domestic partnership has tripled in less than 20 years, from 10 percent in 1987 to 30 percent in 2004.¹⁷ There has also been significant growth in cohabitation rates among young people: in 1991, 22.2 percent of couples between 20 and 24 years old were living in domestic partnerships, a figure that rose to 64 percent in 2004. In the 25 to 29 age group, half were in domestic partnerships in 2004.¹⁸

Uruguay was the first country in Latin America to pass nationwide legislation allowing for the union of homosexual couples. The bill that regulates the domestic partnership of heterosexual and homosexual couples was passed by Parliament on December 18, 2007, with the votes of the Frente Amplio and part of the Colorado Party. Almost all of the National Party legislators opposed the bill in both chambers, in support of more traditional notions of the family. Similar regional examples

have been much more limited: Argentina has legislated civil unions for the autonomous city of Buenos Aires and the province of Rio Negro, while Mexico has done so only for its federal capital.

The legal vacuum regarding domestic partnerships meant that, up to now, common law marriages in Uruguay left couples, once the union ended due to separation or death, without obligations or rights regarding inheritance, social security, and children. This is why the decision on these matters depended on the discretion of judges and their ethical and ideological convictions. In the best of cases, judges resorted to similar technicalities in order to address the legal vacuum.

The law applies to those couples who have cohabitated for five years without interruption, and consider “domestic partnership the *de facto* situation derived from the living community of two people—whatever their sex, identity, sexual orientation, or choice—who have an affectionate relationship of the sexual order, being exclusive, singular, stable and permanent, without having been joined in matrimony to each other.”¹⁹ The partners must give each other assistance, and, if their union is dissolved, there is the possibility of claiming alimony from the former partner if such a need arises. The recognition of a union may be sought by the two members or by one of them. A third party may also do so once legal inheritance proceedings have begun for one or both members of the couple. The recognition of the union thus initiates an estate partnership that has the same rights as the joint ownership of property by husband and wife, and that automatically dissolves any previous union or matrimony had by the couple. The dissolution of these unions is carried out by judicial sentence at the request of any of the partners, upon death, or statement of absence. Also, the sentence has to settle on the custody and support of the union’s children and defines who will remain in the family home. In case of death, the surviving partner will enjoy the succession rights the civil code applies to spouses. The law also grants the union all social security benefits, as well as the possibility of receiving pensions in case of death of one member of the couple. The law does not legislate on adoption, a major issue that is still pending. This has been criticized by the organizations advocating for the rights of sexual diversity. Currently in Uruguay, only heterosexual couples can adopt children, although a single person can also do so through legal proceedings called “simple adoption.”

COMMUNITY

The first LGBT group in Uruguay, Escorpio, was formed in September 1984 and had significant activity during the transition toward democracy. Since then, many organizations have been formed, but very few have endured for very long. Also, during the 1990s, in the context of a general crisis in the participation in social movements, the LGBT movement had a drop in membership, although several groups managed to continue working, such as Grupo Diversidad, Encuentro Ecueménico para las Minorías Sexuales, Hermanas de la Perpetua Indulgencia, and La Brújula Queer.

Resurgence only started in 2004, with the appearance of organizations such as the Colectivo Ovejas Negras (Black Sheep Collective), with a nonhierarchical working structure and links to other social movements and political parties. However, a lack of government and private funding has prevented the creation of a community center open to the LGBT population.

Gay pride marches began on June 28, 1992, and since then have continued yearly without interruption, but with low attendance and scarce media impact. However, starting in 2005, sexual diversity marches managed to grow significantly, and every year since then the number of attendees has doubled. Nowadays it is a central event in the year's schedule and receives vast media coverage.

HEALTH

The public health system is state-run and free, and coexists with a private health system. Beginning in 2008, reforms were implemented seeking to improve the quality of public assistance and make the private system economically sustainable.

The first case of HIV/AIDS in Uruguay was diagnosed on July 29, 1983. Since then, 10,084 cases of HIV/AIDS have been reported.²⁰ Nonetheless, HIV/AIDS prevention campaigns had to wait almost a decade before airing on television. The first commercials, in 1990, were excessively vague until a 1991 campaign showed a condom for the first time. Health minister Carlos Delpiazzo banned three commercials funded by the World Health Organization in July 1991, on the grounds that they did not adapt to Uruguay's "idiosyncrasies." The link between Delpiazzo and the strict Roman Catholic group Opus Dei was widely noted in the media at the time.²¹ The measure led to the resignation of the national health director, Eduardo Lasalvia, and the sub-director, Laura Albertini, and a Parliamentary discussion that severely questioned the Minister. Since then, HIV/AIDS prevention campaigns have been scarce and generic, rarely targeting specific groups such as Afro-Uruguayans, women, gay men, or lesbians.

The HIV/AIDS Psychological-Social Impact Commission of the Medical Union of Uruguay was formed in 1992, with members from trade unions and human rights organizations such as PIT CNT (Plenario Intersindical de Trabajadores—Convención Nacional de Trabajadores), ASEPO (Asociación de Ayuda al Seropositivo), SERPAJ (Servicio de Paz y Justicia), and IELSUR (Instituto de Estudios Legales y Sociales del Uruguay). The commission has registered a large number of labor discrimination complaints on behalf of people living with HIV/AIDS.

According to a 2007 report by the Public Health Ministry, in that year Uruguay had 4,661 cases of HIV/AIDS.²² HIV/AIDS was transmitted sexually in 66.3 percent of the cases, and these occurred mostly in heterosexuals (70.1%) and men (65.2%), and although it affected all age groups, those between ages of 15 and 44 were the most likely to contract the disease. At first, there were nine infected men for every infected woman; today that ratio has fallen to two to one, which indicates a growing female presence in the affected population. Also, Uruguay—like other countries such as Bolivia—has a significant number of infected men who have sex with men (13.1%) and bisexuals (12.1%).

Access to drugs for HIV/AIDS is universal and free, but organizations such as ASEPO have complained repeatedly about the quality of the generic drugs acquired by the government for public health system patients and about the lack of health coverage and drugs for people serving time in jail.

University hospital surgeon Manuel Quintela offers free sex reassignment operations for the transsexual population, but the selection and evaluation process takes up to five years. So far, Quintela's hospital has carried out 10 such operations. The Supreme Court of Justice authorized—after a lengthy legal process in May 1997—the first legal name change (consisting in an addendum on the birth

certificate) for one person who underwent a sex change operation, but since judicial sentences do not set precedents in Uruguay, each new case has to follow the same proceedings without any guarantee of success.

POLITICS AND LAW

Sodomy was decriminalized in Uruguay when a new penal code was passed in 1934. Since then, neither homosexuality nor cross-dressing has been considered an offense, although throughout Uruguay's history the police have systematically repressed and illegally detained the LGBT population.

On July 9, 2003, the Uruguayan parliament passed an amendment to Section 149 of the penal code regulating incitement to hate: "Whoever publicly or through any means available for their public dissemination incite to hate, contempt, or any other form of moral or physical violence against one or more people because of their skin color, race, religion, national or ethnic origin, sexual orientation, or sexual identity, shall be punished with three to eighteen months in prison."²³ Section 149 was also modified to include moral or physical acts of violence for the same causes with a punishment of six to 24 months in prison.

On August 18, 2004, Parliament passed—with the support of all political parties—Act 17.817, titled "Fighting against racism, xenophobia, and discrimination." The act states that confronting any kind of discrimination is of national interest and defines this situation as "any distinction, exclusion, restriction, preference, or exercise of physical or moral violence, based on reasons of race, skin color, religion, national or ethnic origin, handicap, aesthetic aspect, gender, sexual orientation, and identity, whose object or result it is to cancel or harm the recognition, enjoyment, or exercise, under equal conditions, of human rights and fundamental liberties in the political, economic, social, and cultural spheres, or in any other sphere of public life."²⁴ The law also created the Honorary Commission against Racism, Xenophobia and Any Other Type of Discrimination, which was established in early 2007. Its goal is to receive discrimination reports and answer questions, promote public policies in this area, assess the judicial system, and develop awareness and education activities.

Speech and Association

Uruguay respects freedom of speech and association. Most of the existing LGBT organizations have legal capacity and have their own electronic communications media.

Bisexuals

The bisexual population has remained largely invisible in the LGBT movement. Its scarce political awareness and involvement do not favor change in the short term.

The Transgendered Population

The transgender population systematically suffers from police repression; most are thrown out of their homes at an early age, and few have finished the formal education cycle. The transgender population was organized in 1990, and in 1994

formed the Asociación de Travestis del Uruguay, a group that seeks to improve their social and health conditions.

At present, Parliament is discussing a bill that would stipulate a sex change registry (whether the person has undergone a sex reassignment operation or not), to facilitate this population's integration in the employment market.

RELIGION AND SPIRITUALITY

In Uruguay, the Encuentro Ecuménico para las Minorías Sexuales developed a space for religious celebration and reflection, and eventually led to the formation of a Christian Deaconry in Diversity in the Metropolitan Community Church. The Anglican Church has always shown consideration for LGBT issues and has aided the creation of the Deaconry.

Meanwhile, the Catholic Church has historically maintained its condemnation of the LGBT community and has systematically opposed all legal progress. In 2003, the Archbishop of Montevideo, Nicolás Cotugno, publicly stated that homosexuality is a "contagious disease," is "aberrant," and that gays should be isolated from the rest of society.²⁵

VIOLENCE

There are no official data on cases of violence based on sexual orientation or gender identity. However, the first Gay Pride Survey of 2005²⁶ determined that 67 percent of those surveyed had suffered some form of discrimination: 19 percent were the victims of direct aggression (5% suffered physical aggression, 3% suffered sexual aggression, 6% were blackmailed, and 5% were mugged during a sexual encounter in public places). Also, 48 percent reported having been threatened or verbally insulted at least once due to their sexual orientation or identity in open public spaces, within the education system, or in the workplace.

OUTLOOK FOR THE 21ST CENTURY

Legal victories for LGBT people achieved in recent years are important but not enough. Currently, the LGBT movement is considering advocating for marriage for same-sex couples (explicitly including adoption) and enhancing its social legitimacy through a mainstreaming of its agenda in all social policies. The health and social situation of the transgender population continues to be very harsh. They are the LGBT community's most vulnerable group.

RESOURCE GUIDE

Suggested Reading

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José Barrán, *Amor y transgresión en Montevideo 1919–1931* (Montevideo: Ediciones Banda Oriental, 2001).

Héctor D'Alessandro, *Las vidas de Miguela* (Montevideo: De la Puerta ediciones, 1992).

Andrés Flores, *Sexualidad y SIDA* (Montevideo: Editorial Distar, 1990).

Fernando Frontan, *La interminable danza de los siete velos* (Montevideo: Nordan, 1997).

Carlos Muñoz, *Uruguay homosexual* (Montevideo: Trilce, 1996).

Web Site/Organization

Colectivo Ovejas Negras, www.ovejasnegras.org.

Largest GLTB organization in Uruguay with the primary goal of fighting for the rights of LGBT people.

NOTES

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2. Guía del Tercer Mundo, Instituto del Tercer Mundo, 2007, <http://www.guia.delmundo.org.uy/cd/> (accessed March 1, 2007).

3. Ibid.

4. Ibid.

5. Ibid.

6. The Frente Amplio is a coalition of left-wing parties founded in 1971 and won the national elections in 2004.

7. Guía del Tercer Mundo, Instituto del Tercer Mundo, 2007.

8. C. Gobbi, “La sexualidad de los otros,” *Brecha* 20 (1996, May 24).

9. The National Party is a center-right party with rural roots and with sectors close to the Catholic Church.

10. The Colorado Party is a center-right party with urban roots and liberal principles. It ruled the country during most of the 20th century, having won the presidential elections almost without interruptions.

11. Ministry of Public Health, National Public Education Administration, Joint United Nations Programme on HIV-AIDS (UNAIDS), *¡Escucha, aprende, vive!* (Montevideo: National Public Education Administration, 2000).

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VENEZUELA

Larry Villegas-Perez

OVERVIEW

The Republic Bolivarian of Venezuela is located in northern South America bordering Colombia and Brazil. It is a country full of natural beauty and a history of freedom, conquest, and liberation that includes constant fights to maintain freedom of speech and other basic human rights. Venezuela was found by Christopher Columbus on his third voyage to the New World in 1498. He named it the “Land of Grace.” Venezuela means “little Venice,” because of the homes he saw on the water on the west coast. Some travelers stayed and others went back to deliver the good news to the Old World. At first they thought they had arrived in India, but later on they realized these were new and unexplored lands. The main objectives of the Spanish conquest, which lasted until the mid-18th century, were to find new resources and to evangelize the indigenous Venezuelan population.

Cocoa became the main Venezuelan product in the 1600s and remained so for the next two centuries. Newer forms of production needed more laborers, so slaves were brought in from African countries to work on cocoa, sugar, cotton, coffee, and tobacco farming. They also brought their traditions, myths, songs, and rhythms to become an ingredient in the Venezuelan culture.

The independence of the United States and the French Revolution provided an opportunity for the Venezuelan liberation movement. Francisco de Miranda led the most significant preindependence movement, which did



not motivate enough Venezuelans at that time, but became the first step to promote independence from Spain. For more than three centuries, Spain ruled in Venezuela. The Venezuelan population remained small, and many indigenous peoples were abused by the newcomers and died after contracting new diseases. The economy was based mainly on a few agricultural crops, extensive cattle raising, and a relatively small share of colonial trade; minerals were discovered much later.

Venezuela was one of the first provinces in the New World to declare independence in 1810. Napoleon's invasion of Spain and later Ferdinand VII's subsequent abdication precipitated the independence movement. In 1811 Venezuela adopted a republican constitution. However, it was not until 1821, under the leadership of Simón Bolívar, a *blanco criollo* (white Creole) Venezuelan born of Spanish parents, that full independence was achieved following the struggle of the War of Independence. Bolívar also liberated Bolivia, Colombia, Peru, and Ecuador from Spanish rule.

The ideas of liberation and equal rights in other new countries like the United States and France and even institutions like the Catholic Church have helped Venezuelan women and other groups to gain more participation in social and political events. LGBT rights have been included among other civil rights and liberties, but never as a unique right for LGBT persons.

OVERVIEW OF LGBT ISSUES

Although there is not a wealth of documentation on how the LGBT movement was established in Venezuela, it gained visibility after HIV/AIDS cases were found among Venezuelans. The project to revise the new Bolivarian constitution included protection of rights such as sexual orientation, but the influence of religious and so-called Christian organizations made it impossible to achieve. Because Venezuela, like many Latin American countries, has a very strong religious influence from the Catholic Church and other Christian groups, it has been a challenge for many LGBT Venezuelans to live a life free of violence or gay bashing. They are perceived as living a corrupted and sinful life. There are no laws against discrimination based on sexual orientation and, as a consequence, many LGBT individuals live a double life or stay in the closet.

In the mid-1980s, when the first cases of an unknown disease appeared in hospitals and private clinics, the so-called homosexual cancer became identified as having come from the United States. As a consequence, fear and stigma invaded hospital settings first and then society as a whole. People received treatment for symptoms, but there was nothing else doctors could do because there was no cure. The main concern at that time was that everybody would know who was gay if he or she developed AIDS.

Contrary to statistics in the United States, in Venezuela, HIV/AIDS cases are almost equally distributed between the heterosexual and homosexual populations.¹ According to UNAIDS (a program of the United Nations), Venezuela has one of the largest HIV/AIDS epidemics in Latin America, and the disease is continuing to spread. In the 1980s many males studying or living in the United States came back with HIV/AIDS to die with their families. However, in the last 10 years, the disease has been infecting the lower-income populations—many of whom come from the barrios or other impoverished areas. In 2003, women represented only about 5% of reported HIV/AIDS cases and now they make up about 20 percent to 25 percent.²

EDUCATION

Although HIV/AIDS prevention and education has not become a national priority, the government has implemented public health programs to provide sex education to students and the general population. Some programs and hospitals also provide medications (known as the “cocktail”) to treat HIV/AIDS. However, like in the United States, using the cocktail has given the impression that HIV/AIDS has become like any other disease and is now manageable and under control. The media has not helped much, at least in Venezuela, to eliminate such belief or to explain the side effects of all these drugs. Some people living with HIV/AIDS may not even access those services because of the fear of stigma and gossip. Although there are programs and institutions that promote sex education and responsibility, such education does not reach smaller towns and sometimes programs teach abstinence only as an option.

Since HIV/AIDS arrived to Venezuela, Congress Budget Office (CBO), called Organizaciones No Gubernamentales (ONGs), emerged to provide a helping hand. Some were more organized than others but they all had the same objective: to educate Venezuelans about the spread of HIV, AIDS and its treatment, and safer sex practices. Soon, teaching about HIV/AIDS became a part of the curriculum in many fields and careers; however, eliminating stigma and discrimination was not always addressed. Organizations such as Amigos de la Vida, AID for AIDS, and Acción Solidaria among others provide access to education, medicines, testing, counseling, and referral services and provide a safe network for people living with HIV/AIDS. Within Venezuela, Lambda is the only openly gay organization that promotes pride, sex education, and antihomophobia campaigns. It also organizes the Gay Pride Parade in Caracas and publishes a magazine *A&V* (Artists for Life) addressing health and diversity issues. The magazine has just celebrated its 16th anniversary.

EMPLOYMENT AND ECONOMICS

Venezuela does not have specific antidiscriminatory laws based on sexual orientation; however, its constitution provides protection for the life, physical integrity, privacy and confidentiality, and freedom of its individuals and establishes penalties for discriminatory messages and violations of personal rights.

Venezuela is the second largest provider of oil to the United States. As a consequence, the economic relations between the two countries and with other developed countries are prosperous. The income for a minimum waged employee is approximately US\$375 per month and includes free coverage for health care. Because the government has implemented social programs to provide free medications for people living with HIV/AIDS, it is possible to provide medications for more individuals. Those programs exist because of the lobbying of many organizations and thousands of individuals who work everyday for those health benefits.

SOCIAL/GOVERNMENT PROGRAMS

Most of the funding and programs are related to raising awareness on HIV/AIDS education, counseling and testing, and prevention. It is unknown whether there are any funded programs that are specific for LGBT persons.

SEXUALITY/SEXUAL PRACTICES

The media tends to reinforce the stereotypes about gay, lesbian, or transgender appearance and behavior. For example, on TV shows and soap operas, a homosexual is shown as a flamboyant, negative, obviously feminine character. This perpetrates stigma on homosexuals as laughable and repulsive individuals, enforcing the belief that feminine traits or characteristics are a sign of weakness. These misrepresentations keep many LGBT persons in the closet and force them to search for love, personal encounters, and intimacy on the Internet and at bath houses, public restrooms, parks, and malls. More conservative LGBT people prefer personal gatherings at homes, movie theaters, or cultural events. There is a large group of younger people who are more assertive about their sexual orientation and who frequently visit bars and clubs until the sun rises. This is one of the reasons why Caracas, for example, is known as the city that never sleeps; parties last all night long.

Anecdotally, it is known that many heterosexuals engage in homosexual behaviors with men and women, and that many are considered bisexuals before they come out of the closet. Many female impersonators as well as transgender persons exchange sex for money and, in many cases, heterosexual men will hire them with the fantasy of being with a female, while they are actually being penetrated. Others who engage in homosexual activities without being fully aware of their actions (known as “the down low”) will not consider using safer sex methods because, in their minds, it is not happening anyway. Like in many other countries, the influence of machismo plays a role during sex where the person penetrated is the homosexual, not the person penetrating; this belief makes it easier for bisexuals to have a girlfriend and a boyfriend, without admitting to themselves that they have homosexual desires. Venezuelans are in general very affectionate and attentive, which makes it easier for foreigners who visit Venezuela to find themselves right at home and even meet others LGBT individuals.

Community-based programs promote activities where sex education is discussed openly and people share their experiences; education includes substance abuse, stress management, and street safety. An example of this is the antihomophobic campaign implemented by Lambda, articles published in the *A&V* magazine, or the plays in theaters that try to educate people and raise awareness on the importance of diversity and living a fear-free life.

FAMILY

Venezuelan families have all kinds of backgrounds and ethnicities; from the native Venezuelans to the immigrant Spaniards, Portuguese, Italians, Colombians, and Lebanese, among others. Each has their own definition of family and how to conduct family affairs. However, they all have something in common—most parents will do all they can to provide food, shelter, and support for their children as long as they can. Families with mid- to high incomes often pay for private education and support their children until they graduate and start working in the family business. Other families with lower incomes or living under poverty levels will probably have teenagers who start working while in high school and who may not even finish or graduate because they have to work. LGBT individuals with all these different backgrounds gather at the same bars and clubs, and, although race may not be the issue, social class may be taken into consideration in dating settings.

Some more open families will accept the same-sex boyfriend or girlfriend at home because the family members have learned to be more open about it. In cases where the son or daughter, after a certain age, does not marry or have children, the family will then adopt the don't ask, don't tell policy.

COMMUNITY

There are many LGBT individuals in Venezuela, with many of them living in Caracas or other big cities. They are seen at night in clubs, bars, and coffee houses, or during film festivals and gay pride activities. The saying, "there is power in numbers," is very true in this case because there are areas in Caracas known to be predominately gay. Everybody knows where Sabana Grande, El Recreo, Altamira, and Las Mercedes are because of all the coffee houses, stores, bars, and clubs targeting gays and lesbians. However, there is not an actual LGBT political community as perceived in other countries because so many people are in the closet. The organizations previously mentioned and university programs promote equality, social justice, and community gatherings to decrease even further stigma, misconceptions, self-hate, and internal homophobia. Most of the programs that unite members of the LGBT community are geared toward arts and community service that includes helping people living with HIV/AIDS. Usually people talk about gays and lesbians as the only individuals in this community. Bisexuals are rarely mentioned because they probably do not participate openly in LGBT social events, and transgender individuals are still highly stigmatized and have the highest numbers of victims of hate crimes—the victims of which are commonly ridiculed, with the crimes themselves going unpunished.³

RELIGION AND SPIRITUALITY

Because Venezuela is a Christian country including many Protestant groups, homosexuality is perceived as a sin and, as a consequence, punishable by God. Many LGBT individuals belong to churches and are looking for inner peace, and some individuals undergo pastoral counseling for years to change to heterosexuality with no results. Many of these individuals also live double lives: the one at church on Saturdays or Sundays, and another one at sunset or online. Their suffering and struggle for acceptance and intimacy creates for them and, also for all others who live in the closet, a high level of stress, mostly related to worries that family members may find out who they really are.

VIOLENCE

Although cities like Caracas may be perceived as dangerous at night, there are other areas where LGBT individual feel safer to gather and celebrate who they are.

OUTLOOK FOR THE 21ST CENTURY

Many younger Venezuelans are out of the closet in the bigger cities. Venezuela's natural beauty and its people attract LGBT individuals as a Caribbean paradise: such is the case of Margarita Island in the east coast.

Organizations and individuals are working together lobbying in favor of equal rights and health coverage related to HIV/AIDS.

There is a perceived helping hand within the government that supports gay rights, and allows gatherings, businesses, and activities; however, it does not support LGBT individuals openly. Among LGBT individuals there is the perception that there is an LGBT revolution within the new social-oriented Venezuelan government, and they are gaining respect, participation, and opportunities.

RESOURCE GUIDE

Suggested Reading

- C. Becker, et al., “Influences on Sexual Risk Behavior in Young African American Men Who Have Sex with Men,” *Journal of the Gay and Lesbian Medical Association* 2 (1998): 59–67.
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- Acción Solidaria, <http://www.acsol.org/>.
- Fundacion Amigos de la Vida, <http://www.mipagina.cantv.net/fundacionamigos/>.
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- Latinos and HIV/AIDS—Fact Sheet, <http://www.kff.org/hivaids/6007.cfm>.

NOTES

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2. Ibid.
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ASIA AND OCEANIA

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INTRODUCTION

ASIA AND OCEANIA

The life experiences of lesbian, gay, bisexual, and transgendered people in Asia and Oceania are as varied as the religious and political systems found there. Thailand is one of the least homophobic cultures on the planet; this is the result of thousands of years adherence to Buddhism and little influence from outside colonizing forces. In contrast, the Muslim-dominated countries of Bangladesh, Indonesia, and Malaysia are dangerous for LGBT people because of heteronormative and antigay religious beliefs that often influence government policy. Australia and New Zealand are similar to other Western democracies. They are slowly overcoming antigay British cultural sentiments and struggling with the implementation of anti-discrimination statutes concerning employment and housing and also working to create domestic partnerships for LGBT couples. Their gay communities host many organizations and large events, such as Mardi Gras. China, Vietnam, and a few other countries have communist governments that have veered from their Buddhist origins to be less accepting of LGBT people. India, a Hindu-dominated culture, is still bridled with a legal system installed by British colonialists that punishes sodomy and marginalizes all who do not conform to heterosexual norms.

To better understand the sociopolitical status of LGBT culture, it is best to analyze the religious origins within each region; doing so will allow for a greater understanding of the current political situation in each country. Unlike Africa and the Americas, many of the countries of Asia and Oceania have thousands of years of recorded histories from which to glean information on family structure and how nonheterosexual behaviors and relationships were incorporated into the society.

Buddhism is thought to have begun approximately in the fifth century B.C.E. in the northeastern region of India. Over the centuries, many different forms of Buddhism evolved through three main branches—Theravada, Mahayana, and Vajrayana—and spread throughout much of Asia. There are three elements of Buddhism that impact how LGBT persons are perceived and treated. First, the important guiding practice of Buddhism, known as the Middle Way. This is the practice of nonextremism. A life of moderation is one where self-indulgence and self-mortification are kept to a minimum. Second, Buddhism promotes personal happiness and is sex-positive (i.e., sex is viewed as a positive experience). In many Buddhist cultures, sex is openly displayed and presented as a pleasurable activity.

For example, many people wear Buddhist amulets in the shape of penises and a carved wooden penis often adorns the front of a house to provide spiritual protection. In smaller villages located in northeastern Thailand, the Isan culture often engages in public flaunting of sex as part of parades and folk music performances. Third, Buddhism makes no value differentiation between heterosexual or homosexual sexual behaviors. What is important is that sex does not become self-indulgent. Sex is to be pleasurable, practiced in moderation, and the gender of the partner is immaterial.

Does this mean that LGBT persons are viewed as equals to heterosexuals in Buddhist societies? Actually, this question makes no sense in these societies. Buddhists do not have identities related to their sexuality. Sex is something pleasurable to engage in, not an activity used to shape an identity. Instead, personal identity primarily revolves around the family. People are expected to be deeply involved with their families. This is in contrast to how families have evolved in modern Western societies. Wealth has allowed Westerners to live independently and not to worry about illness or old age impacting their survival. This is not true for most of the world's population or throughout history, instead, family provided the seat of security. Without wealth or the state financial support of education, health care, childcare, or old age pensions, it was the family that provided these support services. Children were viewed as sources of security for parents and grandparents against the infirmities associated with old age or injuries leading to disability. Thus, the ultimate goal for any young adult was to work to support the family, marry so as to delineate property ownership, have children to establish the next generation of workers, and provide for the needs of grandparents. Nowhere in this family defining formula is sexuality proscribed. Restricting who has sex with whom is not necessary, as long as marriages are consummated and children are produced.

The histories of Asia are replete with stories and legends of people who marry and produce children but who also have a same-sex love interest. For example, the ancient work *Han Fei Zi* tells of the love Duke Ling of Wei (534–493 B.C.E.) had for Mizi Xia. While strolling through a garden, they both picked a peach from a tree. Mizi noticed his was sweeter than the Duke's and offered him his half-eaten peach. The Duke was duly impressed. The term for "half-eaten peach" became a word denoting homosexual love. Hundreds of years later, a similar Chinese story reinforced the same idea. The word for homosexual, *Tuan Hsiu* (passion of the cut sleeve) in ancient China, comes from the tradition of Emperor Ai of Han (27 B.C.E.) who cut off the sleeve of his shirt rather than disturb his lover, Dong Xian, who slept with his head on top of it.

There is also wide acceptance of transgendered people within Buddhist societies. Although gender roles have been strictly defined through cultural mechanisms, a person could transgress and adopt the dress and manners of the opposite sex. In many early cultures, transgendered individuals were often seen as shamans possessing deep spiritual power. As such, they were sought for important events, and served as teachers of the young and as counselors. Even today, throughout many of the smaller villages in of Asia, young men who view themselves more as women than men may join the community of "lady boys" by dressing and acting as women. They often serve as entertainment at community events and marriages. They may or may not seek sexual reassignment surgery. Clearly, many Buddhist communities accept transgendered people as a natural element of their society.

The impact of Buddhism on cultural norms is still evident throughout much of Asia. In general, the more Buddhist a society, the more accepting it is of same-sex sexual behaviors and relationships. This has been modulated through colonialization and war with foreign countries. Early European explorers and missionaries arriving in Asia were shocked by the same-sex behaviors they found. They believed the “heathens” needed religious conversion to Christianity. The encroachment of European powers (the British Empire in particular) into Asia resulted in codification of antisodomy statutes in many countries. These laws were aimed particularly at homosexual behaviors.

Currently, there is a great deal diversity of beliefs in the Buddhist community with regards to homosexuality. Many of the changes have been attributed to the influence of Western religious beliefs and political actions. Tibetan Buddhism, Theravada Buddhism, and Chinese Buddhism have changed to officially become antigay in contrast with Japanese Buddhism, which advocates homosexuality over heterosexuality for its priests. Thailand serves a prime example of this antigay shift. Before AIDS, Thai Buddhism was very gay accepting, and many priests were open about their same-sex sexual attractions and friendships. The stigma of AIDS and its association with homosexual behaviors shifted the perception of Thais regarding gays so much that the supreme governing body in Thailand (the *sangha*) affirmed that gay priests could not be ordained. Within the last 10 years, thousands of gay priests in Thailand have been ousted.

The other major religion found in Asia is Hinduism. By some accounts, Hinduism has the world’s oldest religious traditions, which emerged from northern India during the Iron Age (second and first millennia B.C.E.). Mostly an oral tradition derived from many different locations, Hindu scriptures were slowly written down by many different authors over many centuries. These authors are considered to be prophets, not gods. Most Hindus regard these writings as guides to everyday life and do not interpret them literally. The Hindu concept of God is complex and has been influenced by particular traditions. Hindus of the Vaishnavism sect believe Vishnu is God (also called Krishna or *svayam bhagavan*). In another sect, God is organized between three Gods—Vishnu (the preserver), Shiva (the destroyer), and Brahma (the creator). Other sects of Hindus believe in monotheism, polytheism, pantheism, pantheism, and atheism.

Transgenderism or androgyny has a long history within Hinduism. Many deities are presented as being half male and half female. This reinforces the Hindu belief that the entire cosmos is balanced between male and female elements. Shiva, for example, is usually portrayed with half its body being male and the other half female. Many legends tell of deities changing gender and becoming involved with someone of the same gender. The oldest scriptures, the *Rig-Veda* (1500–1200 B.C.E.), make no mention of homosexuality. It was not until much later, in the third and sixth centuries C.E. the homosexuality was mentioned in Hindu writings, and then it was not negatively portrayed. The *Kama Sutra* was written in the fourth century C.E., and, among other details, gave explicit instructions for both men and women on how to perform homosexual sex acts and emphasized their pleasures. It was not until the influence of Islamic invaders in the northern part of India in the 12th and 18th centuries C.E. that sexual values in Hinduism changed and took a negative view of homosexual sex and relationships.

As with Buddhism, traditional Hindus form their identities around family, not sexuality. A man or woman was expected to fulfill the familial obligations of

marriage, produce children, and take care of parents and grandparents in their old age or disability. If these familial obligations were met, then homosexual sex or relationships were ignored. There is evidence that, in some locations at particular times in history, same-sex marriages were performed and accepted by the community and Hindu religious leaders. Overall, Hinduism was not antigay until modern times.

Religion and culture are self-reinforcing. People's beliefs form their religions and their religious beliefs reinforce cultural values. Thousands of years of gay and transgender-accepting cultures produced Hinduism, which reinforced their acceptance with stories and legends of transgendered gods and gods engaging in homosexual behaviors. For thousands of years, the Hindu and Buddhist lifestyles were similar and there was little conflict between the two. The invasion of Asia by first the Christians, then the Muslims, then the British, and finally the communists changed all that.

In Japan, Shintoism is the native religion and originates from prehistoric times. It is an animist religion based in nature and location and remains one of Japan's official state religions. Shinto does not have a binding dogma or holiest place for worship. Instead, it is mostly a collection of rituals used to mediate the relationships between living humans and *kami* (spirits of nature). Homosexuality was accepted throughout the history of Shinto and expressed mostly in the warrior (Samurai) and middle classes. The tradition of Shudo ("the way of young men") formalized age-structured homosexuality in the Samurai class. It was thought that the only way a young boy could mature into a man was to be trained in the path of the Samurai. He would be paired with an older warrior who would teach the young boy virtue, honesty, family, and an appreciation of nature's beauty. Their relationship included sexual expressions. Supporting this viewpoint were hundreds of fictional and historical literature praising the beauty of boys and encouraging faithfulness to an older mentor. The general public approved of the arrangement and was eager to have their sons participate in homosexual relationships with older Samurai warriors. Elaborate rituals were used by parents to prepare their sons for initiation into Shudo. Samurai warriors usually fulfilled their familial obligations to marry, bear children, and provide support for parents and grandparents, but they also continued their sexual relationships with young boys.

The other major religion in Japan is Confucianism. It is not a mystical religion in the common sense, but rather a complex system of philosophical, social, moral, political, and quasi-religious ideas. There is no mention of homosexuality in Confucianism although there are a few stories of an older lover with a younger male serving in the passive role.

Japan's primary religions today include Shintoism, Confucianism, and Buddhism. None of these condemned homosexuality and the culture, through the Samurai class, was very supportive of homosexual relationships for at least a period in a man's life. Once Islam, Christianity, and the British legal system invaded Japan, the native religions began to change and adopt an antigay perspective. Only recently, with the advent of the modern gay movement, are people rediscovering their gay-affirming past and are LGBT people asserting their rights as equals.

For centuries, Malaysia, Indonesia, and Bangladesh were dominated by Buddhist and Hindu religious beliefs and were openly accepting of LGBT people. Traders from southern India Islam introduced Islam into the area at the beginning of the second millennium C.E. This was a gentler form of Islam, not the orthodox

Islamic tradition from Arabia. The peoples of the coastal regions were the first to adopt Islam. It was absorbed and modified with local traditions and beliefs, transforming Islam into a uniquely Malay construct. Later in the 15th century C.E., the Ming Dynasty's fleet stopped along many of the coastal towns. Admiral Zheng He, who was Muslim, sought out the local mosque to pray. Many Muslim Chinese stayed behind, facilitating a significant change in the power structure in the region concerning the position Islam held in religious and cultural politics. Ultimately, Islam became the dominant religion in Malaysia, Indonesia, and Bangladesh, so much so that Islam is now the official religion of Malaysia. With it came condemnation and persecution of LGBT people.

Islam has rejected homosexuality from its very beginning. Being one of three Abrahamic religions (along with Judaism and Christianity), its core stories are anti-gay and patriarchal. The legal punishment for homosexuality ranges from reprimands and prison time to floggings and stoning to death. Although punishment is rarely carried out, it has a chilling effect on those wanting to come out or advocate for LGBT rights. A minority view held by liberal factions of Islam, such as the Al-Fathia Foundation, is that the Qur'an (Koran) condemns homosexual lust, but not homosexual love. Centuries of literature produced in Islamic cultures tell stories of love between men and between men and boys. It is uncertain how the average Muslim responded to the apparent conflict over the veneration of same-sex love in stories, poems, and song and the Qur'an's antigay rulings. The result of increased Islamic presence has been for the governments of Malaysia, Indonesia, and Bangladesh to outlaw homosexual behaviors and relationships and impose imprisonment and physical punishment.

Another major influence on Asian culture has been its colonialization by European imperialists. Competition between Portuguese, Dutch, French, and English monarchs over the spice trade routes pushed each country to greater and greater incursions into Asian societies from the 14th through the 17th centuries C.E. At first, the Asian powers, such as India, China, and Japan, were able to deny the Europeans complete access to their lands and cities. However, European warships dominated the oceans thereby restricting Asian merchants' full use of trade routes. By the 18th and 19th centuries, the Industrial Revolution gave Europeans much greater technological advances, such as the steam-powered warships, so Asian governments surrendered to their demands. Britain ultimately won the competition among the European powers and made India, the governments along the Indian Ocean, Japan, the Philippines, and China into protectorates of the British Commonwealth. (Australia and New Zealand represent special cases. Neither had very large indigenous populations and Europeans were able to colonize them directly. Thus, from the very start of modern times, Australia and New Zealand were British in culture and law.)

Britain imposed its legal framework over all its conquered countries. British Penal Code 377 made homosexual acts illegal and punishable by flogging and imprisonment, and all the countries in Asia and Oceania incorporated the antisodomy code into their own local judicial system, thereby overwriting centuries, if not millennia, of tolerance toward LGBT people. Only recently, as each country has gained its independence from Britain, have the people questioned the application of antisodomy statutes. Slowly, many of the countries in Asia and Oceania have rescinded their antisodomy statutes, thereby allowing for the growth of LGBT organizations and activism.

The final major influence on Asia has been the European import of communism. Currently, China, Vietnam, Laos, and North Korea have communist political systems with varying degrees of capitalism. Each of these countries has long histories of being primarily Buddhist and/or Hindu. As such, they were once accepting of homosexual behaviors and relationships. The political struggles and wars in the middle of the 20th century lead to an overthrow of European rule and establishment of communist governments. Originally, Marxism was not antigay, but its application to Russian culture in the formation of Russian communism absorbed antigay sentiments from the people. Homosexuality came to be viewed as a mental disorder and disease, and LGBT people were often arrested and imprisoned for treatment. Although communism is atheistic, these Russian beliefs later influenced the communist struggles in Asia. Currently, none of the Asian communist countries have laws against homosexuality, but cultural norms make it dangerous to be out. LGBT people mostly live lives of quiet desperation and stay invisible and unknown.

OVERVIEW OF LGBT ISSUES

Sodomy

Currently, Cambodia and Thailand are two of the least antigay countries in the world. It is not that these countries offer extensive rights for LGBT people, but rather that the cultures are relatively unbiased against sexual minorities. Buddhism has been and continues to have a major influence in these countries. Australia, Japan, and New Zealand do not have antisodomy statutes on their books as the result of recent political action precipitated by LGBT activism. They have overcome the most egregious British antigay legislation and have begun to establish minimum equal rights for LGBT people in employment, housing, marriage, and adoption. China and Vietnam, as communist states, have no antisodomy statutes on the books, yet they are not very accepting of LGBT people. There is still the belief that gay people are mentally ill. Mongolia and Hong Kong also do not have any antisodomy statutes, but their cultures rarely acknowledge the existence of LGBT people. The influence of the British legal system is still felt in India and Singapore, with both keeping in place Section 377 of the British Penal Code criminalizing homosexual behaviors. Finally, the Islamic countries of Bangladesh, Indonesia, and Malaysia have strict antisodomy statutes in place, following traditional Sharia law mandating severe punishment for engaging in homosexual behaviors. For example, in 1998, the Prime Minister of Malaysia, Mahathir bin Mohamad, accused the former finance minister and Deputy Prime Minister Anwar Ibrahim of sodomy. This was an act of character assassination designed to discredit Ibrahim. During the trial, Prime Minister Mohamad reiterated the charges on national TV, which garnered him support from those segments of the population that held anti-Western values. Ibrahim was convicted of the charges and sentenced to 15 years in prison. His conviction was overturned in 2004 by federal courts. After the appeal, the judges commented that they thought the charge of homosexuality was valid.

Antidiscrimination Statutes and Violence

Australia and New Zealand have adopted various antidiscrimination statutes concerning sexual orientation as applied to employment and housing. These legal protections have come about as a direct result of LGBT activists being allowed to

agitate for political change. This demonstrates the need for all countries to make it safe for LGBT activism. Without this activism, there would be little change in anti-gay sentiments. None of the other countries in Asia or Oceania have adopted any antidiscrimination statutes and, with the exception of Thailand and Cambodia, are dangerous for LGBT people to come out at work or to their families. It is thought that Thailand and Cambodia do not have antidiscrimination statutes concerning sexual orientation because their cultures are so accepting of gay people that such statutes are unneeded.

Singapore had difficulty attracting foreign professionals or retaining local talent in the early 2000s. In a surprising turn of events, the Prime Minister of Singapore announced in 2003 that the country welcomed gays to come and work. The ploy was undermined by the government announcing, at the same time, that gay parades and similar public festivals would be banned. Further, Singapore has compulsory “national service” that does not exclude gays from serving in the military but requires them to undergo medical examination and an interrogation of their parents to determine whether the subjects cross-dressed or played with toys inappropriate for their gender while children. Once the review is completed, the LGBT persons are placed in a special category “302,” deemed unfit for combat duty, restricted to nonofficer ranks, forced into clerical vocations, and sent to camps without barracks, thus requiring them to live off-base. The reality for LGBT people in Singapore is the opposite of what the Prime Minister advocates.

The violence level toward LGBT people varies widely across Asia and Oceania, reflecting the wide range of governmental and religious attitudes found in the region. The Islamic countries of Bangladesh, Indonesia, and Malaysia are the most dangerous for LGBT people. Although there are few reports of violent attacks, the cultures are so antigay that gay people know instinctively to remain closeted. The more violent areas are ones where sexual minorities have gained a few rights and have begun organizing and petitioning for equality with heterosexuals. In the politically Western countries of Australia and New Zealand, the “Homosexual Panic Defense” (HPD) is still approved for use in courts. Here, an alleged victim can claim to have been exposed to an “unwanted sexual advance” that sufficiently “deprives the offender of the power of self-control.” Most Western courts have rejected the HPD as a legal and psychological argument, since it shifts the blame for antigay violence onto the victim.

Marriage and Adoption

None of the countries in Asia or Oceania allow same-sex marriage. China will recognize same-sex marriages performed in foreign countries, but does not allow them to be performed within China. Australia and New Zealand have implemented a form of civil union or domestic partnership, but not full marriage equality. Australia and New Zealand are the only two countries in the region that allow same-sex couples to adopt children. Single LGBT people are not allowed to adopt or foster children. Even still, there are additional roadblocks—such as religious condemnation and familial rejection—to gay couples adopting children that heterosexual couples do not face.

Education

With very few exceptions, the educational systems in Asia and Oceania make no mention of LGBT issues in their curricula, nor have they implemented

antidiscrimination policies covering LGBT students or teachers. Australia, New Zealand, and Taiwan have antidiscrimination policies and include some LGBT topics in classroom materials, but there is still a considerable amount of antigay bullying and harassment in the school setting. Sometimes the first step toward equality education occurs at the university level, as has happened in Japan and China. The colleges there allow LGBT students to organize and may offer courses in women's or gender studies. Still, misinformation seems to be common. For example, in Hong Kong, a "Sexual Wholeness" seminar for teachers and social workers included comments that lesbians could be cured by having them wear dresses, lipstick, and high heels. Asia and Oceania's educational systems have a long way to go to make schools safe for LGBT students and staff and to educate the public with accurate information.

AIDS

AIDS has ravaged Asia and Oceania. Thailand and Cambodia have some of the highest infection rates in the world. Combinations of factors have led to this state of affairs. Both cultures have high incidences of intravenous drug use and are fairly sexually liberated. AIDS, a disease that is blood-borne, is effectively transmitted under these conditions. Most of the countries in this region of the world make it a policy to provide AIDS medication free to all those in need. That said, the reality is very different. Many of these countries are very poor and are unable to secure sufficient quantities of medications to make them available to all who need them. India has led the way among impoverished nations by violating international patent laws and producing its own generic AIDS medications. This has created international turmoil between the wealthy nations that developed the medications and the poor countries most hit by high numbers of infections.

AIDS is still viewed primarily a gay male disease. Although statistics show that AIDS is now found mostly in heterosexual communities, it serves a political purpose for many politicians to blame AIDS on a stigmatized group and claim that it is a Western disease, thereby maintaining the purity of their own culture. Another impact from this viewpoint is that the health needs of lesbians are overlooked. Lesbianism is rarely addressed and is virtually invisible in most Asian and Oceania countries. No antisodomy statutes include women, and AIDS is seen as a gay male disease. The result of these viewpoints is that women, and lesbians in particular, are underserved by the medical field.

Religion

The histories of Asia and Oceania give a clearer picture of the changes in attitudes toward LGBT people and their issues than anywhere else in the world. Because there are written records going back for thousands of years, we know that homosexuality, same-sex relationships, and transgenderism were widely accepted and venerated by indigenous religions. Then, as foreign powers that held beliefs stemming from the Abrahamic religions overran and dominated the regions, not only did the cultures become antigay, the indigenous religions also retreated and often began to incorporate antigay elements. Only now, as these countries have broken free of European control and modern technology such as the Internet is allowing for the free access to information, is the modern gay movement having an impact on regional discussions of LGBT issues. There is nothing inherently right

or wrong about homosexuality or transgenderism. These are moral beliefs stemming from religions that either allow LGBT people to live as equals or calls for them to be treated with scorn and threats.

The Transgendered and Intersexed

There is a long tradition of accepting transgendered and intersexed people in Asian and Oceania societies. The two dominant religions of the area—Buddhism and Hinduism—have made it safe for thousands of years to be gender nonconforming. Hinduism has many deities that are half-male and half-female and who are capable of changing from one sex to another. This helped to demonstrate for society that there are more than just two genders and that a “third-gender” (as it is termed in Hinduism) is more than just acceptable, and is representative of the behaviors in which the deities engaged. In modern India, there are a number of third-gendered sects. The *aravani* or *ali* of Tamil Nadu is a sect located in southern India that holds annual festivals. The *ali* include both feminine and masculine transgendered people who mostly engage in homosexual behavior and do not practice castration. The Hijra are probably the best-known transgendered sect. Often they have been through gender reassignment surgery and have formed communities in northern India. The Jogappa often serve as dancers and male prostitutes and act as entertainers for temple *devadasis* of the Hindu deity Durga. Jogappa do not engage in castration. Finally there is the Sakhi-Bekhi sect, wherein homosexual men dress as women to display their romantic feelings for Krishna and engage in sex with *cudadharis* (men dressed as Krishna). They, too, do not engage in castration. These archetypes found in India can be found throughout Asia and Oceania to varying degrees.

Because of thousands of years of Buddhist influence, Thailand has become a focal point for transsexualism and intersexed people. Animist religions view transgendered people as being spiritually blessed. In Thai, they are called *kathoe* (translated as “ladyboy”) and are sought out for religious services and often make their living as sex workers. Intersexed people are called *kathoe thae* and are viewed to be doubly blessed since they have a double spirit. Ladyboys have gained considerable stature in Thailand in recent years because of two events. Volleyball competitions are very popular, and a team made up of ladyboys drew large crowds and eventually won the Thailand National Volleyball Tournament. A movie, *The Iron Ladies*, was produced in 2000 and was very successful. That led to a sequel. In a similar vein, Nong Toom, a ladyboy, worked his way up in Muay Thai kickboxing. He dressed and acted feminine but, to the amazement of everyone, beat every opponent and captured the National Championship Boxing title in 1998 (reenacted in the movie *Beautiful Boxer*, 2004). With the money he won he had gender reassignment surgery and is now a well-known actress living in Bangkok.

Thailand has become a global center for gender reassignment surgery (GRS). Medical costs are low and the general acceptance of transgendered people makes it safe for many to seek out these medical procedures. Some LGBT activists believe the focus on GRS is misplaced. They contend that, if society were truly supportive of transsexuals or intersexed persons, then there would be no need for GRS since the person would feel accepted as he or she was born. Activists point out that it is the medicalization of sex by Western thought created the binary construct of gender, thereby forcing people to conform to one gender or the

other. Now that Western medicine has advanced far enough to allow for GRS, transgendered and intersexed people are being sold on the idea that they can conform through surgery and hormone treatment.

OUTLOOK FOR THE 21ST CENTURY

Asia and Oceania have a complex history and mixed politics, making the outlook for LGBT people problematic. It can be expected that LGBT people will gain more rights and perhaps obtain legal equality with heterosexuals in Australia and New Zealand, similar to the advances made in gay rights in the United States, Canada, and most of the European countries, but the reticence even to discuss sexuality let alone homosexuality in Indian or Chinese cultures is a major block to gaining rights for millions of sexual minorities in those countries. The nonhomophobic cultures of Thailand and Cambodia must take the next steps to recognize the need for distinguishing LGBT for legal recognition. Being nonhomophobic is not enough. The cultural forces delineating family structures, by their very nature, exclude LGBT people from full participation in society. The Islamic-dominated countries of Bangladesh, Indonesia, and Malaysia will probably continue to be dangerous places for sexual minorities.

The Internet is proving to be a liberating force for the LGBT communities in Asia and Oceania. Information on homosexuality, transgenderism, and more is available and helps reduce the isolation felt by many LGBT people. However, many countries engage filters to block unwanted political opinions, including much of the information on homosexuality. Finally, at the time of this writing, the world has sunk into a deep economic recession. History has shown that when a society comes under stressors—including war, famine, ecological disaster, or economic recession—the culture becomes more conservative in attitude and politics. As such, rights for LGBT people in Asia and Oceania can be expected to stay stagnant or even lose ground in the near future.

AUSTRALIA

Cristina Corleto and Gerard Sullivan

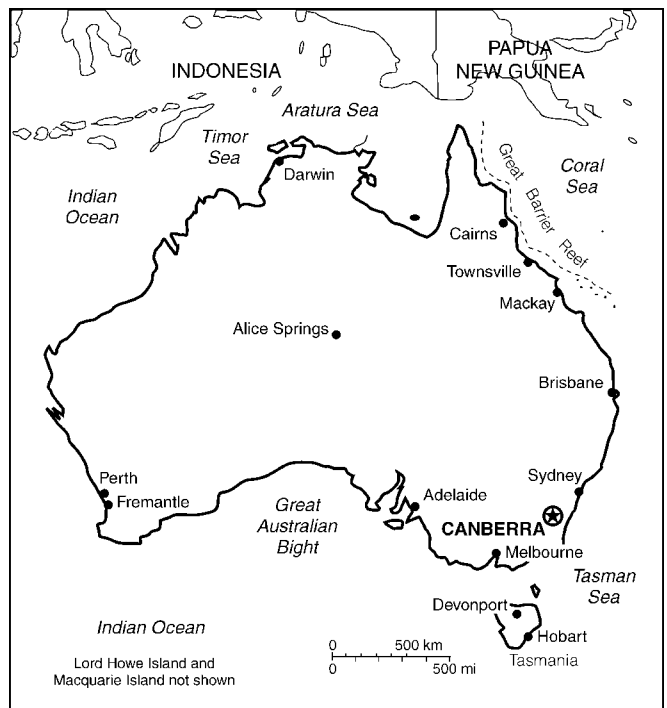
OVERVIEW

Australia is the sixth-largest country in the world, extending 1,988 miles from north to south and 2,485 miles from east to west. It covers 2,966,152 square miles and comprises five percent of the world's land area. The coastline is a stunning 22,826 miles long. The climate varies from temperate in the south to tropical in the north. Much of the country is desert. The seasons are the opposite of those in the northern hemisphere.¹

Australia's population reached 21 million in 2007. The average life expectancy for females is 88 years, while that for males is 85 years. Due to its present global, nondiscriminatory immigration program, Australian society is culturally diverse. English is the official language, with around one-fifth of the population speaking a second language.²

The first inhabitants of Australia were of Aboriginal and Torres Strait Islander origins. In 1770, Captain James Cook arrived aboard the ship *Endeavour* and claimed Australia for the British Crown. Roughly half of the first European arrivals in 1788 were convicts. Between 1788 and 1868, an estimated 160,000 additional convicts were transported to Australia. Many free settlers also arrived in order to take advantage of the booming wool and mining industries. The Aboriginal people were largely marginalized economically and socially.³

In 1901, the six independent British colonies on the continent agreed to establish a constitutional monarchy and become states of a single nation to be known as the Commonwealth



of Australia. The Commonwealth (or Federal) government is responsible for issues affecting the country as a whole, such as defense and foreign relations, whereas the six state governments are responsible for issues at the state level, such as health, education, and environmental policy. Australia has six states: New South Wales (NSW), Queensland, South Australia, Tasmania, Victoria, and Western Australia and two territories: the Australian Capital Territory (ACT) and the Northern Territory. The territories have a form of representative self-government similar to that of the states, but the Commonwealth may override Territory laws.⁴

OVERVIEW OF GLBT ISSUES

Undoubtedly, the newest frontier in the field of lesbian and gay rights in Australia concerns family issues. The recognition of relationships (or the right to marry) is associated with numerous other entitlements, such as access to artificial insemination, the right to adopt children, inheritance rights, and protection under the legal system in the case of relationship dissolution. While there are many within the gay and lesbian community who do not wish to marry, few deny that the full range of civil liberties should be extended to include members of the GLBT (gay, lesbian, bisexual, and transgendered) community who wish to take advantage of them.

In addition to family issues, concern remains in regard to education, discrimination, violence, and health and aging issues. Nonetheless, extraordinary advances that have been made in the past 35 years in the rights of sexual minorities, their recognition and place in Australian society, and in the development of a vibrant and diverse gay and lesbian community. It is likely that these advances will continue and at an even faster pace in the future.

EDUCATION

There is both good and bad news in regard to gay and lesbian teenagers and schools in Australia. The bad news is that studies show that homophobic abuse is common and profoundly affects same-sex attracted young people's sense of well-being.⁵ Victims of abuse report feeling less safe at home, in school, and during social events than their heterosexual counterparts. They are also more susceptible to harm themselves, contract a sexually transmitted infection, and use recreational drugs.⁶ A recent Australia-wide study conducted among 282 same-sex attracted youth revealed that 75 percent of them had heard negative language to describe same-sex attracted persons in the three months prior to being surveyed. Boys reported more homophobia than girls. In a surprising number of cases, students reported that teachers did not intervene, even when apparently aware of the abuse.⁷

A series of investigations conducted by researchers at La Trobe University did not find the same degree of negativity in the school environments of same-sex attracted teenagers. Nonetheless, a substantial minority of 44 percent of 1,750 same-sex attracted young people aged between 14 and 21 reported verbal abuse, while 16 percent reported physical abuse because of their sexuality. Schools were perceived to be the most dangerous setting for abuse.⁸ Reported incidences of homophobia were found to be strongly related to same-sex attracted young people's sense of safety and connection with their school environment.

The good news is that, in schools where teachers actively engaged in intervention and prevention and were willing to discuss issues dealing with same-sex

attraction in a positive way, verbal abuse and homophobic behavior occurred less frequently.⁹ While many schools have a long way to go before they become supportive environments for same-sex attracted young people, gay rights issues are discussed in class in at least some of them, and often in a neutral, if not positive, way. The gay rights movement of the past 30 years or so is at last beginning to affect schools. Gay teenagers are more visible than was the case a generation ago, and many of them are confident and well-adjusted.¹⁰

Some Australian states have initiated efforts to address homophobia in schools. In Queensland, the “Out with Homophobia” workshop has been developed to assist teachers in developing strategies to incorporate this issue into their classes and school programs.¹¹ In Northern Tasmania, a six-week program called “Pride and Prejudice” was introduced in three schools. The program was designed to help teenagers learn to confront homophobic bullying.¹² The Victorian State Education Department’s Web site emphasizes a whole-school approach in the prevention of homophobic bullying and states that schools should communicate to all members of their communities that everyone has the right to feel physically and psychologically safe in school. It further stresses that schools’ curricula and teaching designs, as well as their character and community links, should include the needs of same-sex youths.¹³ While these initiatives are to be supported, there appears to some way to go before their effect is felt uniformly throughout all schools so that same-sex attracted youth feel safe and valued.

EMPLOYMENT AND ECONOMICS

While it likely to be the case that some employers discriminate in hiring and promotion on the basis of sexual orientation, in a number of Australian states, antidiscrimination legislation offers some degree of protection to homosexuals or transgendered people from employment discrimination. The prohibition against homosexuals serving in the armed forces has been lifted. There are some terms and conditions of employment in which lesbians and gay men have yet to achieve equality. A number of these are gradually being addressed, for example, discrimination in hiring, promotion, or job-security practices.

SOCIAL/GOVERNMENTAL PROGRAMS

In a national inquiry by the Human Rights and Equal Opportunity Commission in 2006 into discrimination against people in same-sex relationships, it was revealed that same-sex couples and families are not treated equally in the areas of employment, taxation, social security, health, superannuation, and retirement benefits. Same-sex partners are not considered immediate family, and as such are not entitled to a number of benefits available to mixed-sex couples. A female partner is not entitled to parental leave when her same-sex partner gives birth. When employed in federal agencies, same-sex couples are not entitled to subsidized home loans or loans given to surviving spouses of the deceased.¹⁴

Australia’s tax laws are likewise discriminatory. Same-sex couples are required to meet the medical expenses threshold individually rather than collectively when accessing rebates on out-of-pocket expenses, and same-sex couples are not automatically eligible for rebates on childcare expenses. Other social security benefits that are not available to same-sex couples include bereavement allowance, widow’s

pensions, and social security allowance transfer to a partner when a recipient is in jail. The Child Support Scheme also excludes same-sex partners, making it harder for them to claim child support.¹⁵

When determining contributions to the national health plan, Medicare, same-sex couples are assessed individually and not as a family unit, which may be disadvantageous for them. Some same-sex families end up paying a third more than their heterosexual counterparts before they can access health care subsidies. Same-sex partners may not be listed on the same Medicare card, which raises questions about what rights they have as a family during medical emergencies.¹⁶

SEXUALITY AND SEXUAL PRACTICES

There is a wide range of sexual identities in Australian society, ranging from lesbian, gay, bisexual, and transgendered, to the intersexed. There are slang terms for particular sexual interests or practices. “Twinks” are young, buff, and groomed men who frequent nightclubs. “Bears” are men who eschew twinks, preferring big and/or hirsute men like themselves. Some are into bondage and discipline or sado-masochism. There are butch (masculine) and femme (feminine) lesbians.

Cities provide a range of opportunities to meet sex partners and have sex. Bars, nightclubs, and Internet dating services such as Gaydar are venues for initiating casual sex or relationships. There are also sex-on-premises venues (e.g., saunas) and beats, which are cruising places such as specific restrooms, beaches, or parks.

FAMILY

In 2001, the Australian Bureau of Statistics reported that there were 11,000 male same-sex couples and 9,000 female same-sex couples living in Australia. Though widely understood to be an under-enumeration, these figures represent a doubling of numbers from the 1996 census and implied an increase in couples willing to identify themselves as being in a same-sex relationship. These couples accounted for 0.1 percent of couples with children and 1 percent of couples without children.¹⁷

Over several decades, the states and territories of passed laws to protect same-sex families and disallow discrimination based on sexual orientation. Following the De Facto Relationships Act of 1984, NSW recognized heterosexual de facto relationships in matters pertaining to inheritance and accident compensation. Lobbying by the Gay and Lesbian Rights Lobby led to the inclusion of same-sex couples in the definition of de facto relationships in the Property (Relationships) Legislation Amendment Act 1999 in NSW. This act applied to laws on property division, family division, and intestacy. The NSW Miscellaneous Acts Amendment of 2002 made it possible to amend 20 laws to give equal treatment to same-sex couples by including them in the definition of de facto relationships.¹⁸ Recently, NSW became the last state to allow the gay partner of an accused person to choose to refrain from giving evidence in court against his or her partner. Previously this privilege was granted only to a de facto spouse.¹⁹

In the ACT, the Legislation (Gay, Lesbian, and Transgender) Amendment Act 2003 introduced a new definition of “domestic partnership” to allow changes in a number of ACT laws to give equal rights to same-sex couples.²⁰

While this extension of rights is most welcome, some areas of same-sex family life remain problematic. The Family Court can divide superannuation (retirement

pension) funds between spouses when they separate. However, same-sex partners are not provided for. In the event of death of a superannuation fund owner, only some superannuation plans allow the remaining portion of the fund to be paid to the surviving spouse. Retirement savings account benefits are available only to dependents or legal representatives of account holders. Same-sex partners cannot be declared as dependents.²¹

Legal issues arise when lesbian and gay couples decide to have children either by availing of fertility services or adopting. While Western Australia provides non-discriminatory access to fertility services, South Australia and Victoria exclude lesbians.

A lesbian co-mother does not have a legal relationship with her partner's child under Federal and NSW state laws. Western Australia, the Northern Territory and the ACT now recognize the female partner of a mother as a legal parent from the time of birth.²²

In all of Australia, it is impossible to adopt a child as a single applicant. However, same-sex couples are now allowed to adopt jointly in Western Australia, the ACT, and Tasmania. However, biological parents are allowed to express their preference in regard to sexual orientation of adoptive parents. Furthermore, the laws of the country from which the children originate limit adoption of overseas-born children. Very few countries allow children born in their territory to be adopted by same-sex couples or individual parents.²³

COMMUNITY

The earliest surviving accounts of homosexuality in Australia date from the time of European settlement, over 200 years ago. While these are criminal records, they sometimes indicate the existence of social networks among men who liked to have sex with men. The development of community organizations and events were necessarily curtailed while homosexual acts remained illegal. Nonetheless, bars, beats, and bathhouses (saunas) that catered to homosexual clients developed. These venues provided opportunities for men to interact socially and to meet potential sex partners. They also facilitated the development of an early gay culture. Even before the decriminalization of homosexuality, businesses with substantial homosexual clientele had begun to operate in a number of Australian cities.²⁴ The social status of women in Australia largely precluded them from such opportunities prior to the 1970s, but it is possible that historians will one day uncover earlier informal, noncommercial, or institutional networks of lesbians.

Besides sex, social interaction and commercial interests, important elements in the development of the gay community over the past 30 years have been politics and welfare. In the 1970s, increasing numbers of homosexuals began to agitate for freedom from discrimination and recognition of their civil rights. Thus were the origins of the Sydney Gay and Lesbian Mardi Gras, which began as an illegal demonstration against the criminalization of homosexual acts conducted between consenting adults in private. The early marches were held in (the southern) winter and coincided with Gay Pride events in North America. They resulted in clashes with police at which many gay activists were arrested. Over the years, the event was renamed and moved to (the southern) autumn to coincide with Mardi Gras events and has become a celebration of the gay and lesbian community, attracting crowds of hundreds of thousands of on-lookers. Organizations within the gay and

lesbian community are represented, as are friends of the community such as politicians, police, companies, and governmental and nongovernmental organizations that provide support to members of the gay and lesbian community. The parade and massive party thereafter are the culmination of weeks of a cultural festival that precedes it.²⁵ Similar events are now held in other cities. For example, Melbourne has a Midsumma Festival, while the annual Tropical Fruits party is held in Lismore.²⁶

A vitally important aspect of gay and lesbian community development has been the emergence of the gay and lesbian media. While magazines have come and gone over the years, the mainstay of the gay and lesbian press are free, weekly newspapers and magazines such as the *Sydney Star Observer* or *Lesbians on the Loose*, which are distributed in businesses catering to the gay and lesbian community, many of which advertise in these publications. The gay press regularly documents issues of interest to the community and its component groups, such as political and rights issues, health, leisure, culture, entertainment, sport, society, and community events. In the past decade, other media types have developed including radio shows, community television, and Internet sites.

The first AIDS cases were diagnosed in Australia in the mid-1980s. The community responded by developing organizations dedicated to serving the health, social, and welfare needs of people living with HIV/AIDS, and assisting with education related to HIV/AIDS and its spread and prevention. Other gay and lesbian organizations support community members with other health concerns such as alcohol or drug abuse.

A plethora of gay and lesbian organizations exists in all large Australian cities, ranging from sports clubs to religious groups, social and welfare groups, and gay rights groups. In regional, rural, and remote areas of the country, far fewer gay and lesbian community groups and services exist, if any, with the result that lesbians and gay men may feel isolated and unsupported. It is also the case that far fewer organizations cater to lesbians than to gay men.

Over the past decade, the cultural and political influence of the gay and lesbian community has remained strong, but its landmarks (e.g., Oxford Street in Sydney or the Sydney Gay and Lesbian Mardi Gras) are less prominent, in part due to mainstreaming or acceptance by an increasing proportion of the population and in part due to the rise of a virtual community rather than one defined by geography.²⁷ Anyone with an Internet connection can now make contact with other lesbians and gay men and learn about the history of homosexuality in a society, its issues, and gay culture. Increasing acceptance and cultural flexibility (such as the emergence of queer culture) means that sexual identity is no longer such a fundamentally defining feature in the lives of many lesbians and gay men. Many young people in particular see their sexual orientation as fluid and changeable. While they often support gay rights and participate in the gay and lesbian community, they may not see that involvement as an exclusive or lifelong commitment.²⁸

Since European settlement began over 200 years ago, Australia has been a multicultural society and immigrants have played a vital role in its economic and social development. Though non-Caucasian immigrants were largely excluded for the first 70 years of the past century, subsequent antidiscrimination policies have allowed the rapid growth of an interracial society. Australians of Asian ancestry now constitute well over five percent of the population and there are growing communities of African immigrants. These statistics are reflected in the composition of the GLBT communities.²⁹

HEALTH

In the past two decades, there has been an increasing recognition that a number of health issues are associated with membership of the GLBT community. Some of these issues may be responses to living with discrimination and a lack of acceptance by family members. For example, young GLBT people are also reported to have increased rates of depression, suicide, illicit drug use and self-harm.³⁰ Another issue affecting the GLBT community is the higher incidence of drug and alcohol abuse. Among lesbians, a reduced rate of breast and cervical cancer screenings, and insufficient knowledge of the risks of sexually transmitted disease have also been raised as issues in need of attention.³¹

The 2007 Annual Surveillance Report by the National Centre in HIV Epidemiology and Clinical Research reports that the primary transmission of HIV continues to be through sexual contact between men. In 2005, sexual contact between men accounted for 86 percent of newly acquired HIV infections. In metropolitan Sydney, the percentage of gay and homosexually active men diagnosed with HIV in sexual health clinics doubled among men 25 years old and younger and tripled among men 25 years and older between 2003 and 2005. By the beginning of 2007, there had been 26,267 diagnoses of HIV infection, 10,125 diagnoses of AIDS, and 6,723 deaths due to AIDS in Australia. Almost one-third of new diagnoses occurred after 2000, with 304 new cases in 2006. This has occurred in spite of strong community education campaigns. NSW had the highest rate of infection, at 6.1 per 100,000. In recent years, there have been substantial increases in sexually transmitted infections other than HIV. Chlamydia infection rates increased 12 percent in 2006 to a rate of 232 per 100,000. Substantial increases in gonorrhea (42.2 per 100,000) and infectious syphilis (4.0 per 100,000) have also occurred in recent years, largely among homosexual men.³²

Depression also appears to be a major health concern for gay men and transgendered people. One study in 2000 found that 27 percent of the 403 gay men surveyed showed symptoms of depressive illness.³³ Transgendered people experience a great deal of discrimination and, as a group, experience even higher rates of depression. They are also at risk of morbidity secondary to surgical or pharmacologic treatments.³⁴

Although equity in access and service are stated goals of the Australian public health system, some GLBT people perceive discrimination in health service delivery. The Gay Men and Lesbians Against Discrimination Survey of 1002 people in Melbourne in 1994 found that 17 percent of the 492 female and 16 percent of the 510 male respondents reported discrimination in medical and dental services ranging from breaches of confidentiality to inadequate treatment or refusal to treat.³⁵ Negative attitudes towards homosexuality and a lack of familiarity with conditions that affect GLBT people in particular can have deleterious effects on the quality of their health care. Some physicians are reluctant to discuss matters related to a patient's sexual orientation, which may in turn preclude an in-depth investigation of symptoms. Patients are also less likely to trust physicians if they perceive an unwillingness to accept them.³⁶ Certainly, any improvement in the collective attitude of health care professionals will translate to a reduction in the physical and psychological morbidity rates for the GLBT population.³⁷

Several states in Australia have initiated steps to address this apparent inequality in health care. The state of Victoria has developed an action plan to review the

health status and needs of its GLBT population. Initiatives in the areas of HIV/AIDS prevention, drug prevention, homelessness, women's health and well-being promotion, disability plans, aged care, and primary care partnerships have been launched. The Victorian GLBT health policy has prioritized combating homophobia, maximizing access to health care services, and providing services that are specially needed in the GLBT population.³⁸

POLITICS AND LAW

Gay rights groups were first established in Australia in the late 1960s. In 1969, a local chapter of the United States-based lesbian group the Daughters of Bilitis was established in Melbourne. The same year, the Australian Capital Territory Homosexual Law Reform Society was formed in Canberra after the conviction of two Canberra men who were arrested by police in a parked car in the outskirts of Canberra. The following year, the Daughters of Bilitis changed its name to the Australian Lesbian Reform Movement. In their quest for social inclusion, these organizations tried to present a respectable image. To become a member of the Daughters of Bilitis, applicants had to be at least 21 years of age and assessed by a social worker. Married women were asked to obtain their husband's written consent. Other groups soon followed that took a more liberationist perspective. John Ware and Christabel Poll established the Campaign Against Moral Persecution (CAMP) in Sydney in 1970. Many CAMP members were openly homosexual and spoke of homosexual pride. With CAMP, the approach to social change for homosexuals changed from discourses of sexual privacy and tolerance of difference, to one of activism, rights, and acceptance.³⁹

In October 1971, CAMP held its first demonstration outside the headquarters of the Liberal Party in Sydney. The gay press also began in 1971 with the publication of a commercial magazine, *William and John*. This was a period of great social change in which minorities searched for a new place in society. However, it was not a period of unity between emerging organizations and services. The younger, university-educated liberationists came into conflict with the majority of CAMP members who wanted to project an image of responsibility, and left to establish the group Gay Liberation. Also in 1971, University of Sydney academic Dennis Altman published the influential book *Homosexual: Oppression and Liberation*.⁴⁰ Unlike the liberal reformers of the late 1960s, gay liberationists imagined sexuality as a central organizing feature of the self and society. Sydney Gay Liberation's Manifesto, which was issued in May 1972, closely linked sexual and gender oppression, reflecting the belief that gays and women were natural allies. However, it did not take long for many lesbians to feel as if neither the women's movement nor the gay movement was meeting their needs. Sydney Gay Liberation eventually disbanded and a collection of smaller independent groups combined under the banner of the Gay Liberation Front.⁴¹ During this period, the focus of gay rights was on decriminalization and antidiscrimination legislation.

Homosexual acts were illegal in Australia until 1973, when South Australia became the first Australian jurisdiction to decriminalize them. Over the next nine years, from 1976 to 1984, the ACT, Victoria, the Northern Territory, and NSW followed suit. Five years later, Western Australia acknowledged that it was inappropriate for criminal law to intrude on consensual sex in private. It decriminalized homosexual acts, but nonetheless made it a point to condemn homosexual acts

in the preamble to the legislation. Queensland reformed its laws in 1990 but also included a preamble against homosexuality.⁴² In 1997, Tasmania became the last state to have gay law reform, ending a 25-year-long campaign to remove criminal laws that prohibit homosexual activity.⁴³

Although homosexual acts have been decriminalized, there are still many areas in which the law discriminates against GLBT people. In relation to homosexual acts, one area of discrimination is in relation to the age of consent. In Victoria, the ACT, South Australia, and Tasmania, there is no distinction as to gender or sex with regard to age of consent. In NSW, the age of consent is 16 years for heterosexual and lesbian sex and 17 years for homosexual sex. In the Northern Territory, it is 16 years for heterosexual sex and 18 years for homosexual sex. Queensland has set 16 years as the legal age for vaginal sex, whereas for anal sex, 18 years is the legal age. West Australia has the widest disparity: 16 year olds may engage in consensual heterosexual or lesbian sex acts, but according to the law, male homosexual acts are illegal for those under 21 years of age. Interestingly, lesbian sex is usually classified with heterosexual sex when determining legal ages of consent.⁴⁴

Throughout the late 1980s and for much of the 1990s, much of the gay community's energy was diverted into coping with the AIDS crisis. Thousands of community members died of the disease, and many organizations were established to support people affected by HIV/AIDS. The focus on AIDS revealed the degree of sexual diversity in Australian society, and by the 1990s, the notion of queer had arrived. The idea that a person's identity, group membership, and sexual preferences could change over time was attractive to a younger generation of activists who were interested in various causes such as antiracism, reconciliation with Indigenous groups, and antiglobalization protests. In late 1998, the *Sydney Star Observer*, arguably the main gay newspaper, altered its mission statement so that its target audience "now officially includes members of the community who identify as transgender, bisexual or queer."⁴⁵

Recognition of same-sex relationships remains a challenging GLBT issue. In the ACT, the Domestic Relationships Act of 1994 was the first major piece of legislation passed moving towards the recognition of committed homosexual relationships. Under this act, same-sex couples were allowed property ownership rights previously granted only to heterosexual couples. The ACT also presented the Civil Partnerships Bill of 2006 to the Attorney General; however, the Federal Government rejected the bill, which intended to allow same-sex marriage, in February 2007.⁴⁶

In 2003, Tasmania became the only state to introduce the umbrella term "personal relationship" to include noncohabiting heterosexual and same-sex couples in the process of amending 73 statutes. Despite being the last to decriminalize homosexual acts, Tasmania became the first state to legally register relationships, beginning January 1, 2004. Same-sex couples in registered relationships may adopt children. However, the law provides an opportunity for biological parents to express their preference as regards the sexual orientation of adoptive parents.⁴⁷

The NSW Same-Sex Marriage Bill was in the process of introduction as this chapter was being written.⁴⁸ A major setback in the efforts towards recognition is the Federal Government's current stand on same-sex marriage. In 2004, Prime Minister John Howard pushed the Amendment of the Commonwealth Marriage Act 1961 to limit marriage to heterosexual relationships. The Australian

Constitution grants the Federal Government the ultimate power to legislate regarding marriage.⁴⁹

RELIGION AND SPIRITUALITY

In 2006, 25.8 percent of Australians identified themselves as Catholic; 18.7 percent were Anglicans, and another 18.7 percent reported that they had no religion. The Australian Catholic and Anglican churches have both found themselves embroiled in controversy over views held by their leaders in relation to homosexuality. Some years ago, the Catholic Archbishop of Melbourne, George Pell, refused on several occasions to give communion to openly gay members of the Catholic Church when a group of parishioners wearing rainbow sashes sought the sacrament of communion. News stories often resulted when they were denied. Since being promoted to Cardinal, Pell has refused to give communion or even bless the group, stating that an ideological demonstration during Mass was inappropriate.⁵⁰ More recently, the Archdiocese of Sydney, under Cardinal Pell's leadership, has required senior staff in the Catholic school system, such as principals and religious education coordinators, to take an oath of fidelity to the traditional teachings of the Catholic Church, which includes an opposition to homosexuality, birth control, and women's ordination.⁵¹

Sydney's Anglican Archbishop, Peter Jensen, has consistently maintained that he is committed to his position of refusing to bless same-sex unions. He views such blessings as divisive in the Anglican Church. Jensen has been criticized by high profile gay Anglicans, such as High Court Judge Michael Kirby, who remains committed to the church. Jensen has also been critical of the ordination of homosexuals by some dioceses in the United States and Canada. He has gone so far as to say that expulsion could be an option in these cases.⁵²

In spite of closed views held by the leadership of the two most prominent churches in Australia, smaller congregations welcome and provide a haven for GLBT people. Principal among these are the Metropolitan Community Church (MCC), a Christian denomination originating in the United States that is dedicated to serving the needs of the GLBT community. The MCC has branches in Sydney, Melbourne, Brisbane, and Newcastle.⁵³

Though not sanctioned by the leadership of the major religious denominations, other branches cater for GLBT people. Acceptance Sydney provides a safe, spiritual and social environment for GLBT Catholics and their families, and St. Luke's Church in Sydney offers outreach services and a friendship group to GLBT Anglicans. Certain branches around the country of the Uniting Church, a union of Congregationalists, Methodists, and Presbyterians, welcome people regardless of their sexual orientation. In 2007, the Religious Society of Friends, or Quakers, celebrated a same-sex marriage in one of their meeting houses in Canberra. In Sydney, Dayenu provides outreach, education, information, resources, and social support to Jewish lesbians and gay men, their friends, families, and partners.⁵⁴

A 2005 study by the Australia Institute, "Mapping Homophobia in Australia," found that, despite the views espoused by its leaders, Catholics are among the least homophobic people in Australia. While two-thirds of the Baptists and evangelical Christians who participated in the study believe homosexuality to be immoral, Catholics, Anglicans, and Uniting church members were the most tolerant, with only one-third saying homosexuality is immoral. Of the 24,719 people

who participated in the study, those who said they had no religion were the most tolerant toward homosexuality, with only 19 percent saying homosexuality was immoral.⁵⁵

In addition to the more traditional branches of Judeo-Christian religions, evangelical Christian denominations are growing rapidly in Australia. Principal among other religions catering largely to growing immigrant communities are Islam and Hinduism. These religious denominations do not yet have the same presence and institutional complexity as religions with longer histories in Australia, and, to date, tend to maintain conservative attitudes in regard to homosexuality.

VIOLENCE

Extreme forms of homophobia and prejudice can lead to violence and even homicide, or in some cases, suicide. A report released by the Attorney General's Department of New South Wales in 2003 revealed that 56 percent of 600 gay, lesbian, or bisexual respondents across NSW had endured one or more forms of homophobic abuse, harassment, or violence in the past 12 months, ranging from verbal abuse, offensive gestures, vandalism, and hate mail to physical assault. A majority (69%) reported feeling vulnerable to attacks from strangers.⁵⁶

The New South Wales Police Service recorded 37 gay hate-related homicide cases in the 10-year period between 1989 and 1999. These cases were examined for evidence suggesting that the victims were gay or perceived to be gay and that the perpetrator's actions were spurred on by prejudice or homophobia. Most victims were 35 years and above, while most offenders fell in the 18 to 24 years age range. It was common for victims to be attacked by multiple offenders. Bashing was the most common form of violence used in these attacks. These crimes often involved a high level of brutality, such as savage beatings and repeated stabbings.⁵⁷ Incidents of bashings or murders still occur on occasion, commonly at beats (or cruising locations), and sometimes late at night near gay nightclubs or in neighborhoods with a high proportion of gay residents.⁵⁸

Incidents of domestic violence in same-sex relationships have been reported to police and gay and lesbian support groups; however, no comprehensive statistics are available and there is a paucity of research studies that have looked into this issue. However, a 2006 study of 308 Australian respondents revealed that, just as in heterosexual relationships, a significant minority experienced violence or abuse ranging from controlling-jealous behavior to humiliation, physical abuse, social isolation, sexual abuse, and outing.⁵⁹

Among government-sponsored and community supported programs to reduce discrimination and violence against sexual minorities has been the introduction of Gay and Lesbian Liaison Police Officers in some states. Of even greater importance perhaps is the development of preventive measures such as the provision of early educational opportunities to teach against homophobia and the creation of environments where sexual diversity is recognized and accepted.⁶⁰

OUTLOOK FOR THE 21ST CENTURY

The outlook for sexual minorities in coming years is bright. Reviewing the past 35 years, the pace of rights and recognition has been rapid. While the onset of the AIDS epidemic took a terrible toll on the gay community in particular, it also

had a galvanizing influence, and the gay and lesbian community developed with the assistance of government support. Conservative governments have been, and will be, less encouraging than progressive ones, but it seems likely that within the next decade or two that the full range of family supports will be extended to all members of society and the right to marry will come to include same-sex couples. The extension of rights should have a positive effect on institutions such as school systems, and health issues related to social disadvantages should diminish. Cultural change generally occurs more slowly, but as rights are extended, social attitudes toward sexual minorities are likely to become less discriminatory and more inclusive, even among traditional and conservative institutions (such as many religious denominations) and individuals.

Ironically, improvements in social standing may lead to the decline of gay and lesbian community institutions and organizations. It is anticipated that the development of a range of groups catering to special interests (e.g., a gay baseball league, South Asian lesbians, transgender parents, or older bisexuals), but this may result in a less unified or cohesive community as a whole. As sexual minorities become part of the mainstream, the rallying point of fighting for rights and equality is less apparent. Accordingly, it is likely to bring about the demise of gay and lesbian neighborhoods but a rise in services and the development of virtual communities using modern communication devices such as Internet sites that assist people in connecting with each other regardless of geographic location.

Australians anticipate a greater emphasis on diversity in a range of ways in coming years. GLBT communities currently revolve around young and middle-aged adults. However, with greater social acceptance, the development of nonheterosexual sexual identities is likely to occur at an increasingly younger age. Similarly, older GLBT people will be more prominent and a range of services to meet the needs of ageing and prosperous baby boomers (such as retirement villages) will develop. As the age range of members of GLBT communities widens, so will the generation gap. Older members of these communities may be concerned that younger people take gay rights, sexual equality, and social acceptance for granted. Older people may also be dismayed when younger people are more fluid in the expression of their sexuality and, in the process, eschew an exclusive identity as members of a sexual minority. Overall, Australia looks forward to a future of increased equality and social acceptance for members of its sexual minority groups.

RESOURCE GUIDE

Suggested Reading

- Michael Flood and Clive Hamilton, *Mapping Homophobia in Australia* (Sydney: Australia Institute, 2005).
- Jude Irwin, *The Pink Ceiling Is Too Low: Workplace Experiences of Lesbians, Gay Men and Transgender People* (Sydney: Australian Centre for Lesbian and Gay Research, 2002).
- Peter A. Jackson and Gerard Sullivan, eds., *Multicultural Queer: Australian Narratives* (New York: Haworth, 1999).
- Clive Moore, *Sunshine and Rainbows: The Development of Gay and Lesbian Culture in Queensland* (St. Lucia: University of Queensland Press, 2001).
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- Denise Thompson, *Flaws in the Social Fabric: Homosexuals and Society in Sydney* (Sydney: Allen and Unwin, 1985).

Graham Willett, *Living out Loud: A History of Gay and Lesbian Activism in Australia* (Sydney: Allen and Unwin, 2000).

Garry Wotherspoon, *City of the Plain: History of a Gay Sub-Culture* (Sydney: Hale and Iremonger, 1991).

Organizations

Department of Education, State of Victoria, *Diversity and Equity* policy, <http://www.education.vic.gov.au/hrweb/divequity/default.htm>.

Government schools in most states have policies to support gay, lesbian, bisexual, and transgender students.

Gay and Lesbian Counselling and Community Services of Australia, <http://www.glccs.org.au/>.

Offers telephone and in-person advice and support.

Parents, Families and Friends of Lesbians and Gays (PFLAG), <http://www.pflagaustralia.org.au/>.

A nonprofit voluntary organization that provides help, support, and information to families and friends of gay people.

Twenty 10, <http://www.twenty10.org.au/>.

An organization for young (under age 26) gay, lesbian, bisexual, transgendered, same-sex attracted, and gender-questioning people who are having problems at home or have recently become homeless.

Several states and territories have organizations that promote gay and lesbian rights, for example:

Australian Federation of AIDS Organizations, <http://afao.org.au>.

Gay and Lesbian Rights Lobby (NSW), <http://www.girl.org.au/>.

Tasmanian Gay and Lesbian Rights Group, <http://tgllrg.org/>.

Victorian Gay and Lesbian Rights Lobby, <http://www.vglrl.org.au/>.

Links to State and Territory AIDS Councils

Gender Center, www.gendercentre.org.au.

Provides services and activities for transgendered people.

Religious Organizations

Acceptance, Gay, Lesbian, Bisexual & Transgender Catholics, <http://www.gaycatholic.com.au/>.

Dayenu, a Jewish Gay, Lesbian, Bisexual & Transgender group, <http://www.dayenu.org.au/>.

Metropolitan Community Church, Sydney, <http://www.mccsydney.org/>.

Gay and Lesbian Christian denomination. Web pages include links to other MCC communities in Australia.

Uniting Church of Australia GLBT site, <http://www.unitingnetworkaustralia.org.au/>.

Publications

Evolution Publishing, <http://www.eevolution.com.au>.

Publisher of free, community newspapers in capital cities, such as *SX News* (Sydney), *MCV* (Melbourne), *Queensland Pride* (Queensland), *Blaze* (South Australia), *GayTAS* (Tasmania), *GayNT* (Northern Territory), *AXN* (Men's National), *Cherrie* (Women's National) and *Fellow Traveller* (Annual Travel Guide). It is also

the official media sponsor of the 2008/2009 Sydney Gay and Lesbian Mardi Gras Festival.

Links to gay and lesbian media services, <http://www.bnews.net.au/>.

Lesbians on the Loose (LOTL). <http://www.lotl.com/>.

Pinkboard, <http://www.pinkboard.com.au/>.

Serving the GLBT community.

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8. Hillier, Turner, and Mitchell, *Writing Themselves in Again*.

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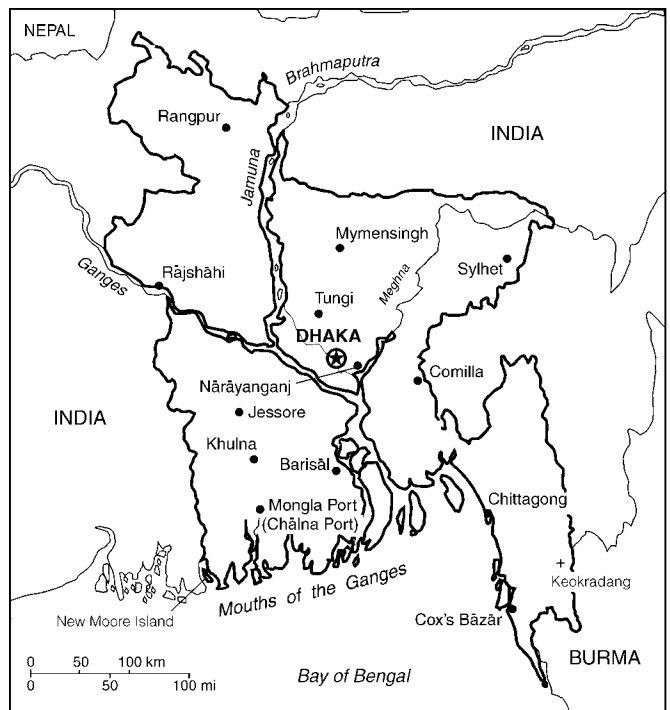
BANGLADESH

Adnan Hossain

OVERVIEW

Bangladesh, officially named the People's Republic of Bangladesh (literally, "the land of the Bengalee" or "the land of Bangla," the language predominantly spoken in Bangladesh), is the seventh-most populous country in the world with approximately 150 million people spread over 55,599 square miles (2,706 persons per square mile). Bangladesh came into existence in 1971 after a bloody war with Pakistan, of which it was made a part during partition of undivided British India in 1947. Nevertheless, political and economic marginalization and, more importantly, the imposition of Urdu as the state language by Pakistan, led to its war of independence. Bangladesh is bordered on all sides by India except for the far southeast, where it borders Myanmar and the Bay of Bengal to the south.

Ethnically, Bangladesh is comprised of 98 percent Bengalis, and has some 49 ethnic minorities dispersed across the country.¹ Moreover, 86 percent of the population is Muslim, with only 12 percent Hindu, and other religious minorities like Christians and Buddhists making up only two percent. With a population growth rate of 4 to 5 percent annually, 49.8 percent of the population still lives below the poverty line. Life expectancy is 62.8 years, while the literacy rate is 44.2 percent. Bangladesh has a parliamentary democracy with 300 members in the national assembly. Only 25 percent of Bangladesh is urbanized, with the vast majority of the populace living in villages. With an



estimated unemployment rate of 3.3 percent, Bangladesh is facing massive development challenges ranging from corruption and governance to poverty.

OVERVIEW OF LGBT ISSUES

Traditionally, marginal genders and sexualities in Bangladesh have not been configured along the Western-style LGBT identity lines.² This is evident in the lack of linguistic substitutes for LGBT in Bengali. This is, however, not to suggest that same-sex sexualities and transgendered identities are nonexistent. In fact, most forms of same-sex sexualities have remained linguistically unmarked and culturally unrecognized. Moreover, sexuality has not been considered a marker of self or identity. In other words, people do not identify themselves as “homosexual” or “heterosexual” on the basis of sexual preference. Besides, heterosexual marriage has been a predominant obligatory social institution. Thus, alternative sexual practices have remained inextricably entwined with heteronormative social institutions, rather than existing outside of them. That is, most people who are engaged in same-sex relationships also participate in a heterosexual marriage. This has been made possible primarily because of the homosocial nature of Bangladeshi society; intimate relationships between two people of the same sex are not generally accorded any homoerotic connotations. This applies equally to males and females. This is in contrast to heterosexual interaction outside of marriage, which is frowned upon.

Given this structure of social relationships, socially visible alternative same-sex pair-bonding has been practically nonexistent. This is, however, not to suggest a theory that same-sex sexualities are made possible owing to a limited space for heterosexual interaction. In fact, the extent to which homosociality enables or restrains the expression of alternative same-sex eroticisms is still subject to research.³

While the nature of sexualities described might lead one to conclude that a widespread bisexuality is the dominant norm, people engaged in same-sex eroticism do not necessarily identify as bisexuals either. Indeed, sexual attraction or desire is not a basis for identity formation in Bangladesh.

Alongside these general patterns there are also two socially known and extremely stigmatized gender/sexual subcultures in Bangladesh. One such subculture is called the *hijra*, or the so-called “the third sex.”⁴

The word *hijra* literally means “impotent” and is used to refer to males incapable of erection and procreation. While *hijra* is a standard word used by the wider society to vilify any male falling short of putative masculinity, those who self-identify as *hijra* have appropriated the word as a positive label for identification.

Hijra is a community of phenotypic⁵ males (most of those joining the community are often raised by their natal families as males on the basis of external male genitals) identifying as females and desiring to be the passive partners for males in sexual intercourse. In Bangladesh, for one to be a part of this community, one has to prove one’s effeminacy and desire for masculine males. Only males identifying as “not male and desiring to be penetrated by other males” can be a part of this community. Males having sex with the *hijras*, or the active partners of *hijras*, are excluded from the *hijra* community and are referred to as *panthi* and *parik*. While *panthi* is used as a label to refer to any male outside the *hijra* community, *parik* is used to refer to males taking *hijras* as husbands.

Hijra is a ritualistically bound cultic community presided over by a goddess called Maha Maya Ji. *Hijras* believe Maha Maja Ji was the first primordial *hijra*

archetype and was the one who introduced the rituals that *hijras* follow to this day. Through a ritual called *nirban*, (literally meaning “freedom from worldly desires”), the scrotum and testicles are removed by a trained cutter, or what *hijras* call “*ka-tial*.” This marks a rebirth for the person undergoing the ritualistic shedding of male genitalia. While ritual emasculation is a desired option for many *hijras*, there are also nonemasculated members in the *hijra* community.

Hijra is also a hierarchical community with a stern *guru-chela* (preceptor-disciple) divide. Gurus are highly venerated, and *chelas* or disciples are instructed into *hijra* ways of living through gurus. The *hijra* community is based on a quasi-feminine kinship pattern, as is evident in the *hijra* way of addressing one another with female-identified names. While *chelas* or disciples of a guru consider each other sisters, the guru is like a mother to them. *Hijras* traditionally dress in a sari, a female-identified garment, and claim to be born without any trace of genitalia. *Hijras* speak a clandestine argot understood mostly by *hijra*-identified people. Most members in the *hijra* community come from low socioeconomic backgrounds, and in this sense *hijra* is a highly class-specific community. Though *hijra* is often translated as “eunuch” in the Anglo-American press, the *hijra* identity is far too complex to allow any English word to encapsulate the varied gender expressions and sexual orientations that the community embodies.

Apart from the *hijra*, there is another relatively less known subculture, the *kothi*, literally meaning “effeminate males.”⁶ *Kothis* have a spatially bound subject position in the sense that there are some designated spaces, like parks, where *kothi*-identified people cruise and mimic appropriate feminine comportments. *Kothis*, however, also vanish into mainstream society and live as normal males, unlike the *hijras*. *Kothis* are also generally nonemasculated, unlike the *hijras*, and are highly likely to take females as wives. One commonality that binds the *hijra* and *kothi* is their renunciation of socially imposed masculinity. Moreover, there is also a considerable inter-community migration between the *hijra* and *kothi* groups, a fact that makes any coherent distinction between the two difficult.

Alongside these *hijra* and *kothi*, there is now at least one secretive gay male subculture springing up in urban centers, with members emanating only from middle- and high-income backgrounds. Initially organized through the Internet in 2002, this fledgling gay group, called BOB (Boys Only Bangladesh), has become widely known among the LGBT-identified community. In 2008, a few more e-groups, like Gay Bangla and Queer Bangla, came into existence with the motto of coalitional alliance among middle- and high-income LGBT people.

The recently emerged public health discourse has increasingly drawn attention to diverse forms of same-sex sexuality and gender. Too often the indigenous *hijra* and *kothi* and their partners, or *panthis* in this discourse, have been pigeonholed as men who have sex with men.⁷ The national AIDS policy acknowledges the existence of same-sex relations between men, but not other LGBT identities. Beginning the 1990s, a number of nongovernmental organizations (NGOs) appeared in Bangladesh to cater to the needs of the *hijra*, *kothi*, and *panthi* communities.

Same-sex relations between females are still not a part of academic or policy analysis in Bangladesh. This indifference is perhaps explainable in terms of two factors. First, owing to a pervasive patriarchy, there is no visibly organized subculture of female same-sex sexuality in contemporary Bangladesh. Second, sexuality is generally conceptualized within a penetrative frame of reference; that is, eroticism devoid of penile insertion is generally not accorded the status of sex.

The very few newspaper features that have appeared in the last decade mostly focused on the *hijra* community. Moreover, some articles have also appeared in some English-language dailies in the last decade denouncing the gay and lesbian identities of the West.⁸ There is a widespread societal assumption that homosexuality is nonexistent in Bangladesh, and the visible *hijra* community is often considered largely as asexual or hermaphroditic in the popular imagination.

EDUCATION

Education in Bangladesh is highly subsidized from the primary to the tertiary levels, with a national education budget of \$7.7 billion (2.4% of the gross domestic product in 2006).⁹ Primary education (the first five years of schooling) is compulsory and free, in line with Article 17 of the Bangladeshi Constitution. The education system of Bangladesh is three-tiered, with primary levels (grades 1 to 5), secondary school (grades 6 to 12), and tertiary education (university). Moreover, instruction is carried out in three languages, Bengali, English, and Arabic. The state-sponsored education is mostly conducted in Bengali, while institutions instructing in English are privatized and mostly cater to the middle and upper classes. Arabic/Islamic education is simultaneously state-sponsored and privately supported. While the predominant Bengali medium follows the national curriculum, the privatized English-language education system follows United Kingdom and United States-style curricula. The Islamic education mostly imparts religious training to produce Islamic clerics.

To date, sex education has largely been excluded from these three streams. In response to the growing awareness of sexually transmitted diseases (STDs), including HIV/AIDS,¹⁰ information on AIDS has been phased into the secondary and higher secondary school curricula for grades 6 to 12 since January 2007. Moreover, United Nations agencies in Bangladesh have also launched educational programs to instruct the *madrasa* (religious schools producing Islamic clerics) students in sex education and HIV/AIDS awareness. However, very little information is included within these newly introduced programs regarding alternative sexualities and gender identities.

There is a dearth of data on the experiences of violence and bullying faced by children in academic institutions, as no systematic research or documentation on this has yet been carried out. Nevertheless, anecdotal evidence suggests that there is widespread bullying of effeminate boys in all types of schools by their peers, and at times even by their teachers. Many *hijra* and *kothi*-identified people report their early childhood experience of bullying and sexual harassment in state-sponsored primary schools, and many eventually drop out. Many middle- and high-income gay people have also voiced similar discontent.¹¹ Despite this, there are no anti-bullying or antidiscrimination laws in place to stop the violence.

EMPLOYMENT AND ECONOMICS

Bangladesh is one of the poorest countries in the world, with a reported 82.8 percent of the population living on less than \$2 per day.¹² Currently, Bangladesh is the fourth-largest rice producing country in the world. In response to steady economic liberalization over the last two decades, Bangladesh now has one of the largest garment industries in the world.¹³ While public sector jobs have traditionally

been regarded as prestigious, a sizeable private service industry now attracts mostly the urban middle- and upper-class job seekers.

There are now three sectors of employment in Bangladesh, the private, public, and NGO. NGOs in particular focus on male sexual health by periodically employing *kothi*- and *hijra*-identified people as low-ranking employees to facilitate service delivery among the low-income *hijra/kothi* community and their partners. These jobs are mostly low-paying and precarious, with regular reports of firings and drastic wage cuts.¹⁴ The urban, educated LGBT people tend not to disclose their sexual orientations to coworkers, and often pass as “normal.” There is no research on the incidence of discrimination among people with alternative gender identities and sexualities, nor are there any workplace antidiscrimination laws in place.

The widely visible *hijra* community, however, sticks to the pristine occupation claimed to have been prescribed by the goddess Maha Maya Ji. Traditionally, the *hijra* way of living, or what *hijras* call *hijragiri* or “the occupation of Maya Ji,” revolves around *badhai* (the practice of dancing with newborn children and blessing the child and the family), *birit manga* (the practice of collecting alms both in cash and in kind from marketplaces), and entertaining people at social gatherings like matrimonial festivities. Every *hijra* group has access to certain areas, and their activities (or *hijragiri*) are restricted to that locale. These *hijra* ways of living were made possible owing to the rampant belief in the supernatural power of the *hijras* as people capable of blessing and cursing. However, in recent times, this traditional source of *hijra* income has fallen into disuse due to a dwindling number of patrons.

A large number of *kothi* and *hijra*-identified people also work as prostitutes. *Hijra* prostitution is not a new phenomenon in the wake of the declining belief in their supernatural powers, but has coexisted alongside the traditional *hijra* livelihood style. In 2004, there was a reported murder of a university teacher at the hand of a *hijra* prostitute over an alleged dispute over payment,¹⁵ however the news was given very little attention in the media.

Many *kothi* and *hijra*-identified people also often work as cooks in the rapidly urbanizing metropolitan centers of Bangladesh. The *hijra* and *kothi* working as cooks are in many ways a separate community, though one with rules and rituals modeled after the *hijra*. The *hijra* and *kothi* community of cooks are mostly daily wage laborers earning little more than \$2 per day.¹⁶ The *hijra* and *kothi* people take up cooking, as it is traditionally gendered as feminine in Bangladeshi society.¹⁷

SOCIAL/GOVERNMENT PROGRAMS

There are no government programs specifically designed to address the needs of people with alternative gender identities and sexuality at present. Nevertheless, the government of Bangladesh has formulated a national policy on HIV/AIDS and STD-related issues, known as the National AIDS/STD (NASP) program, in 1997.¹⁸ NASP makes a passing reference to males having sex with males, and considers males having sex with males as an at-risk community needing attention.

SEXUALITY/SEXUAL PRACTICES

There is acknowledgement in the government and among NGOs that the community of men having sex with men engages in risky sexual practices. Though the

incidence of HIV is low in this community,¹⁹ growing concerns have been voiced about the possible spread of HIV through this community. Recent studies also demonstrate the need for increasing preventive efforts among the men having sex with men, as many of these men are also sexually active with women and intravenous drug users.²⁰ In recent times, the Ministry of Health, in conjunction with international agencies, has undertaken AIDS prevention publicity in the form of television advertisements, posters, and billboards. However, same-sex sexualities as possible routes of infection have mostly been brushed aside from the campaign.

FAMILY

The dominant marriage and family patterns in Bangladesh are modeled on heterosexual coupling. Structurally, family has mostly been a joint or extended unit consisting of three or more generations. It is only with the recent upsurge of an urban middle class that the nuclear family has begun to be adopted as the preferred family system, though compared to the extended family system this shift is still insignificant. Divorce is unpopular and socially undesirable. Moreover, owing to a strong patriarchy, women always bear the disproportionately greater brunt of divorce, both in rural and urban Bangladesh. However, legal provisions are now in place to secure benefits for divorced women.

Among the recently emerged gay-identified community, as well as the low-income *hijra* and *kothi*, same-sex cohabitation is practiced surreptitiously. Given the dominant understanding of family as a procreative unit, the coupling of two same-sex people is not generally accorded any marital or familial import. While this may facilitate same-sex cohabitation, the societal and familial pressure on individuals to enter into heterosexual marriages often stands as a roadblock to sustained same-sex familial bonding.

The *hijra* community has a widespread practice of forming alternative families. Interestingly, *hijras* generally do not conceive their ritual marriages with males as being same-sex marriages. Most *hijra*- and *kothi*-identified people (including both the emasculated and nonemasculated) consider their sexual relations and family establishment with males in heterosexual/heterogendered terms (i.e., *hijra* and *kothi* people tend to position themselves as typical housewives staying in the inner chamber of the house, cooking, and cleaning for their husbands). Though the *hijra* practice of family formation with other males remains criminalized,²¹ there is no reported persecution. Moreover, adoption of children by the *hijra* community is not popular, though not uncommon.²²

COMMUNITY

Traditionally, *hijra* and *kothi* have been the only organized and visible communities of alternative sexualities and desirers on the subcontinent. These communities have mostly catered to the psychological needs of effeminate males who desire masculine males, or who identify as females or “not males.” From the late 1990s onward, a number of NGOs have come into being to provide services related mostly to safe-sex practices. These NGO premises have also served as new platforms for interaction and community building. One notable NGO with a widespread reach across Bangladesh is the Bondhu Social Welfare Society (BSWS), which was formed in 1997. With support from Family Health International and Naz Foundation

International, BSWWS now runs a sexual health project for men having sex with men in nine Bangladeshi cities. Moreover, there are also two sexual health projects specifically for the *hijra* community, one of which, Sushtho Jibon (meaning “safe life”), is supported by BSWWS. In 2000, with support from Care Bangladesh, a new organization, Badhon Hijra Shongho, was formed. However, community services provided by NGOs like BSWWS or Care Bangladesh are still focused on little more than the transmission of knowledge about safe sex. The impact of such programs is also often disputed by some sections of the *hijra* and *kothi* communities, who complain about a burgeoning polarization in the community with some (people in the upper echelons of the management of the NGOs) becoming unscrupulously rich through the exploitation of the poor in the *kothi* and *hijra* community.²³ In recent times, drastic cuts in funding from international donors have stymied the service delivery for the men having sex with men community.²⁴

Alongside the NGOs and the traditional *hijra* and *kothi*, there is at least one popular gay group in Bangladesh, BOB (mentioned previously), which acts as a platform for the middle- and upper-class gay-identified people in Bangladesh. First organized in 2002, BOB is mainly an Internet-based community of gay-identified people with periodic, clandestine public appearances in the form of disco parties and gatherings. Popular issues often broached on the BOB Internet discussion board range from partner-hunting to aspects of gay life to organizing for rights-based praxis. In the last few years, BOB has taken some bold strides out of the virtual world to tap into the networks of established organizations; for example, BOB sent many gay-identified members to ICDDR-B (the International Center for Diarrhoeal Disease Research, Bangladesh) for voluntary HIV/AIDS testing.²⁵ Moreover, BOB has also worked with Ayeen O Salish Kendro, a human rights center in Bangladesh, to undertake a situation analysis of the Bangladeshi LGBT community.²⁶ In 2008, BOB e-celebrated the International Day Against Homophobia for the first time in a public restaurant featuring explicitly gay-themed banners. Moreover, in September 2008 Shakhawat Hossain, the first publicly gay-identified Bangladeshi, represented BOB in a South Asian LGBT workshop in Nepal.²⁷ Despite these efforts, BOB remains an Internet-based group with no concrete establishment.

In the first part of 2008 a few more groups, namely Queer Bangla and Gay Bangla, have been launched as coalitional platforms for LGBT-identified people, though the majority of members are gay-identified males and there are very few lesbians or transgendered people included. These newly formed groups intend to work on issues of visibility of LGBT people in Bangladesh, among other concerns related to human rights and HIV/AIDS.

HEALTH

The extant health care system in Bangladesh is extremely ill-equipped to provide for the needs of its citizens; fewer than 40 percent of the population has access to even basic health care.²⁸ Owing to the marked socioeconomic differences in health status and health care access, ill health often acts as a robust deterrent to the economic mobility of the marginal populace.

The burgeoning acknowledgement of the global spread of HIV/AIDS and its effects on society and the economy has led the government to carry out surveillance research on HIV/AIDS in collaboration with international donors. So far,

the reported prevalence of HIV in the general population has been found to be low (less than 0.2%).²⁹ The six rounds of surveillance so far undertaken have singled out intravenous drug users, commercial sex workers, truck drivers, migrant workers, rickshaw pullers, and men having sex with men as groups particularly at risk for infection. The highest concentration of HIV has been among intravenous drug users, and the prevalence of HIV/AIDS among men having sex with men is still less than one percent.³⁰ Nevertheless, recent research highlights the close proximity of men having sex with men to intravenous drug users and other groups.³¹ Additionally, the vulnerability of men having sex with men has become further compounded by low rates of condom use, high numbers of sexual partners, and generally low awareness of HIV and other STDs.

There is no state-sponsored program that specifically addresses the needs of men having sex with men, or even middle- and upper-class LGBT people. However, some NGO-based awareness programs are in operation to educate men having sex with men about safe sex. HIV/STD testing and treatment services are not provided.³²

The cultural constituency of men having sex with men³³ is still poorly understood and not well defined in the public health literature. In fact, the term “MSM” often encompasses *hijras*, *kothis*, and *panthis* (the partners of both *hijra* and *kothi*) and other males not identifying with any of these labels. While most of those males who are the receptive partners in intercourse identify as *kothi* or *hijra*, many do not. Besides, the dominant partners (those assuming the penetrative role) often do not identify with any label and also engage in sexual relations with women. There are also many *hijra*- and *kothi*-identified people taking on both active (penetrative) and passive (receptive) roles in sexual intercourse with males. This group is often pejoratively labeled *as do-porotha*, or “double decker” by the *hijra* and *kothi*. Additionally, many *hijra* and *kothi* also have sexual relations with females.

Given this complex nature of divergent behaviors, identities, and meanings, the ubiquitous use of the shorthand MSM in policy documents is more confounding than clarifying. The dominant HIV/AIDS prevention strategy designed through the lens of reductive MSM in the context of Bangladesh has always kept the focus restricted to “risky sexual behaviors,” condoning the broader social arrangements that keep the community of men having sex with men at bay.

There is no accessible sex reassignment surgery (SRS) available in the country, and the legal stance on sex changes is also unclear, with no such reported cases. However the practice of ritualistic emasculation among the *hijra* is widely popular and is conducted secretly at the hands of specially trained ritual cutters, called *katials*, as noted previously. Despite the *katials*' skill, the cutting practice involves massive health hazards, as they generally use traditional knives made of sharp bamboo slices and cauterize the wounds with burnt clothing, flour, and hot water. The blood oozing out of the wound is allowed to drain completely, as this marks the purging of the body of masculinity, hence signifying a rebirth as a real *hijra*. Amazingly, very few undergoing this process of emasculation are reported to have died. Established mainstream medical facilities still tend to not have any standard procedures for SRS.

Sex-change surgeries are infrequently reported in the newspapers, where doctors who detect ambiguous genitalia in newborns conduct surgery to assign a sex to the infant. There is still no lobbying or activist group challenging such nonconsensual sex assignment at birth.

There is also anecdotal evidence of rampant harassment and maltreatment of the LGBT population in the psychiatric establishments in Bangladesh.³⁴ Though the psychiatric community follows the Diagnostic and Statistical Manual (DSM) of the American Psychological Association as its source book for treatment and diagnosis, many gay-identified people have reported being treated as pathological on the basis of their sexual orientation. In several instances, homosexual or gay-identified people have been subjected to curative therapies for years, further damaging their mental and physical well-being.

POLITICS AND LAW

As a British postcolonial nation-state, Bangladesh retains the antisodomy statute known as Section 377 of the Penal Code. This British antisodomy law, first passed in 1533, was later incorporated into the Indian penal code in 1860 in British India.³⁵ The law reads:

Unnatural offences section 377: Whoever voluntarily has carnal intercourse against *the order of nature* with any man, woman or animal shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable of fine.

Explanation: Penetration is sufficient to constitute the carnal intercourse necessary to the offense described in this section.

Comment: This section is intended to punish the offense of sodomy, buggery and bestiality. The offense consists in a carnal knowledge committed against the order of nature by a person with a man, or in the same unnatural manner with a woman or by a man or woman in any manner with an animal.

The aforesaid law is the only statute existing in the legal system of Bangladesh against sexualities that run counter to the order of nature. However the phrase “order of nature” is ambiguous and can be stretched to penalize even heterosexual cunnilingus and fellatio.

Despite this legal inheritance, the use of this law in the context of Bangladesh is nominal, with no reported cases in history filed or tried under this section. Nevertheless, anecdotal evidence suggests that the law is often invoked by the law-enforcing agencies to harass the *hijra* and *kothi* communities. There is in fact little activism in place to press for the repeal of Section 377, though in recent times some NGOs have begun to draw attention to the need for the abrogation of the antisodomy law.

Recent research has amply demonstrated that alternative gender identities and sexualities in the subcontinent underwent a process of criminalization only with the advent of British colonialism.³⁶ There is now considerable agreement among scholars that what was once a minor veneer of homophobia in pre-British India ossified with the consolidation of British rule.

RELIGION AND SPIRITUALITY

Religion and spirituality stand at the center of the *hijra* worldview. Though Bangladesh has a predominantly Muslim population, the *hijra* community is tied to a Hindu-identified goddess, Maha Maya Ji. Despite the majority of the members of

the *hijra* community being Muslim by birth, the *hijra* community in Bangladesh worships the goddess while simultaneously retaining their Muslim identification. Moreover, the *hijra* community also has a close affinity with Sufi-identified rituals and shrines across Bangladesh. Thus, *hijras* represent an extremely syncretic form of religiosity, with devout adherence to both Hindu and Muslim-identified practices.

Apart from the *hijra* religious and spiritual eclecticism, there is a widespread societal understanding that Islam disapproves of homosexuality and transgenderism. A number of competing perspectives have arisen in recent scholarly and activist domains about the Islamic injunction against same-sex relationships and transgendered people.

In particular, two strands of argumentation on homosexuality and transgenderism are concurrently prevalent. One group of gay-identified people considers Islam³⁷ absolutely antithetical to all forms of same-sex relationships and cross-gender demeanors, and denounces it outright. The other group, however, points to the heterosexual cooptation of Quran and *hadith* (sayings and doings of the Prophet) in the hands of some narrow-minded Islamic scholars, and continues to identify as both gay and Muslim.

VIOLENCE

In recent times, Bangladesh has attained considerable notoriety for its state-sponsored extra-judicial killings, along with persecution of minority communities and opposition voices. Though invocation of Section 377 of penal code is rare, gross infringements of the rights of sexual minorities have been reported, particularly in the forms of abduction, arbitrary arrest, detention, beatings, and gang rape by law-enforcing agencies and local thugs.³⁸ The *hijra* and *kothi* communities have been particularly vulnerable to these forms of violation. Moreover, rampant bullying and molestation by law enforcers has posed severe threats to the successful promotion of HIV/AIDS awareness programs.

Due to the invisibility of LGBT-identified people and their class status, the incidence of hate crimes and related forms of violence is still unknown, though they commonly occur.³⁹ Nevertheless, in the Internet-based like Queer Bangla and BOB, concerns have often been raised about organizing for rights movements.

There are now two competing views on coming out concurrently held among the LGBT-identified community in Bangladesh. One camp argues for moving toward coming out⁴⁰ while the other considers it suicidal, claiming that societal ignorance and indifference may well transform into massive homophobia and transphobia in response to mobilization efforts, and may eventually lead to the enactment of separation based on sexual orientation.

OUTLOOK FOR THE 21ST CENTURY

In contemporary Bangladesh there are now at least two groups with the potential to fight for the rights of the sexual minorities. On the one hand, NGO-based activism with an exclusive focus on men having sex with men, *hijra*, and *kothi* kicked off from the late 1990s. On the other hand, LGBT-identified communities have also become somewhat organized since 2000. Nonetheless, these two groups are sharply divided along the lines of class and language, and often tend to be hostile to each other.⁴⁰

More importantly, the drive for rights and visibility based on sexual preference is apt to be caught in a double bind. Though the social configuration is heteronormative, it allows strong homosocial bonding and a wide range of linguistically unmarked and socially invisible forms of same-sex attraction to exist alongside the publicly institutionalized *hijra* and *kotbi*. However, same-sex sexuality remains criminalized, even though enforcement of the law is rare. Given this paradoxical situation, the sudden rights-based mobilization around visibility and identity might very well lead to an upsurge of unprecedented homophobia and precipitate a social situation where these previously tolerated alternative sexualities and gender identities might come under increasing social policing with the added disadvantage of persecution under Section 377 of the penal code. Perhaps more than anything else, the contemporary nascent sexual minority politics has to tread a judicious line between these two options in the coming decades of 21st century.

RESOURCE GUIDE

Suggested Reading

- Brinda Bose and Bhattacharyya Suhabrata, eds., *The Phobic and the Erotic: The Politics of Sexualities in Contemporary India* (Calcutta: Seagull Books, 2008).
- Serena Nanda, *The Hijras of India: Neither Man nor Woman*, 2nd ed. (London: Wadsworth, 1999).
- Gayatri Reddy, *With Respect to Sex: Negotiating Hijra Identity in South India* (Chicago: University of Chicago, 2005).
- Sanjay Srivastava, ed., *Sexual Sites, Seminal Attitudes: Sexualities, Masculinities and Culture in South Asia* (New Delhi: Sage Publications, 2004).

Web Sites

- <http://www.youth-suicide.com/gay-bisexual/homosexuality-India.htm#BANGLADESH-1>.
A resource portal for LGBT issues in South Asia including Bangladesh.
- <http://www.globalgayz.com/g-bangladesh.html>.
Contains a number of interesting articles news and reports on gay life in Bangladesh.
- National AIDS/STD program (NASP) Ministry of Health and Family Welfare, Government of People's Republic of Bangladesh, http://www.bdnasp.net/surveillance_report.htm.

Organizations

- Boys Only Bangladesh (BOB), the most active and popular gay group in Bangladesh with both online and offline activities operating since 2002. BOB has around 1,600 members (at present), <http://groups.yahoo.com/group/BoysOnlyBangladesh/>.
- Bandhu Social Welfare Society, working on male sexual health across Bangladesh since 1997. 99 Kakrail, 3rd and 4th floors. Dhaka—1000. Bangladesh e-mail: bandhu@bdmail.net.
- Gay Bangla, a virtual platform for gay men and women founded in 2008. Gay Bangla currently has around 150 members, <http://groups.yahoo.com/group/GayBangla/>.
- Queer Bangla, a virtual coalitional platform for LGBT Bangladeshis founded in the early part of 2008. Queer Bangla has about 115 members at present, <http://groups.yahoo.com/group/queer-bangla/?yguid=180863117>.
- Sakhiyani, an online group of lesbian women, sakhiyani@yahoogroups.com.

NOTES

1. There is debate over the exact number of indigenous communities in Bangladesh. The number 45 is reported on the Web page of VSO Bangladesh, <http://www.vso.org.uk/where-we-work/bangladesh.asp>.

2. Most of the details on the LGBT and *hijra*, *kothi*, and *panthi* communities of Bangladesh are taken from ethnographic research conducted from 2000 to 2007 by the author of this chapter. A detailed ethnographic analysis of these communities is forthcoming.

3. For an interesting analysis of this issue, see Paul Boyce, "Moral Ambivalence and Irregular Practices: Contextualizing Male-to-Male Sexualities in Calcutta/India," *Feminist Review* 83 (2006): 79–98.

4. Serena Nanda, in her book *The Hijras of India: Neither Man nor Woman*, 2nd ed. (London: Wadsworth, 1999), projects the *hijras* of India as a third sex/gender. However, recent scholarship has demonstrated that *hijra* identity is far more complex than a nondichotomous third sex. For interesting arguments against the third sex, see Lawrence Cohen, "The Pleasures of Castration: The Postoperative Status of Hijras Jankhas and Academics," in *Sexual Nature Sexual Culture*, ed. Paul R. Abramson, et al. (Chicago: University of Chicago Press, 1995).

5. I use "phenotypic" for lack of a better term and in a nonjudgmental way.

6. *Kothi* is basically a derivation from *hijra* clandestine argot. *Hijras* use the word to refer to any males desiring macho males. While all *hijras* consider themselves *kothi*, all *kothis* do not identify as *hijra*. While *hijras* are relatively ritually bound, *kothis* are part of the mainstream society and tend to appropriate feminine deportments only in specific spaces. Nevertheless, the distinction often tends to get blurred real life situations. For a detailed account on the relationship between the *hijra* and *kothi* see Gayatri Reddy, *With Respect to Sex: Negotiating Hijra Identity in South India* (Chicago: University of Chicago Press, 2005). An analysis of the Bangladeshi context is forthcoming from the author of this chapter.

7. Instead of using the shorthand MSM, I have used "men having sex with men" to denaturalize the reifying proclivity of the MSM as an umbrella term that in recent academic and activist literature has become an unquestioned social scientific given. Moreover, MSM negates the subjectivity of the *hijra* and *kothi*-identified persons who resist being labeled as men.

8. See, for example, the article "The Move to Bay Gay Marriages Deserves Special Appreciation," *The Daily Star*, March 5, 2004, <http://www.thedailystar.net/2004/03/05/d40305150192.htm> (accessed March 5, 2004).

9. Information in this section has been retrieved from the Web sites of the Bangladesh Bureau of educational information and statistics: http://www.banbeis.gov.bd/es_bd.htm BBC, http://news.bbc.co.uk/2/hi/south_asia/1971233.stm; Agence France-Presse, <http://www.aegis.com/NEWS/AFP/2002/AF0212C9.html>; UNSECO, http://www.unescodhaka.org/education/hiv_aids/; WHO, http://www.whoban.org/hiv_aids.html; and *New Age*, a national daily in Bangladesh, <http://www.newagebd.com/2007/aug/23/nat.html> (all accessed January 5, 2008).

10. One workshop reports that 91.5 percent adolescents have no knowledge of HIV and AIDS. See <http://www.aids2006.org/Web/WEAX0204.ppt> (accessed on May 5, 2008). Another survey conducted in 2005 also found low prevalence of knowledge of HIV and AIDS (22.3%) among both males and females (cited in 2008 UNGASS Country Progress Report, http://data.unaids.org/pub/Report/2008/bangladesh_2008_country_progress_report_en.pdf).

11. While the *hijra* and *kothi* who recounted their early experiences of bullying in the schools eventually discontinued education, the upper class students in most cases continued to attend school.

12. Statistics in this section have been retrieved from DFID Bangladesh, <http://www.dfid.gov.uk/countries/asia/bangladesh.asp> (accessed January 6, 2008).

13. The number of ready-made garments (RMG) factories shot up to around 2,900 in 1999. For more details on the growth of this sector, see http://banglapedia.search.com.bd/HT/G_0041.htm (accessed January 6, 2008).

14. One study by Bandhu Social Welfare Society reports that, out of a sample of 124 MSM interviewed, 56 percent have a monthly income of taka 1,000 to 3,000 (US\$0.60–1.70 per day) and only 8 percent of the respondents earned more than taka 5,000 a month (US\$2.80 per day). Cited in Susie Jolly, *Gender Myths and Feminist Fables: Repositioning Gender in Development Policy and Practice* (Sussex, United Kingdom: University of Sussex, 2003). Moreover, many of the *hijra* and *kothi* interviewed by the author in the last few years have reported low wages and frequent firings. Too often, wage cuts and firings occur as a result of *kothi* and *hijra* employee's failure to bring in a fixed number of *kothi*, *hijra*, or *panthi* or males practicing same sex sexualities to drop-in centers of the NGOs. Many *kothis* and *hijras* opined that NGOs need to show the donors that they have a large number of beneficiaries so that the flow of funding is not obstructed.

15. *The Daily Star*, <http://www.thedailystar.net/2004/09/22/d40922060359.htm> (accessed July 6, 2008).

16. Dhanmondi, a neighborhood in Dhaka, has had massive real estate growth in the last decade and many of the *kothi*-identified people live in this area. Once a week, this group of cooks working at different construction sites gathers at a park to discuss their problems.

17. When asked about the reasons for their preferences for cooking, the *hijra/kothi* pointed out to me that they take up cooking because they have a feminine mind. Moreover, cooking work allows them to serve men, and thus brings them mental delight.

18. The NASP document is also available online <http://www.oit.org/public/english/protection/trav/aids/laws/bangladeshnationalpolicy.pdf>.

19. One workshop held on January 16, 2007, reported that sexually transmitted infection (STI) prevalence among the MSM community is approximately 7 percent, and the HIV prevalence is less than one percent, <http://www.realising-rights.org/docs/sexuality%20rights%20wrkshp.pdf> (accessed January 5, 2008).

20. One recently published paper exploring the compounded risk of males to HIV/AIDS is Philip A. Chan and Omar A. Khan, "Risk Factors for HIV Infection in Males who Have Sex with Males (MSM) in Bangladesh," *BMC (BioMed Central) Public Health* 7 (2007): 153.

21. Section 377 of Penal Code of Bangladesh criminalizes same-sex eroticisms. See details in the section on politics and law in this chapter.

22. In my years of interaction with the *hijra* community, I have seen only a few *hijra* adopt children.

23. *Hijra* and *kothi* interviewed by the author often raised this issue.

24. Chan and Khan, "Risk Factors for HIV Infection," 153.

25. Members of BOB who participate in the voluntary HIV/AIDS testing services however do not do so as members of BOB, or even as gay-identified persons, but this still shows awareness within BOB about HIV and AIDS.

26. Though ASK (Ayan o Saleesh kendro, literally "law and arbitration center") attempted to undertake a situation analysis of the LGBT in Dhaka, the research findings were never made public.

27. The South Asia LGBTI workshop was held from September 3–4, 2008, in Nepal. LLH Norway and the Blue Diamond Society of Nepal jointly organized it. There were participants from India, Pakistan, Bangladesh, Sri Lanka, and Nepal.

28. Bangladesh health briefing paper for DFID health resource center, http://www.dfidhealthrc.org/publications/Country_health/Bangladesh.pdf (accessed April 25, 2008).

29. Chan and Khan, "Risk Factors for HIV Infection," 153

30. Sexuality and rights workshop held on January 16, 2007, <http://www.realising-rights.org/docs/sexuality%20rights%20wrkshp.pdf> (accessed January 5, 2008).

31. Chan and Khan, "Risk Factors for HIV Infection," 153

32. So far only ICDDR, B provides voluntary testing and counseling for HIV and AIDS but no holistic treatment. For details, see <http://www.icddr.org/activity/index.jsp?activityObjectID=3990>.

33. For a comprehensive critique of the reifying proclivity of the term MSM, see Andil Gosine, "‘Race,’ Culture, Power, Sex, Desire, Love: Writing in ‘Men who have sex with Men,’" *Sexuality Matters* 37, no. 5 (2006).

34. Psychiatric harassment has been reported only among some middle and upper-class LGBT-identified persons.

35. For a compelling analysis of the law, see Suparna Bhaskaran, *Made in India: Decolonization, Queer Sexualities, Trans/National Projects* (New York: Plagrave Macmillan, 2004).

36. See, for example, Ruth Vanita, ed., *Queering India: Same-sex Love and Eroticism in Indian Culture and Society* (New York: Routledge, 2002) for a number of research papers dealing with the irony of Section 377 and homophobia in the context of the subcontinent.

37. For an interesting analysis of Islamic stances on homosexuality and transgenderism, see the online GLBTQ encyclopedia entry on Islam, <http://www.glbtq.com/social-sciences/islam.html> (accessed January 7, 2008).

38. Human Rights Watch, "Ravaging the vulnerable: Abuses against Persons at High Risk of HIV Infection in Bangladesh," *Human Rights Watch* 15, no. 6 (2003).

39. In 2003, the BBC reported the case of a gay Bangladeshi couple seeking asylum in Australia because they were subjected to beatings and threatened with stoning by local religious clerics, but there was no coverage of this news in the local newspapers. Even the members of BOB could not confirm the acts of the case. There was once a spate of discussion on this issue on the BOB message board and many opined that it was a ploy by the asylum seekers to gain Australian citizenship. <http://news.bbc.co.uk/2/hi/asia-pacific/2927639.stm> (accessed October 5, 2008).

40. LGBT-identified persons often use English, as is evident on the BOB message board and those for Queer Bangla and Gay Bangla. Most members also hail from middle and upper socio-economic backgrounds, as opposed to the low-income *hijra* and *kothi* who speak Bengali. However, this is not to suggest that all LGBT-identified people use English. Because of the class status of LGBT-identified persons, they have higher social capital, such as access to the Internet, education, and higher incomes.

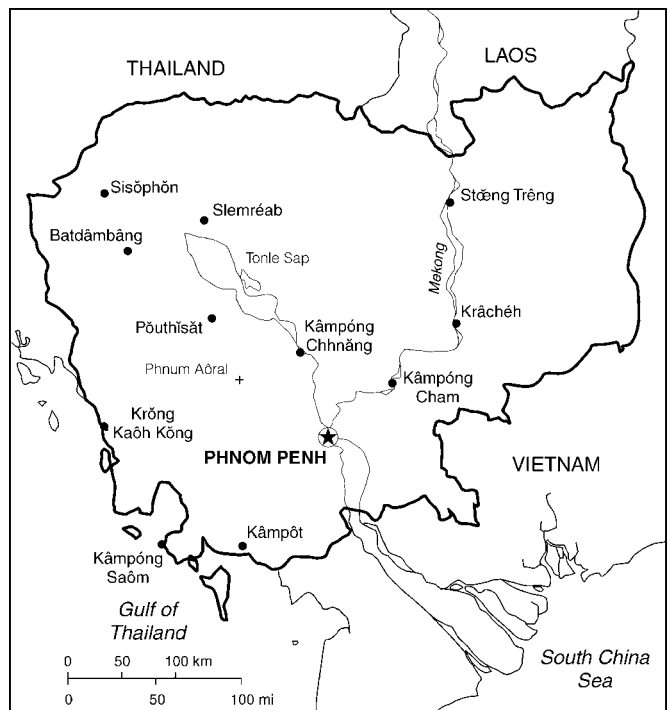
CAMBODIA

Walter L. Williams

OVERVIEW

Cambodia is a small Southeast Asian nation that is just now recovering from a disastrous civil war, but it offers much potential as a welcoming country for LGBT immigrants. Because its national religion is Buddhism and over 95 percent of its population is Buddhist, like its neighbor Thailand, Cambodians do not harbor religiously motivated hatred of homosexuals. The country has an interesting history, with penis worship as part of its religious heritage. With its current king having the reputation of being a gay man, and with its powerful prime minister having spoken out in favor of equality for LGBT people, in its own quiet way Cambodia offers a safe haven for LGBT people.

Over 95 percent of Cambodia's population is Khmer, descendants of the most ancient settlers in Southeast Asia. About 2,000 years ago, when seafaring traders from India began arriving in large numbers in the Mekong River delta area, the Khmer were intensely impacted by Indian culture. They adopted the worship of the Hindu deity Shiva, as well as writing systems that were based on Indian scripts. Indian science, law, political theory, and especially religion, had a huge impact on the Khmer people. With India as their inspiration, over the next few centuries large state-level political organizations emerged as those who gained the economic advantage from new Eurasian trade networks used the profits to build big water irrigation projects. Farmers gave their loyalty and support to a central leader



because irrigation vastly increased the yield of their rice farming. Populations increased dramatically.

The political organizations that emerged among the Khmer were city-states, similar to those of ancient Greece. In 802 C.E., a military leader named Jayavarman united all the Khmer city-states, founding the Kambuja Empire. This is where the name Kampuchia, or Cambodia, came from. Shortly after he had consolidated power, Jayavarman was proclaimed to be the god-king of a new religion in a huge Hindu religious ceremony. Jayavarman established a new version of the Hindu religion that was focused around penis worship. What historians call a “Linga Cult” emerged as central to Khmer kingship, religion, and art. The penis was said to represent the Hindu god Shiva, but a major underlying reason for the idea of a Sacred Penis is that it symbolizes the fertilization of life. Just as the farmer needs to scatter seeds in the fields, the penis begins new life by scattering sperm. Documents do not tell what personal reasons led Jayavarman to emphasize penises so much, but for whatever reason he was the instigator for the penis symbols to become a prominent part of religion in Southeast Asia.

Most of the carved stone penises that were central objects of worship in Khmer temples have been stolen over the centuries, though many are now on display in the Cambodian National Museum in Phnom Penh. Water basins were built within the temples, and the water that was poured over one of these stone penises was considered sacred. People coming to the temple washed their face and body in the sacred water, which was believed to bring them good luck and protection from illness.

The Khmer religion strongly emphasized penis worship. In Phnom Kulen, and also at Kbal Spean, in northern Cambodia, 1,000 penises were carved into solid rock in a riverbed, in order to fertilize the waters that fed the surrounding rice paddies. Today these sites are known as “The River of a Thousand Lingas.” The idea of a magical penis is thus engrained into Southeast Asian culture. This belief is reflected, even today, in Southeast Asian religions. Carved penis symbols are blessed by Buddhist monks and have become part of some Buddhist shrines.

After establishing the Kambuja or Khmer Empire, Jayavarman expanded his rule and enlarged the empire from Cambodia into parts of present day Thailand and southern Laos. Once he conquered the warring city-states and established unification, peace and prosperity existed in this area of Southeast Asia. This penis-worshipping king is one of the most important people of medieval world history. He reigned successfully until his death in the year 850 C.E. At a time when Europe was languishing in the Dark Ages, the Khmer Empire became one of the most prosperous societies of that epoch.

Successor kings established their capital at Angkor, which became one of the world’s largest cities with over one million people in residence. By the early 1100s, the Khmer Empire united present-day Cambodia, Thailand, Laos, the southern third of Vietnam, and parts of Myanmar. Many thousands of pilgrims journeyed to Angkor each year to receive blessings from the water that was poured over stone penis symbols. Angkor became a religious center comparable to Mecca for Islam and the Vatican for Catholics. Over the years, millions of religious devotees came to Angkor to worship the Sacred Penis.

In 1181, King Jayavarman VII converted to Buddhism, but he did not remove the stone penises, probably because penis worship was so central to the Khmer religion. Buddhism incorporated the idea of a sacred penis, and even today it is

not unusual to see boys and men wearing a small stone carved penis attached to a cord around their waist. This symbol is believed to bring good luck and spiritual protection.

For the rest of his life, Jayavarman VII ruled over a vast Buddhist empire stretching from the shores of Vietnam on the South China Sea, to the plains of Burma. His was one of the world's largest political structures, governing many millions of people. However, in 1351, Thai separatists established their independence as the Kingdom of Siam, and in following centuries Vietnam unified and also expanded over Khmer territory in the Mekong Delta. The Khmer Empire was critically weakened, and never regained its former glory. The Khmer capital was removed to Phnom Penh after the capital at Angkor was captured, and the city of Angkor went into decline and the great temples were abandoned.

By the 1860s, France had expanded its colonial empire into Vietnam, Laos, and Cambodia. The French retained control until 1942, when the Japanese Empire invaded Southeast Asia. When the Japanese were defeated by the United States in 1945, however, the French tried to reestablish their colonial possessions. Cambodia's royal lineage continued under French patronage, but in the late 1940s, Khmer King Sihanouk reacted against the French and became determined to make Cambodia independent once again. Sihanouk proclaimed independence in 1953, and an era of progress ensued. However, in the 1960s, as Vietnam became embroiled in civil war, Cambodia was drawn into the fighting despite Sihanouk's attempts to remain neutral.

In 1970, American President Richard M. Nixon secretly supported a coup to overthrow King Sihanouk and install a pro-American government. This administration, under Lon Nol, became corrupt. This unpopular American-backed government was opposed by the Chinese-backed Khmer Rouge rebels in 1975. Though many Cambodians supported the Khmer Rouge because they did not like the pro-American government, as soon as the Khmer Rouge established control these ardent communists became even more oppressive than the previous government had been. The Khmer Rouge began a ruthless campaign of terror from which Cambodia has still not completely recovered. The Khmer Rouge ordered all residents of Cambodia's cities to leave them and become peasants. Both Buddhism and Western-style liberal education were declared to be counter-revolutionary. Schools and Buddhist temples were closed and ransacked. Leading monks, intellectuals, artists, and pop musicians, were rounded up and executed. Torture chambers and death camps were established, on the order of what the Nazis and the Stalinists had done in Europe and Russia in the 1940s. Anyone who complained was immediately shot or clubbed to death. Even many young children were killed.

The Khmer Rouge, under the leadership of Pol Pot, ran the economy into the ground, and Cambodia became an economic wasteland. Somewhere between two and three million Cambodians (out of a total population of 10 million) died as a result of mass executions, mass starvation, fighting, and American bombings in the 1970s. In 1979, the Vietnamese communist government invaded Cambodia and installed a government under the leadership of Hun Sen. In a complex struggle for power, with Pol Pot and the Khmer Rouge fighting in the forests, the Cambodian civil war continued to bring despair and devastation to the Khmer people into the 1990s.

In 1993, the Kingdom of Cambodia was reestablished as a constitutional democracy, even while the Khmer Rouge continued to resist, and Sihanouk was reinstated

as king. Though he had remained popular with the majority of Cambodians, this time he did not have much power, and he had to face a strong Prime Minister in Hun Sen, who was backed by Vietnam. After defusing many crises, by 2004 King Sihanouk had had enough of partisan politics and announced his abdication and retirement.¹

One of the last public announcements that Sihanouk made was his statement that same-sex marriages should be legalized in Cambodia. He said he was inspired by television news reports of gay and lesbian couples in the United States petitioning for legal marriage rights.² This may also have been a calculated political move on his part to legitimate his son as the new king.

Under the 1993 Cambodian constitution, the Royal Council of the Throne selects the successor to the king from among the male members of the dynasty who are age 30 or older. In 2004, the Council bypassed King Sihanouk's eldest son and logical heir, Prince Ranariddh, because he was the head of the Royalist Party and considered too politically partisan to be given the title of king. The Council wanted a king who would remain in largely an apolitical ceremonial role. The Council chose King Sihanouk's seventh son, Prince Norodom Sihamoni, as the new king.

King Sihamoni was born in 1953 and grew up in Europe. From an early age he had a great interest in European classical ballet, an interest his mother encouraged. He was sent to Europe to be educated, and while there he became a star ballet dancer. Later, Prince Sihamoni became director of the Prague Ballet Company. He speaks fluent Czech, French, and English. In the 1990s he became Cambodia's representative to the United Nations and a leader of cultural affairs for the United Nations organization. He has never married or sired children.³

OVERVIEW OF LGBT ISSUES

What is most crucial for understanding LGBT issues in Cambodia is that all of Khmer society is still recovering from the devastation of the Khmer Rouge years and the civil war that engulfed Cambodia from the 1970s through the 1990s. As a consequence, all aspects of Cambodian society are still in the beginning stages of development. There is, therefore, understandably little organization of an LGBT community or movement. Nevertheless, gay community businesses are starting to spring up. In the capital city of Phnom Penh, within a stone's throw of the National Palace, is a nightclub with a well produced drag show that is popular with ladyboys. Several gay bars and a gay men's saunas also exist in the city, as well as one bar and one sauna in the northern city of Siem Reap. A Cambodian business owner in the seaside resort of Sihanoukville is planning to open a gay disco there.

The mood of Cambodians seems quite accepting of gay people, with little discrimination evident. LGBT people are often open to their families and accepted by their relatives. Same-sex couples can dance together in trendy discos without negative reaction. In 2003, Mu Sochua, the Minister of Women's Affairs in the Cambodian government, made a public statement in support of equal rights for transgendered people, whom she said should be included in women's affairs questions. Gay rights received a big boost in 2007 when Prime Minister Hun Sen made a public statement saying that he favored equal rights for LGBT people. Though no action to pass a nondiscrimination law has been taken by the national

legislature, this statement by the Prime Minister has set a tone of acceptance that has helped LGBT people and their families to feel positive about the future.⁴

EDUCATION

Cambodia does not have compulsory education laws, so poor people often do not send their children to school, or if they do attend it is only irregularly and for a few years. Those children whose parents cannot afford to send them to school spend their time playing, fishing, and doing other work to help the family. Given the poverty of Cambodia and the lack of government resources, public schools in Cambodia are substandard. Government schools typically pack 40 to 50 students into each classroom. One of the big problems with Cambodia's government school system is that each student is expected to pay the teacher a certain amount of money each day. Without these daily payments, the teachers could not afford to live, as the monthly salaries provided by the government are so small. The result is that if parents do not have enough money that day, their children cannot go to school. Even with these individual payments, however, the income level for public school teachers is so low that talented people do not go into this field. There is a strong need for teachers and other educated and highly skilled people in Cambodia.

EMPLOYMENT AND ECONOMICS

As a result of the disastrous economic policies of the Khmer Rouge and the long civil war, Cambodia is one of the most impoverished nations in the world today. Considering what the nation was like in the 1990s, Cambodia has made amazing progress within the last decade, but the majority of the population is still desperately poor. Khmer people are industrious, though, and determined to make a better life for themselves and their children in the future. Small businesses and markets have sprung up everywhere, and even with the stress of not knowing if they will have enough money to buy food, there still seems a desire among people to enjoy life.

A major part of the current economic revival is based on tourism. Cambodia benefits from the nearby location of Thailand, which is one of Asia's leading tourist sites. In 2007, over one million people visited Angkor Wat, and the government is making major efforts to encourage tourists to visit other parts of the country and to stay for longer lengths of time. Within this context, LGBT tourists are welcomed in Cambodia, and LGBT businesses are not discriminated against by the government. The Cambodian government is anxious to attract immigrants, who they feel will bring with them skills and experience to help Cambodia's economy grow. While a one-month tourist visa can only be extended for a single additional month, for a bit more money the government offers an extremely flexible business visa, which a foreigner may use to extend his or her stay in Cambodia indefinitely. Little except a cash payment is expected in terms of proving that a business actually exists. Even retired people manage to live in Cambodia on extended business visas.

SOCIAL/GOVERNMENT PROGRAMS

The Khmer Rouge considered dance and art to be decadent, and had almost completely wiped out Khmer classical dance and Cambodian folk dancing, but

since his coronation, King Sihamoni has emphasized a revitalization of Khmer culture, with art, dance and music being given particular attention. The Royal Academy of the Arts and a fine National Museum are located right next to the National Palace.

When the new constitutional government was established under the 1993 constitution, many nongovernmental organizations (NGOs) from Europe and the United States offered to help Cambodia deal with its many problems. Faced with limited resources and a traumatized population in need of many social services, the Cambodian government enthusiastically welcomed these NGOs. Though they have performed many vital services, especially for the poor and for children, and numerous officials have been selflessly devoted to humanitarian goals, the impact of the NGOs has not always been constructive. First, a number of these organizations spent more money on outlandishly high salaries for their Western employees than on the poor Khmer people the organizations were meant to serve. Second, the NGOs have sometimes imposed their own foreign ideologies onto Cambodia in ways that are counter to traditional Khmer values. This is particularly true for sexual issues, especially in imposing Western notions that persons under the age of 18 should not be sexually active. In response to these Western concerns, Cambodia's police enforce strict policies that no one below age 18 should have sex.

SEXUALITY/SEXUAL PRACTICES

Homosexual behavior among adults seems to be a topic of little remark by Cambodians, whose Buddhist religion offers no prohibitions on consensual sex except for monks. Khmer people seem comfortable with LGBT people, both Cambodian and foreign. Cambodians are generally friendly people, and it is not difficult to arrange a sexual liaison with people of either sex. Few prohibitions seem to exist in terms of popular attitudes.

FAMILY

Family relations are strong in Cambodia. Indeed, the family was often the only social institution by which people survived the horrors of the civil war years. Families tend to accept their LGBT members equally without discrimination.

HEALTH

Though some fine hospitals exist in Phnom Penh, Cambodia does not have a good health care system. Many poor people cannot afford medical care and die early. This pattern spelled disaster for many when HIV infections first reached Cambodia in 1990. Soon, Cambodia had the highest rate of people with AIDS of any country in Southeast Asia. Remarkably, though, within the last decade government public awareness campaigns promoting condom use have been extremely successful, to the point that HIV infection rates are now low.

RELIGION AND SPIRITUALITY

After the Khmer Rouge killed so many Buddhist monks and tried to suppress Buddhism, there was a pro-Buddhist reaction in Cambodia. Buddhism is once

again officially the state religion, and the Cambodian people generally support a Buddhist revival. Government offices and public schools often have statues of the Buddha on prominent display, and Buddhist monks give lectures in public schools. Buddhist schools are also quite prominent in providing an education for students whose parents are too poor for them to afford even the minor costs of attending government high schools.

Buddhist attitudes toward sexuality grew out of the teachings of the Buddha, who lived in northern India 2,500 years ago. Though the Buddha taught that life is inevitably filled with suffering, he also taught that there is a way out of this suffering by letting go of greed and living a simple life. By suppressing greed, anger, and delusion, and instead emphasizing happiness, learning, creativity, and devotion to helping others, a person can aim toward an enlightened state of existence. By recognizing that one can make oneself miserable simply by desiring something that one does not have, the Buddha counseled his followers not to let their desires overtake them. Rather than practicing extreme denial or extreme indulgence, he said that a “Middle Way” approach is best. Rather than repressing one’s desires, or conversely overindulging in them, Buddhists advocate moderation. Happiness is gained, not by indulging in selfish desires to others’ detriment, but by spreading happiness to others.

Rather than seeing sex, including homosexual sex, as sinful, Buddhist ethics focus on creating happiness. If a person rapes another person, or imposes himself sexually on another person against their will, then that causes unhappiness and is morally condemned. On the other hand, if a person gives happiness to another person, whether through sexual enjoyment or through other means, that is considered a moral good. Whether sexual happiness is provided to a person of the other sex or of the same sex is immaterial. Buddhism thus takes a neutral attitude on homosexuality or heterosexuality. Above all, the Buddha stressed the need to show compassion and respect toward all people and toward all sentient beings of the earth and the wider universe. An accurate understanding of Khmer attitudes toward sexuality necessitates an understanding of Buddhist ethics. Buddhism so thoroughly permeates Khmer society today that it is a crucial element in Khmer tolerance of gay, lesbian, bisexual, and transgendered people.

VIOLENCE

Though Cambodia was an extremely violent society into the 1990s, with heavily armed factions battling each other in the civil war, in recent years there has been a strong government program to confiscate firearms. As a result, violence is no longer a major problem in Cambodia. There is no noticeable violence directed against LGBT people because of their sexual orientation or gender expression.

OUTLOOK FOR THE 21ST CENTURY

Though Cambodia’s recent history has been full of tragedy, and though it remains among the world’s most impoverished countries, it has the potential to become a significant haven for LGBT people fleeing oppression in other countries. Foremost in importance is the lack of religiously inspired homophobia, due to Buddhism’s attitude of compassion and respect for all people. With recent public statements by King Sihanouk and by Prime Minister Hun Sen in support of LGBT

equality, if the government will follow up with passage of an antidiscrimination law and with legalization of same-sex marriage, Cambodia could become a leading nation in the area of gay rights.

RESOURCE GUIDE

Suggested Reading

- David Chandler, *A History of Cambodia*, 4th ed. (Boulder, CO: Westview Press, 2007).
 Karen Coates, *Cambodia Now: Life in the Wake of War* (Jefferson, NC: McFarland and Co., 2005).
 John Tully, *A Short History of Cambodia: From Empire to Survival* (Sydney: Allen and Unwin, 2006).

Web Sites

- Beauty and Darkness: Cambodia, the Odyssey of the Khmer People, www.mekong.net/Cambodia.
www.utopia-asia.com, Leading informational gay Web site for Asia.
www.norodomsihamoni.org, The official Web site of Cambodian King Norodom Sihamoni.
www.licadho-cambodia.org, Cambodian League for the Promotion and Defense of Human Rights.

NOTES

1. This survey of the history of the Khmer Empire and Cambodia is based on David Chandler, *A History of Cambodia*, 4th ed. (Boulder, CO: Westview Press, 2007); John Tully, *A Short History of Cambodia: From Empire to Survival* (Sydney: Allen and Unwin, 2006); "Beauty and Darkness: Cambodia, the Odyssey of the Khmer People," www.mekong.net/Cambodia (accessed July 1, 2008); exhibits at the National Museum of Cambodia; and interviews conducted by the author during April and May 2008 in Siem Reap, Sihanokville, and Phnom Penh, Cambodia, with many Cambodians who are familiar with aspects of their history.
2. See Cambodia News, "King Sihanok Advocates Same-sex Marriage," www.utopia-asia.com/unews/article_2004_02_21_202742.htm (accessed July 26, 2009).
3. See the official Web site of Cambodian King Norodom Sihamoni, www.norodom-sihamoni.org (accessed July 26, 2009).
4. See Cambodia News, "Hun Sen Backs Rights for Gays," www.utopia-asia.com/unews/article_2007_11_7_112312.htm; Cambodian League for the Promotion and Defense of Human Rights, www.licadho-cambodia.org (accessed July 26, 2009); and Karen Coates, *Cambodia Now: Life in the Wake of War* (Jefferson, NC: McFarland and Co., 2005).

CHINA

Hongwei Bao

OVERVIEW

The People's Republic of China (Zhonghua Renmin Gongheguo) is located in East Asia and is one of the largest countries in the world. It has diverse climates, ranging from tropics in the south to subarctic in the north, and various terrains, including mountains, high plateaus and deserts in the west, and plains, deltas, and hills in the east.

China is one of the oldest continuous civilizations in the world. The history of China is told in historical records that date back 5,000 years. Archaeological discoveries date Chinese history to the 16th century B.C.E. Emperor Qinshihuang unified the different city-states of the Yellow River Valley into a large empire in 221 B.C.E.



China's long dynastic history came to an end in 1912 when the Republic of China was founded by Sun Yat-sen. The Communist Party took power in 1949 and the socialist era began. After the death of Mao Zedong, China launched its "reform and open-up" policy in 1978 and began to transform from a centrally planned system to a more market-orientated economy with a rapidly growing private sector.

China has 23 provinces, five autonomous regions, four municipalities, and two special administrative regions (Hong Kong and Macau).¹ China is a communist state run by the Communist Party of China. China practices socialism with Chinese characteristics, in other words, state socialism with a market economy. It has the world's fourth-largest economy and second-largest purchasing power parity.² However, there are wide gaps in wealth distribution in China between the eastern coastal regions and the western mountainous regions, between the economically developed south and the developing north, and between urban and rural areas.

China is the most populous country in the world (1.3 billion) and is home to about one fifth of the world's total population. China has 56 ethnic groups, though 91.9 percent of the population is Han Chinese and the other 55 groups comprise the remaining 8.1 percent of the population.³ The main dialects under the umbrella term Chinese (Zhongwen or Hanyu) include Putonghua (Standard Chinese or Mandarin), Yue (Cantonese), Wu (Shanghainese), Minbei (Fuzhou), Minnan (Hokkien-Taiwanese), Xiang, Gan, and Hakka. These dialects mostly share the same written form, though people from other ethnic groups in China have their own spoken languages and written scripts.

Officially, China is an atheist country, but the major religions practiced include Daoism, Buddhism, Christianity, and Islam, among others. Traditional Chinese society manifested a blending of Confucianism, Taoism, and Buddhism. Maoist communism, neoliberalism, and other philosophical modes of thought have also taken hold in socialist and postsocialist China.

Gender equality is advocated by the Chinese government. Women are officially entitled to the same rights as men, such as suffrage and employment, and have been since the Maoist era. In reality, there are still considerable gender and sexual disparities in Chinese society.⁴ China's male and female populations are unbalanced after three decades of the implementation of the birth control policy.⁵ The sex ratio of males to females is 1.06.⁶

OVERVIEW OF LGBT ISSUES

Historical records reveal that homoerotic behaviors were widely practiced in China's imperial court by the 8th and 7th century B.C.E.⁷ The homoerotic tradition, also referred to as "passions of the cut sleeve," came to an end at the beginning of the 20th century when China imported Western sexology as part of its modernization process. In Chinese history, there are numerous terms to describe homoerotic behaviors, most of which are historical tropes (e.g., *longyang*, *fentao*, *duanxiu*) or descriptions of people's preferences or behaviors (e.g., *nanse*, *nanfeng*, *nanyu*, *nanyin*, *dapengpeng*), or references to people's social roles and statuses (*waichong*, *ningxing*, *airen*, *qixiong*, *qidi*, *xiaochang*, *xianggong*), depending on specific historical contexts.⁸

Homoerotic behaviors were largely tolerated in premodern Chinese societies mainly because they did not challenge the Confucian idea of the patrilineal social and familial order, as most people who practiced homoeroticism were also part of a

heterosexual marriage in order to perform their social and familial duties. Premodern Chinese homoeroticisms also did not disrupt social hierarchies, as there were distinct power distances in most of the relationships, for instance, between emperors and ministers, between masters and servants, between patrons and prostitutes, between patrons and theatre actors, and between elders and younger people. The major Chinese religions and systems of ethics did not condemn homoeroticism.

The early 20th century saw the introduction of ideas of gender and sexual binaries and sexual perversions when China was invaded by Western imperial and colonial powers. The concept of homosexuality was constructed but homoerotic behaviors were still practiced as before in Republican China (1912–1949). Mao's socialist China (1949–1976) practiced sexual asceticism, and homosexuality, depicted either as “feudal remnants” or as “decadence from the West,” was erased from socialist history. After 1978, postsocialist China's “reform and open-up” policy witnessed the influence of global capitalism, the rise of individualism, and the emergence of gay identities.

An LGBT subculture is booming in major Chinese cities like Beijing, Shanghai, Guangzhou, and others, as evidenced by the appearance of bars, saunas, salons, and sex venues. The rise of the mass media (especially the Internet), the HIV/AIDS campaign, and community-building efforts by academics, social workers, and activists has also contributed to the emergence of LGBT communities in China. The society is, in general, tolerant of LGBT persons, in that there are no laws or religious edicts against LGBT practices in China. Besides, Chinese society shows different cultural understandings of same-sex friendship and intimacy, especially between females, than is found in the West and accepts varied expressions of masculinities and homosociality.⁹ The biggest pressure for LGBT people is not homophobia, legal persecution, or religious condemnation per se, but the pressure from families and society to undertake a heterosexual marriage and to perform the traditional filial role.

At present, some of the challenges LGBT people face include: (1) the pressure from families and society to enter into heterosexual marriages and the performance of traditional filial role; (2) no law or antidiscrimination legislation guarantees LGBT persons' legal rights; (3) there is limited community support and few LGBT public spaces; and (4) a lack of empathetic representations in media and social life. Most people do not have much knowledge about LGBT people; some deny their existence, and some hold a negative opinion of them and relate them to abnormality (*biantai*), psychiatric disease (*xinli jibing*), moral decadence (*daode baihuai*), lifestyle decadence (*shenghuo zuofeng youwenti*), and as carriers of HIV/AIDS.

The current Chinese government takes an ambiguous attitude towards LGBT issues. It does not initiate laws to protect LGBT rights, but neither does it enact laws against LGBT people. It allows some representations of LGBT issues in the mass media, especially related to HIV/AIDS campaigns, and allows some NGOs and community support, but within certain limits. The government strictly forbids public demonstrations. Most LGBT people have to conceal their sexual identities at school, at work, in the army, and in different walks of life. Many LGBT activists in China do not support the coming out strategy and the public demand for political rights common in the West. Some advocate an indigenous *tongzhi* (“gay” or “queer,” depending on the context) politics that is less confrontational and more embedded in traditional Chinese family values.¹⁰

Some of the major events in Chinese LGBT history include: the deletion of hooliganism (*liumangzui*) from the Chinese criminal law in 1997, which is generally considered to be the decriminalization of homosexuality in China, and the excision of homosexuality as a mental disorder in the *Chinese Classification of Mental Disorders* (CCMD-3) in 2001, which is regarded as the depathologization of homosexuality in China.

The terms used to refer to LGBT people in the modern Chinese language are extremely diverse both geographically and historically. The most commonly used indigenous terms for gays and lesbians are *tongxinglian* and *tongzhi* (gay man: *nan tongxinglian* or *nan tongzhi*; lesbian: *nü tongxinglian* or *nü tongzhi*). The English words gay, lesbian, and their derivatives are also in use (e.g., les, *leisi*, *leisibian*, *lazi*, *lala*). Different regions, provinces, and cities also have their local terms, such as *piaopiao* (Sichuan province), *bingzi* (Wuhan), *boli* (Nanjing, Taiwan), *gei-lou* (Guangdong), *ban* (Lanzhou), and *huo* (Urumqi), to name only a few.

The most commonly used term for bisexuality is *shuangxinglian*; for transsexuality *bianxing*; for transvestism *yizhuang*; for sadomasochism *nuelian*; for queer *ku'er*; and for straight people *yixinglian* or *zhiren*. Gay men generally receive more public attention and thus more representation than lesbians, bisexuals, transgendered people, and those of other sexualities in China.

EDUCATION

China has a nine-year compulsory education system. All children are required to receive elementary and junior middle school education, although the policy has been poorly implemented in some rural and remote regions. Most of the schools and universities in China are government-funded and operate using a state-regulated curriculum. Most students have to take English (or other foreign/ethnic languages) and political science (mainly Marxism and Maoism) from primary school through the university level. Many universities have expanded the number of enrollments in the past decade, but the state-regulated university undergraduate and postgraduate entrance examinations are still very competitive. In recent years, more and more private schools and universities have been founded and some students choose to go to private schools or to study abroad.

Chinese education advocates gender equality, but many female students still face unequal treatment at school. There are always LGBT teachers and students in schools, but there are no laws or policies to protect their rights. Some LGBT people are discriminated against and bullied by straight people. Most choose to keep silent at school about their sexuality.

Most schools and universities do not offer gender and sexuality education programs. Sex and sexualities, in particular, are usually taboo or sensitive topics in classroom settings. Within the limited gender, sex, and sexuality education programs in some schools, heteronormativity is assumed and advocated. Naturally, some LGBT people get help and support from their teachers, parents, friends, books, and the Internet, but the lack of support in the public education system is frustrating to some LGBT people.

In the past decade, several universities have begun to offer women's studies, gender studies, and sexuality studies courses; for instance, the Institute for Research on Sexuality and Gender at Renmin University of China in Beijing; the Center for Women and Gender Studies at Sun Yat-sen University in Guangzhou;

Fudan University–Michigan University Centre for Gender Studies in Shanghai; and the Women’s Studies Center at Peking University in Beijing. In 1985, Pan Suiming taught postsocialist China’s first course in sexual sociology at Renmin University of China. In 2003, the School of Public Health at Fudan University offered China’s first postgraduate course in LGBT education, *tongxinglian jiankang shehui kexxue* (homosexual health social sciences).¹¹ This was followed in 2005 by *tongxinglian yanjiu* (homosexuality studies), the first optional course available to all undergraduate students at Fudan University. Meanwhile, many universities, including Peking University, Renmin University of China, and Sun Yat-sen University offer public lectures in gender and sexuality to their students, and more and more postgraduate students choose topics on gender and sexuality studies for their papers or dissertations.¹² The Institute for Research on Sexuality and Gender at Renmin University of China offers funding for schools and teachers to start courses on sexuality studies; it also offers scholarships for students to undertake gender and sexuality research.¹³

Beginning in the 1990s, gender and sexuality research began to surface in the fields of gender studies, sociology, health science, and sexology. Some of the important scholars and researchers include: Dai Jinhua, Fang Gang, Li Xiaojiang, Li Yinhe, Liu Dalin, Pan Suiming, Zhang Beichuan, Tong Ge, Guo Xiaofei, and Wei Wei. Li Yinhe published the first book of sociological research on Chinese gay men (*Tamen de Shijie, Their World*) in 1992 in Hong Kong. Li was also one of the first Chinese academics to introduce Foucault and queer theory to China. Zhang Beichuan, a medical doctor, published the first book on homosexual medical research (*Tongxing'ai, Same Sex Love*) in 1994. Pan Suiming has conducted many sociological studies on gender and sexuality, most notably prostitution, in contemporary China in the last decade.

EMPLOYMENT AND ECONOMICS

In socialist China, most workers were employed by state-owned enterprises and farmers worked for the state-owned communes. People have more choices in postsocialist China. Some urban citizens work for private enterprises and joint ventures.

Some researchers have pointed out that members of the LGBT community in China generally have higher levels of education and better jobs than members of other communities,¹⁴ yet there have not been many convincing statistics produced to date to support this assertion.

There are no anti-discrimination statutes in China to protect LGBT people’s rights in employment. Many LGBT people have to conceal their sexual identities at work.

SOCIAL/GOVERNMENT PROGRAMS

There are some governmental and nongovernmental organizations (NGOs) that work with the LGBT community on HIV/AIDS prevention. They include the Ministry of Health, the Chinese Center for Disease Control and Prevention, the Chinese Association of STD/AIDS Prevention and Control, the Chi Heng Foundation, Love Knowledge (Aizhi) Action, and the Beijing Gender Health Education Institute.¹⁵ Social and government programs that target the LGBT community with no connection to HIV/AIDS are very rare.

SEXUALITY/SEXUAL PRACTICES

A survey of 195 LGBT people conducted between 1991 and 1992 shows the various sexual practices that LGBT people engage in: masturbation (85.6%), skin touching (97.4%), hugging (87.2%), kissing (79%), anal sex (36.9%), oral sex (26.2%), and the use of sex toys (3.1%).¹⁶ It is interesting to note that anal sex, oral sex, and toys were not the most common forms of LGBT sexual practice in China. It would seem that the deepest expression of intimacy in China is not *xing* (sex) per se, but *qing* (deep sentiment or passion).¹⁷

Another of the interesting observations about LGBT sexual practices in China is the division of distinct sexual roles and the terms associated with them. Some of the most common are: 1 (top), 0 (bottom), 1/0 *douke* (versatile), T (butch lesbian), P (femme lesbian), *bufen* (versatile lesbian). Jargon including 69 (mutual, simultaneous oral sex), 419 (one night stand), MB (money boy), and *zuo* (have sex) are also often used.

The major cities in China have gay bars, saunas, and other sexual venues for LGBT people. Some people also cruise in beats including parks and public toilets. Group sex and sex in the public are not only considered promiscuous and obscene, but are also illegal. People who have sex in public are often detained for a short time (up to 15 days) under the charge of disrupting public order (*raoluan gonggong zhi'an*).

Safe sex is a big problem in the LGBT community. In one survey of 2,500 people, 79.7 percent of the participants considered it necessary to use condoms in sexual intercourse, yet only 30.9 percent reported using condoms every time and 50 percent admitted that they seldom or never use condoms.¹⁸ This has been given attention to by governmental and NGOs working on HIV/AIDS prevention.

FAMILY

As a Confucian society, China places family (*jia*) as the top priority in a person's social relationships, hence the importance of marriage and posterity. Extended families used to be the traditional family structure in China; in postsocialist China, with the one-child policy and young people's increasing financial independence from their extended families, nuclear families have become the primary family structure in urban areas. With the reform of the marriage law and the changing concepts of marriage, many single families and DINK (double income, no kids) families also began to appear. Some young people choose not to get married and have children. In this social and cultural context, LGBT people negotiate in different ways with the institution of heterosexual marriage.

More than 90 percent of Chinese LGBT people choose to enter into a heterosexual marriage.¹⁹ The institution of marriage is so deeply rooted in China that sometimes marriage becomes a public matter instead of a private matter: parents worry about it; neighbors talk about it; colleagues offer suggestions, and everyone looks for different ways to be helpful, serving as matchmakers and gossiping about other people's sexualities if they are not married by a certain age. Marriage is also related to other social institutions, including housing, social welfare, and jobs. It is hard for LGBT people to remain single due to pressures from their families, colleagues, and society.

Under such circumstances, LGBT people have come up with different solutions: getting married and trying to lead a heterosexual family lifestyle, getting married and then divorcing, finding another LGBT person and having a marriage of convenience, remaining single and coming out to the family if necessary, or bringing the LGBT partner home and making him or her a part of the family.²⁰

Family is an important theme in the Chinese LGBT community. Most LGBT people would like to find a long-term relationship and lead a heteronormative lifestyle with their partner. Many consider 419 (one-night stand) and MB (money boys, male prostitutes) to be promiscuous (*luan*) or 'low quality' (*sushi di*) practices.²¹

Under China's marriage law, marriage is defined as being between people of opposite sexes. Although there have been some LGBT marriages in China, most of them were not officially registered or legally protected.²² Chinese law, however, acknowledges the validity of LGBT marriages involving Chinese citizens when they are held and registered in other countries.²³

Lin Yinhe, one of the country's leading sociologists in sexuality studies, proposed the legalization of same-sex marriage to the National People's Congress in 2003, 2005, and 2006. She also advocated the legalization of sex between consensual adults (e.g., *luan'ou*, exchanging sex partners between consensual couples) in 2006.²⁴ Despite strong public opposition, her opinions have triggered heated discussion in the media.

COMMUNITY

China's LGBT community began to emerge in the 1990s. In 1992, Wan Yanhai started the first HIV/AIDS hotline targeting the LGBT community. On November 22, 1992, the China Health Education Institute, in Beijing, hosted the Men's World salon, an LGBT social club. February 14, 1993 witnessed a special Valentine's Day celebration sponsored by Men's World at the Seahorse Dance Club (Haima Gewuting). In 1994, Wan Yanhai initiated Aizhi Action (Aizhi Xingdong), China's first NGO devoted to HIV/AIDS prevention and the LGBT community, and published the Aizhi Newsletter (Aizhi Jianbao) in the following year. In 1995, China Rainbow, an LGBT group in Beijing, wrote a letter addressing LGBT liberation in China to the overseas media. These were some of the earliest community activities, and they attracted great attention from domestic and international media.

This was also the time when the Fourth World Conference on Women was held in Beijing (1995) and the First World Tongzhi Conference was held in Hong Kong. Meanwhile, LGBT bars began to appear in big cities in China. In 1997, LGBT hotlines were started in Beijing; in 1998, LGBT activists from all over China met in Beijing and discussed community building issues. In December 2001, the first Beijing Gay and Lesbian Film Festival was held at Peking University; in April 2005, the second Gay and Lesbian Film Festival was held at Peking University.²⁵ On December 16, 2005, the first Gay and Lesbian Culture Festival was held in Beijing.²⁶ In 2006, the first officially registered LGBT student group, the Rainbow Society (*caihongshe*), was established at Sun Yat-sen University. In 2007, a Lesbian Leaders Training Camp was held in Zhuhai, the First University Tongzhi Art Summer Camp was held in Beijing, the First Tongzhi Karaoke Singing Competition (Feichang Shuaige) was held in Beijing, and the third Queer Film Forum was held in Beijing as a continuation of the Beijing Gay and Lesbian Festival. China's LGBT community activities are gaining more participation and public attention.

On June 7–11, 2009, the Shanghai LGBT Group held the first LGBT Pride Week in Shanghai, which received wide media and public attention. Meanwhile, The First Polysexuality Art Exhibition (July 14–21, 2009) and the Fourth Queer Film Festival (June 17–21, 2009) were successfully held in Songzhuang, Beijing.

By 2006, there were more than 60 LGBT groups in China. Some of them are NGOs registered with Administration for Civil Affairs (*minzheng bumen*) at different levels, and some are nonprofit organizations registered with Administration for Industry and Commerce (*gongshang bumen*) at different levels; most are unofficial grassroots organizations.

From 1998 to 2000, with the growth of computer and Internet use, online LGBT communities began to boom in China.²⁷ By the end of May 2004, there were about 360 LGBT Web sites in China.²⁸ Most of the LGBT sites are officially registered with the Ministry of Information Industry and are not sexually explicit. The services the most LGBT Web sites offer include news and information, personal ads, bulletin boards, chat rooms, blogs, Q & As, and information on HIV/AIDS prevention. Some sites host hotlines and organize parties and clubs.

HEALTH

China's health care system is administered by the Ministry of Health. Most hospitals are public ones, though there is an increasing number of private hospitals and also an increasing number of public hospitals being privatized in recent years. For urban citizens who are affiliated with a work unit (*danwei*), medical expenses are generally covered by the state. Many rural citizens do not have medical insurance. There are few, if any, hospitals and clinics designed specifically for the LGBT community. Major hospitals in China typically have a men's clinic, a women's clinic, a skin clinic, and a blood clinic; some hospitals also have a sexual disease clinic. The services offered in private practices can be extremely varied.

Homosexuality as a concept did not emerge in China until the beginning of the 20th century when Western medicine, sexology, and psychology were introduced to China. Works by Havelock Ellis, Sigmund Freud, Magnus Hirschfeld, and Richard von Krafft-Ebing introduced China to the concepts of sexuality and homosexuality and the words were translated into Chinese. "Dr. Sex," Zhang Jingsheng, even associated Chinese people's androgyny, gender reversion, sexual incompetence, and homosexuality with China's racial inferiority.²⁹ However, homosexuality was widely interpreted as a "temporary aberration, a mental disease or an 'inversion'" and sodomy was considered "an act of social transgression acquired like a bad habit" that could be changed by time and experts.³⁰ This nonessentialist understanding of homosexuality is still popular among many Chinese people.

Beginning in the mid-1980s, the communists' hostility towards sex was challenged by the translations of Havelock Ellis, Magnus Hirschfeld, and the Kinsey Report and the emergence of medical sexology in China. The first book on sexology in postsocialist China was published in 1982,³¹ and the first article on homosexuality written by medical professionals was published in 1985.³² From 1989–1990, Liu Dalin, from Shanghai University, conducted postsocialist China's first *xingwenming* (sexual civilization) survey involving 20,000 participants.³³ In 1993, Pan Suiming and Wu Zongjian conducted a survey of 810 LGBT people in 18 Chinese cities sponsored by the World Health Organization.³⁴ In 1989 and 1994, homosexuality was included in the second edition of *Chinese Classification of Mental*

Disorders (CCMD-2) and its revised edition. In 2001, homosexuality was deleted from the third edition of *Chinese Classification of Mental Disorder* (CCMD-3), an act generally regarded as the depathologization of homosexuality in China. In spite of these developments some medical professionals and sociologists still insist that LGBT people who are not self-harmonious (*ziwo hexie*) need treatment.³⁵ In the 1980s and 1990s, Lu Longguang, a medical doctor from Nanjing Medical University, treated 1,000 homosexual patients with *shudao jiaozheng xinli zhiliao* (guided psychotherapy for correction), a method that combines psychological counseling with aversion therapy, with an alleged success rate of 13.5 percent.³⁶

China's first HIV/AIDS case was reported in 1985. By the end of 2007, China had 700,000 people living with HIV/AIDS, including 85,000 AIDS patients. Two thirds of the AIDS infections were caused by blood transfusions and are found mainly among drug users.³⁷ The majority of new HIV/AIDS infections have occurred as a result of heterosexual sex (44.7%), intravenous drug use (42%), men who have sex with men (12.2%) and mother to infant transmission (1.1%).³⁸ The LGBT community works actively with the Chinese government and health organizations on HIV/AIDS prevention and education.

The National Plan of HIV/AIDS Prevention (1988–1991) asserted that homosexuality had been strictly banned to prevent HIV/AIDS beginning 1984, and the Mid-Term Plan for HIV/AIDS Prevention and Control (1990–1992) declared that homosexuality was illegal in China, demonstrating a lack of knowledge about Chinese law.³⁹ On the other hand, the HIV/AIDS campaign helped the visibility and development of the LGBT community. The Chinese government did not officially address the issue of LGBT people until 2004 when the Ministry of Health publicized the number of gay men (five to 10 million) in China in its HIV/AIDS report. In 2005, China's national television network (China Central Television) interviewed a gay man with AIDS on its news program, and followed the interview up with a number of reports on the LGBT community and HIV/AIDS in various Chinese media.⁴⁰ Chinese academics, LGBT activists, and social workers appropriated the HIV/AIDS discourse and increased the visibility of the LGBT community in this way.

POLITICS AND LAW

There is no law against homosexuality in China. Even in premodern China, laws against homosexuality were quite lenient compared to some European countries. The Zhenhe era (1111–1118) of the Song dynasty witnessed laws against male prostitutes, (*nanchang*) with a punishment of 100 blows with a heavy bamboo cane and a fine paid to whomever reported the case to the judge. Cross-dressing male prostitutes were also punished for “not being male” (*bunan*) during the Song dynasty.⁴¹ This law was targeted at the prostitution rampant in society at that time, rather than against LGBT people themselves.

The earliest legal code explicitly banning male same-sex sexual intercourse appeared during the Jiajing Reign (1522–1567) of the Ming dynasty. The punishment was 100 blows with a heavy bamboo cane. The 1679 Qing Law marked the first appearance of the word *jijian* (male same-sex sodomy) in Chinese law. Most notably, consensual sodomy between males (*hetong jijian*) was also punished with 100 blows with a heavy bamboo cane.⁴² Historical records revealed that the law was mainly targeted at male rape and sexual violence against adolescents, and that

the eroticism between consenting male adults was seldom punished. Consensual same-sex sexual intercourse has not appeared in China's laws since the 1903 Qing law deleted *hetong jijian* from the legal code.⁴³

Modern Chinese law belongs to the Civil Law (or Continental Law) system, in which judges refer to general rules before referencing to case law. The socialist Criminal Law is quite ambiguous about same-sex sexual behaviors. The legal explanation from the Supreme People's Court regarding a male same-sex consensual sexual behavior case in Heilongjiang Province in 1957 declared that the case should be dropped for lack of legal code support. This principle was also applied to a 1991 lesbian case in Anhui Province.⁴⁴ The 1979 Criminal Law applied less than seven years of imprisonment to "other hooligan activities" (*qita liumang huodong*) that "broke the public social order to a great extent" (*pohuai gonggong zhixu, qingjie elie*). In 1984, the Supreme People's Court and the Supreme People's Procuratorate specified six forms of hooliganism (*liumangzui*), including sodomy (*jijian*), focusing on sexual violence and sex with minors.⁴⁵

Although written law does not target LGBT people, the law in action has seen some judges and policemen punishing LGBT people, especially gay men who have sex in public, with the charge of hooliganism (*liumangzui*).

China's Criminal Law in 1997 deleted hooliganism, an act considered by the Chinese LGBT community to be the decriminalization of homosexuality. Illegal behaviors including prostitution, pedophilia, incest, rape, sadism, and group sex apply to LGBT people as much as to straight people. Another symbolically significant case for China's LGBT community was the Fang Gang case of 1999, in which the Beijing Xuanwu District Court deleted the sentence "homosexuality is seen as an abnormal sexual behavior; it is not accepted by the public" from the judge's ruling.⁴⁶ In 2000, the Ministry of Public Security stated that it was a citizen's individual right to choose one's gender and sex for themselves. These events are both hailed by LGBT scholars and activists as efforts to destigmatize LGBT people and to contribute to the construction of LGBT communities and identities in China.

In spite of these advances, it would be problematic to assume that LGBT people are not discriminated against or mistreated in China, despite the lack of law against homosexuality. There is no law to protect LGBT people's rights including privacy, antidiscrimination, antibullying, or the right to free speech and association. During the Cultural Revolution (1966–1976) and in the postsocialist era (after 1978), many LGBT people were badly treated when their sexualities were discovered, or when caught by the police while cruising.⁴⁷ The ambiguous law leaves policemen much room for inconsistent treatment of the LGBT population. Before 1997, some LGBT people having sex in public cruising venues were caught and detained (generally for 15 days). The most severe punishment for LGBT acts in postsocialist China came in response to a consensual sex case between an adult and a 16-year-old boy, which led to seven years of imprisonment for the adult.⁴⁸ Arbitrary administrative sanctions were also a common form of punishment. Since most Chinese are affiliated with a work unit, punishments including job loss, economic sanctions, public criticism, and deprivation or loss of Communist Party membership could bring much suffering and injustice to LGBT workers. The situation improved after the implementation of the new Criminal Law in 1997, but still many LGBT people are afraid of coming out for fear of losing their jobs and encountering social discrimination.

Discriminatory rules and regulations still exist in China. According to the Blood Bank Regulations issued by the Ministry of Health in 1998, gays and lesbians are not allowed to donate blood. China's LGBT communities still have a long way to go to negotiate with the government for official and public support.

RELIGION AND SPIRITUALITY

Traditional Han Chinese spirituality is a combination of Confucianism, Buddhism, and Taoism. None of these traditions is strongly anti-homosexual. Some Catholic, Protestant Christian, and Islamic groups are anti-LGBT, but they have never made any public condemnations against the LGBT community in China.

Confucianism, the dominant ideology in premodern China, is more concerned with achieving social harmony by maintaining the Three Cardinal Guides (*san'gang*) and Five Constant Virtues (*wuchang*).⁴⁹ Maintaining the patrilineal family line through marriage and posterity and the social order by performing one's role in the family and society are often stressed. Premodern China was tolerant of homoeroticism, in that homoeroticism itself does not transgress social hierarchy and familial order. However, under the Ming and Qing dynasties, sodomy was punished by law because the behavior itself endangered the social order by transgressing the gender norms and hence a man's social status.⁵⁰ Confucian values of family and posterity often pose difficult and complex problems for LGBT people when they are faced with pressures from society and family to marry.

Taoism is China's oldest religion. It is based on a rejection of essentialism and an understanding of the cosmos as an equilibrium of interaction between two forces: *yin* and *yang*. While *yin* is basically associated with femininity and *yang* with masculinity, neither is stable and both are interdependent and inter-transformable. Having sex is considered an exchange of *yin* and *yang* life energies (*qi*); appropriate and moderate sexual activities are beneficial to people's health. Men have a limited supply of *yang* and women an unlimited supply of *yin*. Same-sex eroticism does not affect the equilibrium as for two men, homoerotic sexual behavior is considered as exchanging *yang* energy and nothing is lost; for two women, nothing matters, as they have inexhaustible supply of *yin* energy.⁵¹ This *yin/yang* or *wen/wu* (martial/civil) dichotomy of gender also frees Chinese people from the masculinity and femininity gender stereotypes common in many Western countries. Gender (*yin/yang* or *wen/wu*) is not fixed and essentialized in a person; nor is it strictly bound up with sex (man/woman).⁵² Thus, the Taoist concepts of sex as an exchange of energy (*qi*) so as to enhance health and gender as mixed and changing forms of *yin/yang* play a positive role in people's perception of LGBT gender and sexuality.

Buddhism did not come to China until the first century B.C.E. Most Chinese, deeply influenced by Confucianism and Taoism, frown at its asceticism, its future-orientation, and its lack of responsibility for the family and society. Homoeroticism in Buddhist temples and nunneries and the intimate relationship between the master and students in Tibetan Buddhism, however, were often recorded in premodern vernacular literature.

Christianity was introduced into China in 635, according to historical records, but it has never been a strong influence on the culture. Christian missionaries sent to China were shocked by premodern China's tolerance of homoeroticism and portrayed China as a new Sodom.⁵³ In recent years, some evangelical churches

have begun to appear in China and condemn homosexuality online and in other public spaces.

VIOLENCE

Homophobia has never been a big issue in Chinese society due to China's lack of the Christian tradition of considering sodomy a sin. However, violence against LGBT people has occurred in different periods of Chinese history, especially during the Cultural Revolution (1966–1976) and before China's decriminalization (1997) and depathologization (2001) of homosexuality.

OUTLOOK FOR THE 21ST CENTURY

China is a country with a long homoerotic tradition. It is also a country with a strong tolerance of homosexuality. Homosexuality has been decriminalized and depathologized in China, yet homophobia and violence against LGBT people is not common. Perhaps reflective of this, the outdated sexology of deeming homosexuality a disease is also prevalent in Chinese society. Many people hold strong biases against LGBT people and associate them with disease and deviance. Most Chinese LGBT people face pressure from their families and society to marry, and many do. They also do not often dare to come out and challenge the heteronormativity in the society.

LGBT academics, activists, social workers, and NGOs have appropriated the government discourse of HIV/AIDS prevention and have fought for increasing LGBT rights and public visibility. In many cities, a gay subculture has begun to emerge with an increase in the number of bars, saunas, clubs, social groups, and publications. Gay culture is booming now, especially on the Internet, with more and more LGBT people constructing their identities and communities in cyberspace. Many people seem to agree that the Stonewall form of gay politics, including coming out and fighting for political rights, does not work in the Chinese context. Instead, the Chinese LGBT community needs to build its own indigenous politics for individual and group empowerment.⁵⁴

With these challenges in mind, LGBT people in China have reason to hope for and to work toward a better future.

RESOURCE GUIDE

Suggested Reading

- Wah-shan Chou, *Tongzhi: Politics of Same sex Eroticism in Chinese Societies* (New York: Harworth Press, 2000).
- Bret Hinsch, *Passions of the Cut Sleeve: The Male Homosexual Tradition in China* (Berkeley: University of California Press, 1990).
- Wenqing Kang, *Obsession: Male Same-Sex Relations in China, 1900–1950* (Hong Kong: Hong Kong University Press, 2009).
- Song Hwee Lim, *Celluloid Comrades: Representations of Male Homosexuality in Contemporary Chinese Cinemas* (Honolulu: University of Hawaii Press, 2006).
- Fran Martin, *Backward Glances: Chinese Popular Cultures and the Female Homoerotic Imaginary* (Durham, NC: Duke University Press, forthcoming).

- Lisa Rofel, *Desiring China: Experiments in Neoliberalism, Sexuality, and Public Culture* (Durham, NC: Duke University Press, 2007).
- Tze-Ian D. Sang, *The Emerging Lesbian: Female Same-Sex Desire in Modern China* (Chicago: The University of Chicago Press, 2003).
- Loretta Wing Wah Ho, *Gay and Lesbian Subculture in Urban China* (London: Routledge, 2009).
- Cuncun Wu, *Homoeerotic Sensibilities in Late Imperial China* (New York: RoutledgeCurzon, 2004).

Video/Film

- A Queer Story (Jilao Sisbi)*, DVD, directed by Shu Kei. (1996; Hong Kong: Golen Harvest Entertainment, 1996). Tells the tale of the joys and sorrows of a middle-aged gay man in Hong Kong.
- Bishonen (Meishaonian Zhilian)*, DVD, directed by Yon Fan (1998; Hong Kong: Far Sun Films, 1998). The love story between several handsome young men, one of those well-crafted *bishonen* (beautiful boy) stories with a tragic ending, popularly enjoyed by youth in transnational Asia.
- Butterfly (Hudie)*, DVD, directed by Mak Yan Yan (2004; Hollywood: Paramount Pictures, 2004). Based on Chen Xue's novel *The Mark of Butterfly (Hudie de Jihao)*. A Hong Kong lesbian film narrating lesbian love and aspiration for freedom of love set in a complex historical setting. The film was chosen as the opening film at Venice Film Festival Critics Week and Tian Yuan, one of the leading actresses, was awarded the Best New Artist prize at the Hong Kong Film Festival in 2005. The film was also nominated at the Taiwan Golden Horse Awards in 2004 for Best Adapted Screenplay (Yan Man Mak) and Best New Performer (Tian Yuan).
- East Palace, West Palace (Donggong Xigong)*, also known as *Behind the Forbidden City*, DVD, directed by Zhang Yuan (1996; Amazon Entertainment/Cean Films/ Quelqu'un d'Autre Productions, 1996). Adapted from renowned Chinese writer Wang Xiaobo's fiction. Queer desire challenges the state of masculinity. Transgenderism and sadomasochism are involved. This is an art film with deep meanings and rich symbolism.
- Enter the Clowns (Choujue Dengchang)*, DVD, directed by Cui Zi'en (2001; Beijing: Cuizi Film Studio, 2001). Cui is one of the most famous queer directors and activists in mainland China. This is one of his early queer films. The film depicts transgender people's lives and explores queer ethics.
- Farewell, My Concubine (Baiwang Bieji)*, DVD, directed by Chen Kaige (1993; Hong Kong: Tompson Films/ Beijing: China Film Co-Production Corporation/ Beijing: Beijing Film Studio, 1993). This film depicts the life-long love entanglement between two Beijing Opera singers and their fate in different historical eras in modern China. One of the best films directed by Chen Kaige. Famous actors/actress Leslie Cheung, Gong Li, and Zhang Fengyi give brilliant performances in the film. The Beijing Opera and Kunqu Opera scene in the film is absolutely beautiful. This is also a good film to learn about the histories of classical Chinese theatre (Beijing Opera), the city of Beijing, and even China in the first half of the 20th century. The film won numerous awards, including the Palme d'Or, Cannes Film Festival, 1993 and Best Film not in the English language, BAFTA (British Academy Awards), 1993.
- Feeding Boys Ayaya (Ayaya, Qu Buru)*, DVD, directed by Cui Zi'en. (2003; Beijing: Cui Zi'en Film Studio, 2003). A film about gigolos in Beijing, this is an allegory about resistance to official ideology and refusal of redemption.
- Fish and Elephant (Jinnian Xiatian)*, DVD, directed by Li Yu (2001; Studio City, USA: Ariztical Entertainment, 2006). This was the first Mainland Chinese film about lesbian love, and winner of the Elvira Notari Prize, Venice Film Festival, 2001 and Best Asian Film Prize at Forum of New Cinema, Berlin International Film Festival, 2002.

- Happy Together (Chunguang Zhaxie)*, DVD, directed by Wong Kar-wai (1997; Hong Kong: Block 2 Pictures/ Premon H./ Seowoo Films/ Jet Tone, 1997). This is a love story between two gay men from Hong Kong who travel to Argentina. The film was made before Hong Kong returned to China in 1997, and narrates Hong Kong's anxiety about belonging and an unknown future. The performances by Leslie Cheung and Tony Leung Chiu Wai are fantastic. The film also features the beautiful music and impressive camera shots typical of Wang Kar-wai's film style. The film won numerous awards, including Best Director (Wong Kar-wai), Palme d'Or Nominated, Cannes Film Festival, 1997. Highly recommended.
- Intimates (Zishu)*, DVD, directed by Cheung Chi Leung (1997; Hong Kong: Golden Harvest Entertainment, 1997). A love story between *zishunü*; portrays lesbianism in southern China.
- Old Testament (Jiuyue)*, DVD, directed by Cui Zi'en (2002; Beijing: Cuizi DV Studio, 2002). An allegorical story of love, desire, and betrayal.
- The Positive and Negative Parties of Public Toilet (Gongce Zhengfang Fanfang)*, DVD, directed by Cui Zi'en (2001; Beijing: Cuizi Film Studio, 2001).
- Hold You Tight (Yu Kuaile Yu Duoluo)*, DVD, directed by Stanley Kwan (1998; Hong Kong: Golden Harvest/Kwan's Creation Workshop, 1998). A beautiful love story depicting three men in Hong Kong. Highly recommended.
- Lan Yu*, DVD, directed by Stanley Kwan (2001; Hong Kong: Kwan's Creation Workshop/ Yongning Creation Workshop, 2001). Adapted from the online gay fiction *Beijing Story*, narrating the 10-year love entanglement of a university student who prostitutes himself for tuition and falls in love with his patron. Winner of Best Actor (Liu Ye), 38th Golden Horse Awards, Taiwan.
- Men and Women (Nannan Nunu)*, also known as *The Protégé of Mme Qing*, DVD, directed by Liu Bingjian (1999; Beijing: Apsaras Film and TV Productions, 1999). One of the films shown at the first Gay and Lesbian Film Festival, Beijing.
- My Fair Son (Wo Ruhua Siyu de Rezi)*, DVD, directed by Cui Zi'en. (2007; Beijing: Cuizi DV Studio). Part of the director's "Trilogy of Immorality."
- New Beijing, New Marriage (2009)*, DVD, directed by Fan Popo (2009; Beijing) A documentary about the "gay marriage" ceremony in front of the Tian'anmen in Beijing on the Valentine's Day, 2009.
- Night Scene (Yeijing)*, DVD, directed by Cui Zi'en(2001; Beijing: Cuizi Film Studio, 2001). A documentary on male prostitution in Beijing made at the same time and similar in theme to *Feeding Boys, Ayaya*. The documentary explores new film styles and techniques, mixing up drama, documentary, and interviews.
- Peony Pavillion (Youyuan Jingmeng)*, DVD, directed by Yon Fan (2001; Hong Kong: Far Sun Films, 2001). A film about lesbian love between two Kunqu Opera performers.
- Queer China, "Comrade" China (Zhi Tongzhi)*, DVD, directed by Cui Zi'en.(2009; Beijing: Cuizi DV Studio, 2009) A documentary about China's LGBT movement since the early 1990s, with extensive interviews and historical footages. The film has a long version (118 min.) and a short version (60 min.). Winner of the Audience Award for Best Documentary at the 2009 Torino GLBT Film Festival.
- Refrain (Fuge)*, DVD, directed by Cui Zi'en (2006; Beijing: Cuizi DV Studio, 2006). Part of the director's "Trilogy of Immorality."
- Shanghai Panic (Women Haipa)*, DVD, directed by Andrew Cheng. (2001; Studio City, US: Ariztical Entertainment, 2001) Adapted from the novel by the Shanghai-based woman writer Mian Mian. Winner of the Dragons and Tigers Award for Young Cinema Directors at the 2002 Vancouver Film Festival.
- Soundless Wind Chime (Wubeng Fengling)*, DVD, directed by Kit Hung. (2009; Hong Kong). A romantic cross-cultural gay love story between a Chinese and a Swiss young man, set in Hong Kong. Winner of the Special Jury Award Special Mention, The Nuovi Sguardi Award, Audience Award for Best Feature Film at the 2009 Torino GLBT Film Festival.

Tongzhi in Love (Bi'an Fusheng), also known as *A Double Life*, DVD, directed by Ruby Yang (China; USA: 2008). A 30-minute documentary portraying the life of gay men in China.

Welcome to Destination Shanghai (Mudidi, Shanghai), DVD, directed by Andrew Cheng. (Shanghai, 2003) A film about youth culture and sexual desire in the cosmopolitan Shanghai. Winner of the 3003 Rotterdam International Film Festival Fipresci Prize. The director is considered "the most expectable new come director in China" by *Newsweek*, *LA Times*, *BBC*, *Channel Four*, and *Der Spiegel*.

Withered in a Blooming Season (Shaonian Huacao Huang), DVD, Directed by Cui Zi'en (2006; Beijing: Cuizi DV studio, 2006). Part of the director's "Trilogy of Immorality."

Women 50 Minutes (Nüren Wushi Fenzhong), DVD, directed by Shi Tou. (2006; Beijing). A documentary about women's lives in different parts of China, with depictions of lesbian scenes. The director is the first out lesbian celebrity in mainland China, an artist and a filmmaker.

Web Sites (in Chinese unless otherwise specified)

Ala Dao, <http://www.aladao.net/dvbbs/>.

Lesbian bulletin board

Beijing Lala Saloon, <http://www.lalabar.com>.

Lesbian Web site based in Beijing

Boysky (Yangguang Didai), <http://www.boysky.com>.

LGBT Web portal

Danlan Wang: <http://www.danlan.org>.

LGBT Web portal.

Gayographic (Dacheng Xiaotong), <http://www.gayographic.cn/directory/#>.

A New bulletin about LGBT events in Beijing.

GALA Yinhe, <http://www.mygala.com.cn/>.

An online magazine edited by China's leading LGBT scholar Li Yinhe.

Gayspot (Dian), <http://blog.sina.com.cn/gayspot>.

An online LGBT magazine edited and published in Beijing.

Guangzhou Tongzhi, <http://www.gztz.net/>.

LGBT Web portal

Lala Houhuayuan, <http://bbs.lessky.com/>.

Lesbian bulletin board

Lanxue Moyu, <http://www.smgay.cn/>.

An online chatroom for SMers.

Les Plus (LES+), <http://blog.sina.com.cn/lesplus>.

Online version of a lesbian magazine edited and published in Beijing.

Nuelian Liudian, <http://6.nuelian.net/>.

A BDSM Web site.

PFLAG (Tongxinglian Qinyouhui), <http://blog.sina.com.cn/3sj>.

The blog of Sansejin (Wu Youjian), mother of a gay man. She also operates a hotline in Guangzhou.

Pengyou Bieku, <http://www.pybk.com/>.

LGBT Web portal

Queer Comrades, <http://www.queercomrades.com>.

An online LGBT Web cast program. All the videos have English subtitles.

Shanghai LGBT Group, <http://groups.yahoo.com/group/shanghai-lgbt/>.

An NGO organized by the foreign expatriates in Shanghai. It successfully held the Shanghai LGBT Pride Week in June 2009 (<http://shanghaipride.com/>; this Web site is in English).

Sunhomo, <http://www.sunhomo.com/>.

LGBT clubs for sports, travelling, music, and so on

Tianya Community (Yilu Tongxing), <http://www.tianya.cn/index.htm?idwriter=0&key=0&vitem=motss>.

The biggest online bulletin board in China

Zhongguo Lalawang: <http://www.lesvip.com>.

Lesbian Web site

Utopia-Asia, <http://www.utopia-asia.com/tipschin.htm>.

Gay map and travel tips written in English for international LGBT tourists visiting China.

Organizations

Aibai Culture and Education Centre, <http://www.aibai.cn> or <http://www.gaychinese.net>.

An LGBT organization based in Beijing providing community services and hosting a small LGBT library. The Q & A section on its Web site is very popular.

Aizhixing Institute of Health and Education, <http://www.aizhi.net> or <http://www.aizhi.org>.

An LGBT NGO based in Beijing

Beijing Gender Health Education Institute, <http://www.bghei.org>.

An NGO based in Beijing targeting the LGBT community and HIV/AIDS education.

Beijing LGBT Center, <http://blog.sina.com.cn/bjlgbtcenter>.

An LGBT center based in Beijing organizing film screenings, book clubs, choirs, theater groups, and so on. It also edits a magazine called *Gayspot* (*Dian*). The online version of the magazine can be found at <http://blog.sina.com.cn/gayspot>.

Center for Women and Gender Studies, Sun Yat-sen University, <http://gendercenter.sysu.edu.cn/indexa.htm>.

Chi Heng Foundation—Hong Kong, <http://www.chmsm.org/>.

A foundation based in Hong Kong with offices in several major Chinese cities.

China Rainbow League (Zhongguo Caihong Lianmeng), <http://www.weour.net/bbs/>

LGBT clubs for sports, music, traveling, and so on, based in Shanghai. Its English Forum section has extensive information about Chinese LGBT community events, written in English.

China Rainbow Online (Zhongguo Caihong Zaixian), <http://www.zgchr.com>.

An LGBT organization based in Chong Qing, Sichuan Province

Friends Project—Qingdao, E-mail: beuchuan@163.com, pytx@263.net.

Publisher of the “Friendship Exchange” LGBT magazine.

Institute for Research on Sexuality and Gender, Renmin University of China, <http://www.sexstudy.org>.

One of the best university-based sexuality and gender studies programs in China

Pink Space Sexuality Research Institute, <http://www.pinkspace.com.cn/>.

A lesbian group in Beijing.

Tongyu, <http://www.tongyulala.org/>.

A lesbian group in Beijing.

NOTES

1. “China” here mainly refers to Mainland China, unless otherwise specified.
2. International Monetary Fund (IMF) and World Bank figure, 2006, http://en.wikipedia.org/wiki/People%27s_Republic_of_China (accessed July 15, 2009).
3. *The CIA World Fact Book*, 2008, <https://www.cia.gov/library/publications/the-world-factbook/geos/CH.html> (accessed July 15, 2009).
4. Apart from sexuality, I also take gender issues into consideration and cover some developments of feminism in China, albeit briefly, because I think that gender perspectives are also closely associated with the LGBT community, especially in relation to lesbians.

5. China's birth control policy was initiated in 1979 and has undergone several changes since then, especially in recent years. Some families (including families of non-Han ethnic groups), those where the husband and wife were both only children, and so on are allowed to have a second child.

6. *The CIA World Fact Book*.

7. Adrian Carton, "Desires and Same sex Intimacies in Asia," in *Gay Life and Culture: A World History*, ed. Robert Aldrich (New York: Universe, 2006), 303.

8. Zaizhou Zhang, *Ai Mei De Li Cheng: Zhongguo Gu Dai Tong Xing Lian Shi* (Zhengzhou: Zhongzhou gu ji chu ban she, 2001), 10–19. For an historical and literary study of these names and stories, see Bret Hinsch, *Passions of the Cut Sleeve: The Male Homosexual Tradition in China* (Berkeley: University of California Press, 1990).

9. Kam Louie, *Theorising Chinese Masculinity: Society and Gender in China* (Cambridge: Cambridge University Press, 2002); Kam Louie and Morris Low, *Asian Masculinities: The Meaning and Practice of Manhood in China and Japan* (New York: Routledge, 2003).

10. Wah-shan Chou, *Tongzhi: Politics of Same sex Eroticism in Chinese Societies* (New York: Haworth Press, 2000), 249–99.

11. Yanning Gao, *Tongxinglian Jiankang Ganyu* (Shanghai: Fudan Daxue Chubanshe, 2006).

12. Some recently published journal articles and books based on the students' papers or dissertations include: Ning Ding, "Lun Liang'an Sandi Huayu Dianying Zhongde Nantongxinglian Xingxiang (on the Homosexual Images in Chinese Language Films of the Mainland China, Taiwan and Hong Kong)," in *Video-Thinking: Film and Film History*, ed. Yishuxue Bianweihui (Shanghai: Xuelin Chubanshe, 2006); Jing Bian, *Jiaopian Miyu: Huayu Dianying Zhongde Tongxinglian Huayu [Celluloid Secret Code: The Homosexual Discourse in Chinese Films]* (Beijing: Zhongguo Chuanmei daxue chubanshe, 2007); Xiaofei Guo, *Zhongguo Fa Shiye Xiade Tongxinglian [Homosexuality in the Gaze of Chinese Law]* (Beijing: Zhishi chanquan shubanshe, 2007).

13. Institute for Research on Sexuality and Gender, Renmin University of China, <http://www.sexstudy.org> (accessed July 15, 2009); Beijing Gender Health Education Institute, <http://www.bghei.org> (accessed July 15, 2009).

14. Dalin Liu and Longguang Lu, *Zhongguo Tong Xing Lian Yan Jiu [Studies of Chinese Homosexuality]* (Beijing: Zhongguo she hui chu ban she, 2005), 143, 329. Liu's survey in 1991–1992 revealed that 30.3 percent of LGBT people have a university education; they work in the following major professions: workers (14.9%), clerks and cadres (14.9%), business professionals (9.7%), government officials and business managers (6.7%), p.143. In one recent research study on the online gay community in China, it was determined that 54.5 percent of LGBT people have received a university education (compared to 28.1 percent of straight people); many LGBT people work in the following sectors: education (including students and teachers, 37.8%), technological support (14.5%), and government and enterprise administration (11.4%); Chuanyan Zhu, "Hulianwang Dui Tongxinglian Zuqun Shenfen Rentong De Yingxiang (the Effect of the Internet on the Identity of the Gay Community)," (M.A. thesis, Beijing Broadcasting Institute, 2004), 30.

15. Ministry of Health, <http://www.moh.gov.cn> (accessed July 15, 2009); Chinese Center for Disease Control and Prevention, <http://www.chinacdc.net.cn/> (accessed July 15, 2009); Chinese Association of STD/AIDS Prevention and Control, <http://www.aids.org.cn/> (accessed July 15, 2009); Chi Heng Foundation, <http://www.chmsm.org/> (accessed July 15, 2009); Love Knowledge (Aizhi) Action, <http://www.aizhi.net/> (accessed July 15, 2009); Beijing Gender Health Education Institute, <http://www.bghei.org/> (accessed July 15, 2009).

16. Liu and Lu, *Zhongguo Tong Xing Lian Yan Jiu*, 159, 162. There may be some limitations in these figures, and the figures now would be different from those. Still, they shed some light on the understanding of LGBT sexual practices in China.

17. For an elaboration of *qing* as a Chinese expression of intimacy, see Chou, *Tongzhi*, 15–17.

18. Yanning Gao, *Tongxinglian Jiankang Ganyu [Homosexual Health Intervention]* (Shanghai: Fudan Daxue Chubanshe, 2006), 165.
19. Liu and Lu, *Zhongguo Tong Xing Lian Yan Jiu*, 73.
20. This is the “coming home” strategy advocated by Hong Kong scholar and activist Chou Wah-shan. For details, see Chou, *Tongzhi*, 249–99.
21. For a discussion of quality (*sushi*) in China’s LGBT community, see Lisa Rofel, *Desiring China: Experiments in Neoliberalism, Sexuality, and Public Culture, Perverse Modernities* (Durham, NC: Duke University Press, 2007), 103–6.
22. Liu and Lu, *Zhongguo Tong Xing Lian Yan Jiu*, 85; For examples of officially proved LGBT marriages in China, see Yinhe Li, *Tongxinglian Yawenbua [Homosexual Subculture]* (Beijing: Jinri zhongguo chubanshe, 1998), 378.
23. Liu and Lu, *Zhongguo Tong Xing Lian Yan Jiu*, 86.
24. China’s Criminal Law used to include *juzhong yinluan zui* (the crime of group obscenity), in which sex between more than three people was criminalized. There was a case where two couples that were involved in exchanging sexual partners were given capital punishment in socialist China. The law is not still in effect, yet the public controversy about group sex and changing sex partners is still strong. For more information about the discussion, see Li’s blog, <http://blog.sina.com.cn/liyinhe>.
25. The Festival was forced to shift its venue after the first screening because the venue managers explained that they could not accept the contents of the film.
26. The festival was stopped by the police two hours before its opening; the venue, On/Off bar (a gay bar), was forced to close for a week and the official explanation was that the event was illegal and without official consent.
27. The first LGBT Web sites include: *yangguang didai*, www.boysky.com (accessed July 15, 2009); *Guangzhou tongzhi*, www.gztz.org (accessed July 15, 2009).
28. Loretta Wing Wah Ho, “The Gay Space in Chinese Cyberspace: Self-Sensorship, Commercialisation and Mis-Representation,” *China Aktuell* 4 (2007): 56.
29. Tze-Ian D. Sang, *The Emerging Lesbian: Female Same Sex Desire in Modern China* (Chicago: The University of Chicago Press, 2003), 16.
30. Frank Dikotter, *Sex, Culture, and Modernity in China: Medical Science and the Construction of Sexual Identities in the Early Republican Period* (Honolulu: University of Hawaii Press, 1995), 139.
31. Jieping Wu, *Xing Yixue [Sexual Medical Science]* (Beijing: Kexue Wenxian Chubanshe, 1982).
32. Fangfu Ran, “Tongxinglian: Yige Weijie Zhimi” [“Homosexuality: An Unresolved Mystery”], *Zhunin Jiankang*, March, 1985.
33. Dalin Liu, *Zhongguo Dangdai Xingwenbua: Quanguo Liangwanli “Xingwenming” Diaocha Baogao [Contemporary Chinese Sexual Culture: Report On “Sexual Civilization” Survey of 20,000 People in China]* (Shanghai: Sanlian Shudian, 1992).
34. Liu, and Lu, *Zhongguo Tong Xing Lian Yan Jiu*, 38.
35. *Ibid.*, 231.
36. For the detail of Lu Longguang’s treatment, see Liu and Lu, *Zhongguo Tong Xing Lian Yan Jiu*, 231–328. The LGBT people’s account of their sufferings during aversion therapy is recorded on pages 282–309. For accounts of pathologization of homosexuality also see Gang Fang, *Tongxinglian Zai Zhongguo* (Changchun: Jilin renmin chubanshe, 1995), 225–71; Beichuan Zhang, *Tongxing’ai* (Jinan: Shandong kexue jichu chubanshe, 1994), 261–305.
37. Dun Li, *HIV/AIDS in China: A Legal Assessment and a Factual Analysis* (Beijing: Social Sciences Documentation Publishing House, 2004), 5.
38. Figure from China’s Ministry of Health, *China Daily*, November 29, 2007, http://www2.chinadaily.com.cn/china/2007-11/29/content_6288359.htm (accessed July 15, 2009).
39. Li, *HIV/AIDS in China*, 58.

40. “In the Name of Life,” <http://you.video.sina.com.cn/b/862097-1265395935.html> (accessed July 15, 2009).
41. For a detailed account of homosexuality in Chinese law, see Matthew Harvey Sommer, *Sex, Law, and Society in Late Imperial China, Law, Society, and Culture in China* (Palo Alto, CA: Stanford University Press, 2000) and Xiaofei Guo, *Zhongguo Fa Shiye Xiade Tongxinglian Homosexuality in the Gaze of Chinese Law*.
42. Sommer, *Sex, Law, and Society in Late Imperial China*; Guo, *Zhongguo Fa Shiye Xiade Tongxinglian*.
43. Guo, *Zhongguo Fa Shiye Xiade Tongxinglian*, 51.
44. Fang, *Tongxinglian Zai Zhongguo*, 301–9.
45. For a detailed account of law on LGBT in socialist and post-socialist China, see Yinhe Li, “Regulating Male Same sex Relationships in the People’s Republic of China,” in *Sex and Sexuality in China*, ed. Elaine Jeffreys (New York: Routledge, 2006), 82–101; Guo, *Zhongguo Fa Shiye Xiade Tongxinglian*, 49–103.
46. For a detailed account and analysis of the case, see Rofel, *Desiring China*, 135–55.
47. For an account of the discrimination, mistreatment, and persecution LGBT people have suffered, see Keqiang An, *Hong Taiyang Xiade Heilinghun [Black Soul under the Red Sun]* (Taipei: Shibao Wenhua, 1995); Yinhe Li, “Regulating Male Same sex Relationships,” 82–101; Yinhe Li, *Tongxinglian Yawenhua [Homosexual Subculture]*, 380–402.
48. In China, the age of consent is 18 years old, and heterosexual by default. For this case, see Yanning Gao, 20.
49. The “Three Cardinal Guides” (*san’gang*) refers to the relationships between sovereign and minister, father and son, and husband and wife, with the former guiding the latter; the “Five Constant Virtues” (*wuchang*) refers to benevolence, righteousness, propriety, wisdom, and fidelity.
50. Sommer, *Sex, Law, and Society in Late Imperial China*, 114–65.
51. Adrian Carton, “Desires and Same sex Intimacies in Asia,” 310; Louis Crompton, *Homosexuality and Civilization* (Cambridge, MA: Belknap Press, 2003), 220–21; Robert Hans van Gulik and Paul Rakita Goldin, *Sexual Life in Ancient China: A Preliminary Survey of Chinese Sex and Society from Ca. 1500 B.C. Till 1644 A.D., Sinica Leidensia, V. 57* (Boston: Brill, 2003).
52. For more discussions about pre-modern Chinese gender, especially with regard to the *yin/yang* and *wen/wu* dichotomies in Chinese masculinity, see Louie, *Theorising Chinese Masculinity*; Louie and Low, *Asian Masculinities*; and Geng Song, *The Fragile Scholar: Power and Masculinity in Chinese Culture* (Hong Kong: Hong Kong University Press, 2004).
53. Hinsch, *Passions of the Cut Sleeve*, 1–2.
54. Chou, *Tongzhi*, 249–99.

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HONG KONG

Sam Winter and Mark E. King

OVERVIEW

Hong Kong (the Hong Kong Special Administrative Region) is one of two such regions of the People's Republic of China, the other being Macau. Hong Kong occupies 422 square miles (1,092 sq. km) of islands and mainland on the Pearl River Delta, bordering Guangdong province and facing the South China Sea. It is now home to over 7 million people, making it one of the world's most densely populated areas (around 6,420 per sq. km). The population is predominantly Han Chinese (almost 95% of the population). The rest are a mix of Asian and Western communities.

Hong Kong was once a small fishing village and haven for travelers and pirates. Occupied by the British in 1841, it was used as a naval base during their Opium Wars with China. China (in the Treaty of Nanking, 1842) ceded Hong Kong Island to Britain. Following later conflicts with the Chinese, the Treaty of Beijing (1860) ceded territory on the mainland side of the harbor. The Second Convention of Peking (1898) ceded rural expanses further inland (albeit on a 99-year contract, the end of which prompted the Britain's handover of Hong Kong to China).

Under the Sino-British Joint Declaration (1984), Britain undertook to return control of all Hong Kong to China in 1997. For its part, China undertook under a "one country, two systems" formula to ensure that Hong Kong enjoyed great autonomy (except regarding foreign and defense



matters) until 2047. Under the Basic Law (a mini-constitution enacted in 2001), Hong Kong exercises executive, legislative, and independent judicial power in its own affairs. Civil liberties remain largely intact. The press enjoys great freedom, yet also faces challenges (including pressures for self-censorship arising from the reluctance of some media owners to antagonize the central Chinese government in Beijing).

Most of Hong Kong's people are ethnic Chinese, many of them originating from China. On one hand, Hong Kong's history as a British colony for 155 years, as well as its current position as a global finance, trade, and communication center, make it a cosmopolitan city of people holding somewhat Westernized world-views. On the other hand, Hong Kong people still maintains important oriental values, such as acceptance in the face of suffering and respect for tradition, parents, the elderly, and authority.

OVERVIEW OF LGBT ISSUES

No generally accepted figures are available regarding the prevalence of same-sex attraction and behavior in Hong Kong. Similarly, no clear data exists regarding the numbers of people identifying as homosexual or transgender (or any corresponding Chinese terms), though it seems that more individuals seem willing to identify publicly as such in recent years.

Same-sex behavior and gender variance have been consistent strands in Chinese culture. For much of Chinese history both seem to have enjoyed a guarded tolerance. Same-sex relations were apparently regarded as sexual play, with little social approbation, so long as the participants eventually satisfied family and society expectations to marry and procreate. Much same-sex behavior appeared to occur without implications for sexual identity, a situation that might be described as "homosexuality without homosexuals." References to same-sex behavior are common in Chinese art, literature, and history. Most are to male-male sexual relations, though some refer to female-female relations.¹

Attitudes appear to have changed during the late imperial era. The Manchu (Qing) dynasty (ruling from A.D. 1644) criminalized sodomy (anal intercourse) in 1740. Enforcement of the law was unclear. Qing art and literature made common reference to same-sex relations, and some early Western travelers to China expressed shock at the same-sex sexual behavior they observed.² Western and Christian ideas about same-sex relations increasingly infiltrated Chinese attitudes, to the extent that, by the 1949 revolution, they were seen, along with much Western thought, as expressions of modern thinking and a rejection of China's feudal past. In postrevolutionary China, homosexuality was seen as a sickness or crime.³

Throughout much of Hong Kong's British colonial period homosexual behavior was regarded as a mental disorder. This was continued until it was removed from key diagnostic manuals (the American Psychiatric Association's *Diagnostic and Statistical Manual* in 1973, and the World Health Organization's *International Classification of Diseases* in 1990). Homosexuality was also criminalized until 1991. The view persists among much of the Hong Kong public that homosexuality is a mental disorder. As for transpeople, the Hong Kong medical establishment, in line with much of the rest of the world, views gender identity variant persons

as mentally disordered, suffering from transsexualism or gender identity disorder, depending on the manual used.⁴

Hong Kong Chinese lesbians and gay men often identify as *tongzhi* (literally “of the same intent”), a term appropriated in the late 1980s from the word for comrade used by Chinese communists until after the Cultural Revolution (1966–1976). By using this term, gays and lesbians sought to differentiate the Chinese experience of same-sex love, while at the same time seeking to present same-sex relationships in a positive light.⁵ Several terms are used by transpeople to describe themselves. Some are commonly known in the general population; for example *yik sing je* (alter sex person), *bin sing yan* (change sex person) and *kwa sing bit yen sih* (crossing gender person). Such terms are seldom used outside the community, except by the more informed and in more formal media news stories.⁶ Instead a more common term is *yan yiu*, (human monster).

Both homophobia and transphobia are common within the general population.⁷ In at least one group (university students), men seem more prejudiced than women.⁸ Both genders are more strongly prejudiced against transwomen than against transmen.⁹ Such prejudice is often expressed in discriminatory behavior. However, there is no law against discrimination on the grounds of sexuality or gender identity in Hong Kong. The government has so far withstood pressure from LGBT and human rights groups to enact such laws.

With such laws absent, those who discriminate enjoy a free hand. Two cases involving the media, and touching on the interests of homosexual and transgender people (transpeople) respectively, merit mention. The (government-appointed) Broadcasting Authority (BA) in 2007 judged as both partial and unsuitable for early evening viewing a television documentary (“Gay Lovers”) that allowed gays and lesbians to put forward their case for same-sex marriage. The judgment was subsequently ruled by Hong Kong’s High Court as unlawful.¹⁰ A local Chinese television channel, in July 2008, ran a documentary on transpeople that relentlessly (28 times in 12 minutes) used the term *yan yiu* (human monster) to describe transpeople. No other terms were used. Representatives of the Hong Kong LGBT community made a complaint to the BA. The program was judged as “not of an offensive nature,” and the complaint was judged unsubstantiated.

The response of many gay and lesbian individuals to homophobia is to conceal their sexuality from friends, co-workers and employers, and (most especially) family. Those who do choose to come out to the broader community often do so at an age several years older than their Western counterparts.¹¹ Transpeople, on account of their gender expression, find it harder to conceal their identities. All Hong Kong residents must carry an ID card, which is often needed in dealing with commercial interests (at banks and other financial institutions, when renting accommodation, and sometimes at entertainment venues and retail outlets) and government agencies and institutions (educational establishments, government offices, and immigration points). The ID card carries a gender marker so that, even if transpeople are otherwise able to pass, their ID card outs them. The Hong Kong government, aware of the difficulties this causes for the transgender community, has compromised by allowing those who have undergone sex reassignment surgery (SRS) the opportunity to get a new ID card that reflects their new gender. However, those who have not yet undergone SRS (or choose not to do so) have no such opportunity.

EDUCATION

Education in Hong Kong is free and compulsory from the ages of six to 15. While primary education is fully under government control, some secondary education is administered by educational bodies, some of which are linked to religious organizations.

Sex education in schools is problematic.¹² The government advocates sex education from kindergarten onwards through secondary (high) school, and issues guidelines to schools, however schools are free to interpret the guidelines as they see fit, teaching sex education as they choose (or indeed not teaching it at all). Many teachers are severely constrained by their parent bodies and their management.¹³ Some teach little other than the basic biology of reproduction and abstinence. Consequently, many Hong Kong adolescents come out of school naive in knowledge and experience and ill-prepared for their own adult sexuality.¹⁴ Much of the sexual information that adolescents get comes from mass media and friends, with little coming from parents.¹⁵

The government guidelines on school sex education encourage schools to deal with sexual and gender diversity in a positive and nonjudgmental fashion. Many teachers doubtless find it difficult to teach on this basis, on account of their own views. In an unpublished 2006 study, half of student teachers were found to believe that homosexuality endangered the institution of the family, and a quarter thought that homosexuality was immoral. A similar number avoided homosexuals wherever possible, and about one in seven believed homosexuals should not be allowed to work with children, and would not be comfortable working with another student who was homosexual. In addition, one in five believed homosexuals with AIDS deserve their fate, and one in 20 believed homosexuality is a mental disorder.¹⁶

Given this and other problems implementing progressive sex education, many young people leave school ill-informed about and ill-disposed towards LGBT people. In a 1996 survey, only a fifth of boys and a third of girls were found to be accepting of male homosexuality (both figures were slightly higher for female homosexuality).¹⁷

There is little hope that schools will become more liberal places. The Society for Truth and Light (STL), a local Christian-based action group that opposes proposals for same-sex marriage rights and antidiscrimination laws for sexual and gender minorities, nevertheless won a 2005 government contract to produce work for schools to be used in human rights courses for teachers in secondary (i.e., junior high and high) schools.

Universities in Hong Kong typically provide sex and sexuality education for their undergraduates, though it is often extracurricular and piecemeal and organized by campus health or counseling centers. A notable exception (since 2003) is a credit-bearing course entitled “Sexual and Gender Diversity” offered to undergraduates at the University of Hong Kong. The course teaches a wide range of topics, bringing students into contact (many for the first time) with gays, lesbians, transpeople, and members of other sexual and gender communities. The course currently admits up to 500 students each year.

In the broader Hong Kong community, various groups offer education on sexuality. STL is one of them. A “Sexual Wholeness” seminar it ran for teachers and social workers was widely reported to have claimed that lesbians could be cured by wearing high heels, dresses and lipstick.¹⁸

EMPLOYMENT AND ECONOMICS

According to the Index of Economic Freedom, Hong Kong enjoys the freest economy on earth.¹⁹ It is the world's 11th largest trading entity and 13th largest banking center. Annual economic growth has averaged around 4 percent for the period 1998–2008, despite three major crises in that period (the East Asian economic downturn, the bursting of the dot.com bubble, and SARS). Hong Kong is currently China's richest city, with a GDP per capita of US\$44,050 (purchasing power parity) in 2007.²⁰ Unemployment is around 3–4 percent (as of late 2008). Economic success is built on international trade, and its importance is reflected in the number of consulates it hosts, currently more than any other city in the world.

With many gay and lesbian people commonly facing homophobia (and no legal protection against sexual orientation discrimination), many choose to remain discrete about their sexual preferences and behavior, especially in terms of what they divulge to co-workers and bosses (and indeed prospective employers). Transpeople, faced with the prospect of prejudice against them, often do not have this choice, and are outed by their appearance. Worse, those who have not undergone surgery are outed by their ID card. Those who have undergone surgery do not have this problem, so long as they apply for a new ID card that reflects their adopted gender. None benefit from any legal protection against gender identity discrimination, except the dubious protection provided by a law against disability discrimination (a law useful only for those transpeople who would claim they are mentally disordered). Those transpeople lucky enough to get a job often seek vigorously to preserve privacy about their gender status. Some employers have been known to make such privacy a condition of the transperson's employment; a condition that may sometimes be backed up with the threat of dismissal.

Notwithstanding all of the aforementioned, more LGBT people are willing nowadays to come out in their workplaces and in the broader Hong Kong community. As more do so, the Hong Kong public (and the government) have become aware of the "pink dollar." A large number of gay and gay-friendly bars, cafes, bookshops, and saunas now exist. Hong Kong now boasts an annual Lesbian and Gay Film Festival. However, given the persistent reluctance of many LGBT people to come out, a Gay Pride event (and all that it could bring to Hong Kong in commerce and tourism) currently seems out of the question.

SOCIAL/GOVERNMENT PROGRAMS

Limited LGBT activism in Hong Kong has so far resulted in small steps forward. In 2004, the Hong Kong government initiated a Sexual Minorities Forum (SMF), which meets quarterly to provide an opportunity for LGBT groups to press their case on rights issues and to call upon government officials to report on LGBT-related issues. A wide variety of LGBT and related groups (including women's groups, the Hong Kong Human Rights Monitor, and Amnesty International) participate.

Despite its regular meetings, the forum has been criticized as ineffective. LGBT representatives have on several counts questioned the government's commitment to sexual and gender minority issues. They point out that the government also organizes a "Family Values" Forum, providing a voice on LGBT issues for more

conservative voices in Hong Kong society (such as STL). They note, for example, that the government has allowed an association conducting conversion/reparative therapy to join the SMF. Finally, they lament a series of discriminatory actions by government and government-appointed bodies against the LGBT community that have taken place since (and despite) the SMF's inception.

The 2005 formation of a government-run Gender Identity and Sexual Orientation Unit (GISOU) seems to be a surer foot forward. GISOU is charged, among other duties, with dispersing funds for educational and other initiatives promoting equal opportunities for the LGBT community and with collating complaints from LGBT people regarding discrimination. LGBT groups have welcomed the funds, accessing them for a wide range of activities aimed at public education. However, the response to the GISOU complaints service has been cool. The absence of legal protection against sexual or gender identity discrimination means that GISOU has no power, beyond attempts at mediation, to resolve grievances. Very few LGBT people have therefore been willing to report cases of discrimination. The low complaints rate in turn feeds arguments by other segments of Hong Kong society that there is no need for antidiscrimination legislation.

A more definite step forward is the University of Hong Kong's creation of a full-time research and teaching post in sexual and gender diversity. The post, linked to a project to examine the Hong Kong LGBT experience, is perhaps the first of its kind in Asia. The research promises to inform social and governmental programs for the LGBT community in the years to come.

SEXUALITY/SEXUAL PRACTICES

Prevailing Hong Kong sexual and gender mores draw on predominant traditional Chinese philosophies (Confucianism and Taoism), as well as Buddhist and Christian influences, and are somewhat conservative.²¹ A few examples illustrate this point. Commercial sex, though legal, is tightly constrained by laws that leave sex workers isolated, unable to work together, to make effective arrangements for their own security, to solicit customers, or to advertise. A 2003 child pornography law is among the strictest internationally and is vigorously policed. The media are tightly controlled in regard to sexual matters. A government-appointed Obscene Articles Tribunal (OAT) energetically guards public morals against images it considers sexual. In 1995, it famously ruled a photo of Michelangelo's David indecent because of its uncovered genitals. In 2007, it ruled a campus newspaper's sex questionnaire indecent because it included questions on bestiality and incest. Since 1997, STL has worked strenuously against modern trends of radical libertarianism, feminism and extreme individualism. It has received funding from several government departments.

Homosexuality was criminalized until 1991. It is not surprising, then, that a 1991 study revealed that only two percent of boys and three percent of girls reported having same-sex inclinations. In 1996, several years after the decriminalization of same-sex behavior, those figures had apparently increased, to four percent and nine percent, respectively.²² The increase likely indicated a greater willingness for persons to report their same-sex orientations. Recent studies confirm an increasing willingness. A 2001 population-based Hong Kong study estimated that about five percent of the Hong Kong male population had ever engaged in same-sex behaviors (2% in the previous six months).²³ A 2002 study revealed that seven

percent of Hong Kong tertiary institution students reported being homosexual, and two percent bisexual.²⁴

All of these figures are likely to be underestimates, since many LGBT people conceal their sexuality to protect the privacy of their romantic and sex lives. Many same-sex relationships occur outside marriage, sometimes because one or both partners have surrendered to pressure from their family to take a husband or a wife. Gays and lesbians have great difficulty in maintaining any long-term romantic or sexual relationship. Restaurants have been known to refuse same-sex couples a table. Given these difficulties, some same-sex couples limit themselves to short-term sexual encounters. Gay saunas provide a service here, as do short-term (hourly rental) hotels (commonly called “Love Hotels”). However, recent news reports show that some of the latter refuse gay and lesbian business.²⁵

FAMILY

The Chinese family has historically been characterized by a culture of patriarchy and male domination, with men inheriting property and brides becoming members of their husband’s family’s household, and parents preferring sons to daughters. In sexual relations, men enjoyed freedoms denied to women; many took multiple wives and concubines where financial resources allowed, and others employed the services of commercial sex workers.²⁶

For Hong Kong LGBT people, family poses a twofold problem. First, young men or women sensing same-sex attraction or identifying as homosexual face the dilemma of whether or not to tell their parents and other family members. Many remain focused on this “coming home” challenge (opening up to family members) for a long period, rather than on the challenge of a broader community-based “coming out.”²⁷ Second, their own attempts to form stable relationships are viewed by much of Hong Kong society as undermining the concept of family and maintenance of the family line. The government refuses to legitimize same-sex partnerships by allowing same-sex marriages or civil unions. It also refuses to recognize those same-sex partnerships that have been legitimized overseas. This impacts next-of-kin rights (in inheritance and hospital visiting, for example), access to public (government) housing, and married couple tax benefits.

Hong Kong transpeople, even those who have undergone SRS and have obtained a gender-appropriate ID card, are unable to get a new birth certificate to affirm their gender status, and thus find themselves in a legal limbo concerning marriage.²⁸ With mixed sex partnerships, the only ones recognized in law, transpeople may only legally marry those who identify and present in the same gender as they do. In short, a transwoman may only marry a woman, and a transman only marry a man. That transpeople may only marry within their birth gender but gays and lesbians may not marry homosexually is an irony not lost on the LGBT community.

Leaving marriage aside, those gay couples who decide to live together encounter further difficulties. Housing costs are high in Hong Kong, and many young people live with their parents well into adulthood. Gays and lesbian partners find that, as unmarried couples, they have no rights to public (government subsidized) housing. Those who can afford to rent on the open market find some landlords refuse to rent out to gay couples. Finally, adoption agencies do not look favorably upon unmarried or nontraditional couples.

Anxieties about possible reactions of family members (let alone friends and employers), as well as the absence of any legitimacy for gay and lesbian relationships and the problems in setting up a home, all undermine the viability of long-term and visible relationships involving the LGBT community, driving many Hong Kong couples to keep their long-term relationships very private, or indeed discouraging such relationships altogether.

COMMUNITY

The concerns many LGBT people have for privacy in sexual and gender identity matters undermines their involvement in the broader LGBT community. Some avoid contact with the community altogether (something particularly common among transpeople once they have undergone their SRS). Notwithstanding, Hong Kong's LGBT community is, compared to some other Asian cities, both visible and well-organized. The gay and lesbian social and cultural scene has grown steadily since decriminalization in 1991, this despite the continuing background prejudice in the city. The late 1990s saw a wave of gay saunas, bars, cafes, and bookshops and currently there are a large number of lesbian and gay organizations organizing events and conferences.

Increasing social awareness has led to a raised level of activism, proliferation of LGBT groups, and high levels of intergroup collaboration and organization. Much of the activism has been directed at (so far unsuccessful) calls for enactment of antidiscrimination legislation. Some have been controversial in their methods; for example a protest against Catholic teachings on homosexuality, mounted during a service at the Catholic Cathedral.²⁹

The transgender community has been a comparative latecomer to activism, with the first group (Transgender Equality and Acceptance Movement, or TEAM) forming in 2002, and a new group (Transgender Resource Center) forming in 2008. Much of their energy has so far been directed at public education.

Much of the LGBT community still shies away from public activist events. The 2008 IDAHO (International Day Against Homophobia) rally (the fourth organized in Hong Kong) reflected the reluctance of local LGBT people to come out. The Hong Kong rally organizers estimated that around 300 people attended, perhaps one in 1,000 members of the LGBT community (at a conservative estimate).

HEALTH

The Hong Kong government (through its Hospital Authority) provides almost fully subsidized health care for all citizens of Hong Kong. Individuals may, at their own expense, seek treatment from private physicians.

HIV/AIDS care has become a higher health priority in recent years. The first Hong Kong case of HIV was identified in 1984. A total of 3,612 HIV infections and 934 AIDS cases were reported by the latter part of 2007, with the major mode of transmission being sexual contact (heterosexual or homosexual). The government's Hospital Authority has provided clinical care for people living with HIV/AIDS since the 1980s. A detailed health care framework has been prepared for the delivery of clinical care.³⁰ A number of nongovernmental organizations (NGOs) have focused considerable effort on public education and prevention of HIV/AIDS.

HIV/AIDS remains a continuing concern for the LGBT community. In 2007, the government's Department of Health recorded the most new HIV cases so far: 414, of which 103 involved heterosexual exposure and 168 involved homosexual or bisexual contact. The HIV rate has grown significantly amongst men who have sex with men (MSM). Increasing attention is therefore placed upon high-risk behaviors, prevention education, and intervention strategies.³¹ Little if any research has been conducted on transmission to and from women (either lesbians or transgender people).

Approaching a doctor can pose a challenge for LGBT persons seeking health care. Persons identifying themselves (or identified) to health workers as homosexual run the risk of encountering homophobia. A local research paper reported that a quarter of medical students believed homosexuals to be psychologically disordered and in need of therapy (despite the removal of homosexuality from the two major psychiatric manuals in 1973 and 1990). Around 40 percent believed the presence of homosexuals would affect the reputation of their training institution.³²

Unusually for Asia, Hong Kong's government provides subsidized specialized health care for transpeople diagnosed as "gender identity disordered" or "transsexual" (the precise term depending on the diagnostic manual employed) and who need medical support for their gender transition. The government subsidies for transition-related health care greatly facilitate gender transition for transpeople, and stand in stark contrast to the refusal of the government's Security Bureau to allow them a change in legal gender status.

The first documented SRS in Hong Kong was performed in 1981. Between 1986 and 2005 there was one (centralized) Gender Clinic, with a multidisciplinary team headed by a psychiatrist and including clinical psychologists, a geneticist, a reconstructive surgeon, a social worker, an endocrinologist, a gynecologist, and a barrister.³³ Subsidized care covered consultations (except legal advice) and SRS surgical fees. Other surgeries did not appear to be covered, nor was hair removal, though hormones appeared to be available at below market price. By 1998, 78 gender variant patients had been assessed, with 48 having received SRS.³⁴

The number of transpeople approaching the central gender clinic and seeking medical support for their gender transition appeared to rise over the period of its existence.³⁵ By 2003, one report estimated the rate of "clinically presented transsexualism" in Hong Kong was about one per 200,000 people, with rather more transmen (female-to-male transpeople) making use of the central government clinic than transwomen (male-to-female).³⁶ This was a gender imbalance opposite to that normally found in Western studies.

In 2005, the government, with little warning, restructured services into several (poorly resourced and poorly prepared) regional clinics. Subsidies for care appear to have remained unchanged. The immediate effect was that health care workers who had little previous experience of working with gender variant clients were now charged with providing a service to them. Faced with the delays and frustrations of government health care, an unknown number of transpeople have turned to other health care sources, such as contraceptive hormones available over the counter at pharmacies or through the Internet, and surgery in nearby Thailand.

It is likely that the classification of transpeople (gender identity variant people) as mentally disordered (gender identity disordered) exacerbates the stigma, prejudice, and discrimination transpeople suffer. For example, there is clear evidence that Hong Kong people (like people elsewhere in Asia, the United States

and the United Kingdom) who believe transwomen are mentally disordered also tend to deny them the rights to be treated as women and avoid any contact with them.³⁷

Western research indicates that the experience and anticipation of prejudice and discrimination can lead to minority stress and to anxiety, low self-esteem, depression, risk behaviors, and self-harm (including suicide). Local research suggests that much of this may be true for Hong Kong's homosexuals.³⁸ It also indicates that the coming out process may be therapeutic for those who experience it.³⁹ No similar research has yet been done with transpeople in Hong Kong.

The numbers for suicide in the general population of Hong Kong have been rising in the last decade. In 2003, suicide deaths reached 1,264 (18.6 per 100,000, compared to the world average of 14.5). No data exists regarding the LGBT suicide rate, yet it is possibly a significant cause of death within the transgender population, as mental health problems are apparently common among transpeople.⁴⁰ Informal contacts with Hong Kong's transpeople confirm that a majority has attempted suicide on at least one occasion, with some reporting multiple attempts. At least two have committed suicide in the last five years.

POLITICS AND LAW

Hong Kong's legislative, executive, and judiciary branches are nominally independent of each other. In practice, the executive branch, led by a Chief Executive appointed by the Beijing government, controls the introduction of most legislation. The legislature, structured so as to be pro-business, is also widely seen as pro-government. In recent years, the power of the executive branch has been checked not by the legislature but by the judiciary, which has played an important role in furthering the rights of LGBT people in Hong Kong, sometimes despite opposition from the government.

Hong Kong is a party to the International Covenant on Civil and Political Rights (ICCPR).⁴¹ It has incorporated its provisions into the Hong Kong Bill Of Rights Ordinance (BORO, enacted in 1991). However, BORO covers only the activities of government and public bodies. Broader legislation designed to protect civil rights is patchy, affording protection against discrimination on the basis of sex, family status, and disablement only, and (since 2008) race.⁴² For some years there has been public debate concerning the need for a Sexual Orientation Discrimination Ordinance (SODO) that would prohibit discrimination on the basis of sexual orientation and gender identity, but the government has refused to present a bill to the legislature, claiming that the time is not right. This is despite evidence from its own survey of public attitudes that more than six in 10 Hong Kong people were either in favor of or neutrally disposed towards such legislation.⁴³ It has been claimed that the government's failure to enact SODO puts it in breach of its domestic and international legal obligations.⁴⁴

Homosexual behavior was criminalized until 1991, and incurred a maximum sentence of life imprisonment. Government moves to decriminalize homosexuality in 1968 failed due to opposition in the local (predominantly Chinese) community. A fresh wave of debate on the merits of decriminalization began after 1980, when a senior police officer at risk of being outed as a homosexual committed suicide. The 1991 decriminalization was highly controversial, particularly for Hong Kong's Christian community.

Notwithstanding the move towards decriminalization, the government has for some time legislated an age of consent for anal intercourse grossly inconsistent with that for vaginal intercourse; 21 years (compared to 16 years), with a penalty up to life imprisonment for both partners where underage anal intercourse took place. Only under pressure from the public and legal commentators did the government in 2006 reluctantly accept a High Court ruling that the age discrepancy was unconstitutional, breaching both the Basic Law and BORO.

It may be argued that this and other policies (e.g., reluctance to enact a SODO, refusal to recognize same-sex unions) reveal the Hong Kong government to be an important (if not the primary) perpetrator of discrimination against sexual and gender minorities in Hong Kong.

RELIGION AND SPIRITUALITY

Approximately four out of 10 people in Hong Kong participate in some form of religious practice, with Buddhism, Taoism, Confucianism, Christianity, Islam, Hinduism, Sikhism, and Judaism all practiced in the city. Hong Kong's people enjoy great religious freedom. Falun Gong followers practice freely in Hong Kong in a way not possible elsewhere in China.

A small section of the Christian community has been very vocal in opposing sexual and gender minority rights, particularly the right to marry or contract a civil union, and to have such a union recognized where conducted overseas and the right to legal protection from discrimination on the basis of sexuality or gender identity (by way of a SODO law). The STL, which has at times funded its activities with government money, is highly active in opposing these rights. It has argued that antidiscrimination legislation would undermine freedom of expression and of religious worship. The New Century Association (NCA), which has a strong Christian base, energetically promotes reparative/conversion therapy, and has gained membership in the SMF. As elsewhere in the world, the Catholic Church has also spoken out strongly against same-sex marriage, a stance that prompted LGBT activists on one occasion to storm a religious service, a controversial move inside as well as outside the LGBT community.⁴⁵

VIOLENCE

United Nations statistics reveal Hong Kong to be one of least violent cities worldwide, with the overall recorded crime rate being lower than countries such as Singapore, Japan, South Korea, Italy, France, Canada, England, and Wales.⁴⁶ For all the prejudice and discrimination, violence directed against LGBT groups does not seem common. A study of Hong Kong attitudes towards transpeople revealed that key attitudes linked to violence were lower than a comparable sample in Canada.⁴⁷

OUTLOOK FOR THE 21ST CENTURY

Commentators point out a continuing need in Hong Kong for better education (for the general public and students) relating to sex and sexuality. Beyond this, they note the importance of legislation to protect LGBT people from discrimination (a SODO), as well as the removal of discriminatory laws and administrative

practices by the Hong Kong government itself, in particular so as to provide for same-sex marriage (or civil unions) and for changes to transpeople's legal gender status. While the government appears willing to support the LGBT's own efforts to educate the public, little evidence suggests that the government intends to support major education initiatives of its own, or to make legislative changes aimed at furthering LGBT rights. Under such circumstances, LGBT activism is expected to continue or even increase.

RESOURCE GUIDE

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Web Sites

HIV/AIDS

<http://hk aids.med.cuhk.edu.hk/service/index.htm>.

Provides a list of AIDS organizations and service providers in Hong Kong.

Government

Equal Opportunities Commission of Hong Kong, <http://www.eoc.org.hk/EOC/Graphics-Folder/default.aspx>.

Statutory body responsible for winning the Sex Discrimination Ordinance, the Disability Discrimination Ordinance, and Family Status Discrimination Ordinance in Hong Kong.

Organizations

Civil Rights for Sexual Diversities, www.cr4sd.org.

<http://neptune.lunarpages.com/~active2/cr4sd/production/eng/main/index.html>

A rights advocacy group based in Hong Kong.

Pro-LGBT Religious Groups

Hong Kong Christian Institute, <http://www.hkci.org.hk/>.

Christian group with a wide range of issues of concern, including securing justice for sexual minorities in Hong Kong.

Pro-Transgender Organizations

Transgender Equality and Acceptance Movement (TEAM), <http://teamhk.org/e-index.html>.

Support and advocacy group for transsexuals in Hong Kong.

TransgenderAsia, <http://web.hku.hk/~sjwinter/TransgenderASIA/index.htm>.

Research center dedicated to the study and dissemination of information about transgender and transsexual people in Asia.

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37. The belief that transwomen suffer from a mental illness was correlated at (1) 0.58 with the belief that they should not be treated as a woman (or have the rights to be so treated), (2) 0.31 with the desire to avoid social contact with transwomen generally, and (3) 0.53 with the desire to avoid transwomen in one's peer group. All of these correlations were highly statistically significant. See Winter et al., "Transpeople, Transprejudice and Pathologisation."

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41. The International Covenant on Civil and Political Rights (ICCPR) is one of the components of the International Bill of Human Rights. To view the ICCPR see <http://www2.ohchr.org/english/law/ccpr.htm>.

42. For details on these ordinances, see the Equal Opportunities Commission of Hong Kong (in the "Resources" section of this chapter). For the actual laws, see also Hong Kong Legal Information Institute (also in the "Resources" section of this chapter) and use the search function.

43. Twenty-nine percent were in favor of introducing legislation "at this stage," while 34 percent stood neutral. The Report is available at <http://www.legco.gov.hk/yr05-06/english/panels/ha/papers/ha0310cb2-public-homosexuals-e.pdf>. An executive summary for legislators is at <http://www.legco.gov.hk/yr05-06/english/panels/ha/papers/ha0310cb2-1291-7e.pdf>.

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45. See Kwok, "Gay Activism in Asian and Asian-American Churches."

46. See the Seventh United Nations Survey on Crime Trends and the Operations of Criminal Justice Systems at <http://www.unodc.org/unodc/en/data-and-analysis/Seventh-United-Nations-Survey-on-Crime-Trends-and-the-Operations-of-Criminal-Justice-Systems.html>.

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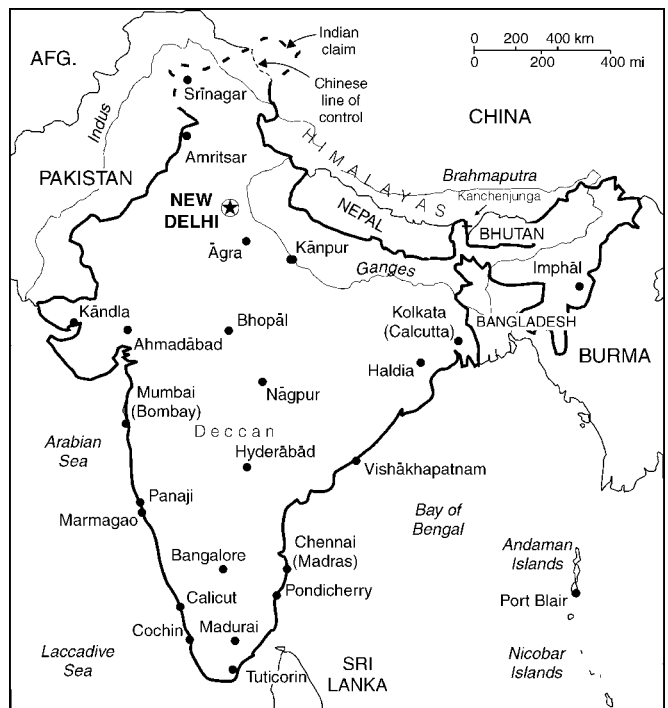
INDIA

Jen Westmoreland Bouchard

OVERVIEW

The Republic of India is located in South Asia and New Delhi is its capital. Not only is it the seventh-largest country (by geographical area) in the world, it is also the most heavily populated democracy. India is bordered by the Indian Ocean to the south, the Arabian Sea and Pakistan to the west, the Bay of Bengal and Bangladesh on the east, and China, Nepal, and Bhutan to the northeast. India's climate is quite varied and ranges from deserts in the west, to alpine tundra and glacial landscapes in the north, and humid tropical regions supporting rainforests in the south-west and the neighboring island territories. India has four distinct seasons. Winter is typically in January and February, and summer lasts from March to May. The rainy monsoon season begins in June and lasts until September, followed by the post-monsoon season from October to December. India's landscape is as varied as its climate and includes the Deccan Plateau (upland plain) in the south, the Ganges River in the west (surrounded by flat or gently rolling plains), deserts in the west, and the Himalayan mountains in the north. India's natural resources include coal, iron ore, manganese, mica, bauxite, titanium ore, chromite, natural gas, diamonds, petroleum, and limestone.

In 2008, India's estimated population was 1,147,995,898. Thirty-one percent of the population is under the age of 14, 63.3 percent are between the ages of 15 and 64, and 5.2 percent are 65 or older. Seventy-two percent of the population is categorized



as Indo-Aryan, 25 percent are Dravidian,¹ and the remaining three percent are Mongoloid or other. India's central or union government oversees a federal republic consisting of 28 states and seven union territories. In 2007, the Indian people elected their first female president, Smt. Pratibha Devisingh Patil; India's Prime Minister is Manmohan Singh.

English and Hindi are the two most commonly spoken languages in India. English is the most important language for politics and commerce, but Hindi is the national language and the primary language of over 30 percent of the Indian population. However, there are 21 other official languages, including Assamese, Bengali, Bodo, Dogri, Gujarati, Kannada, Kashmiri, Konkani, Maithili, Malayalam, Manipuri, Marathi, Nepali, Oriya, Punjabi, Sanscrit, Santhali, Sindhi, Tamil, Telugu, and Urdu. Though not an official language, Hindustani is a dialect of Hindi/Urdu and is spoken widely throughout northern India.

India operates under the caste system. According to Indian sociohistoriography, the caste system came into being with the arrival of the Aryans in India around 1500 B.C.E. The caste system also has a religious significance. According to a set of ancient Hindu scriptures called the *Rig Veda*, the primal man, Purush, tore himself apart in order to create the human race. The various *varnas* (levels of the caste system) were created from each part of his body. The hierarchy was decided according to which body part became each caste. According to this theory, the *brahmans* were created from his head, his hands became the *kshatrias*, his thighs became the *vaishias*, and the *sudras* were his feet. Today, these four castes still exist, along with the *harijans* (the untouchables). Within each of these five categories one finds the *jatis* (castes) into which people are born in which they will marry, and in which they will die. In keeping with the socialist and democratic ideals on which the nation was founded, the Indian Constitution outlaws discrimination based on caste. Most cast barriers hardly exist in larger cities, though some inborn, caste-based discrimination still exists. However, the caste system continues to thrive and dictate social norms in rural areas.

India has a rich and diverse history, much of which, after the 15th century, has to do with colonization by various Western forces including Portugal, France, the Netherlands, and Britain. The British held India as a colony from the 17th through the 20th centuries, and it is this cultural paradigm and legal system that has most affected homosexuals in India today. Queen Elizabeth I of England established the East India Company in 1600. Through England's trade with India, the English gradually entered into Indian politics and colonized the country. By the end of the 19th century, British territory spanned from Burma (Myanmar) to Afghanistan, and included India, Pakistan, and Bangladesh. The British also occupied Bhutan and Ceylon (present-day Sri Lanka). The Indian movement for independence began in the first half of the 20th century, with the Indian National Congress and the Muslim League at the helm. The Indian subcontinent achieved independence from Great Britain in 1947 and split into is the present-day countries of India and Pakistan. The eastern portion of Pakistan became Bangladesh in 1971.

OVERVIEW OF LGBT ISSUES

As a result both of traditional Indian values and four centuries of British colonial influence, homosexuality is illegal in India and thus rarely discussed in society

and ignored by the Indian government. In fact, discussions of sexuality in general are limited in the Indian social milieu. However, in recent years, there has been a proliferation of homosexual representations in Bollywood films. This, combined with more frequent depictions of homosexuality in Indian news and media, has opened up discussions regarding sexuality over the past few years. To fully comprehend Indian attitudes regarding homosexuality, one must first recognize that the traditional family model (heterosexual) is the backbone of Indian culture and society. Typically, marriages are arranged between families and all young Indians are expected to marry and have children. Due to this very heterosexually oriented mentality, there is very little room for homosexuals to live a fulfilling “out” life. Both gays and lesbians are frequently subject to harassment and discrimination by the government and in the workforce. On the whole, Indian society remains highly patriarchal. Due to this power imbalance within society at large, lesbians tend to be more discriminated against than gay men.

EDUCATION

According to the 2008 CIA statistics, over 61 percent of the Indian population older than age 15 can read and write.

Considering the fact that homosexuality is rarely discussed in Indian society, it would follow that there exist very few presentations of homosexuals in Indian schools or curricula. In addition, for homosexual education to become commonplace in schools, sexuality would have to first be a part of the curriculum. When images of romance or couples are shown, they are always heteropatriarchal in nature. This type of implied heteronormativity, without even presenting homosexuality as an option, breeds attitudes of homophobia that manifest themselves in Indian society as a whole.

Outside of the classroom, present-day Indian youth have more access to information regarding sexuality than their parents did at the same age. This information comes to them through various sources, including movies, magazines, books, and, most importantly, the Internet. Traditionally, parents have held the responsibility of educating their children when it comes to sex education, sexuality, and health. However, some parents have reservations about discussing sexual matters with their children. Moreover, others admit to not knowing enough about sex in modern society to respond to all of their children’s queries. As a result, most Indian youth glean their sexual information from other sources. Due to the amount of misinformation regarding sexuality that exists online and elsewhere, the Indian government has considered implementing sex education as a part of public school curricula beginning in secondary school. However, in following with traditional Indian mores, it can be assumed that the lessons included in these courses will be strictly heterosexual in nature.

EMPLOYMENT AND ECONOMICS

In 2007, India’s unemployment rate was at 7.2 percent, with 25 percent of the population living below the poverty line. Due to its sheer size and population, India’s economy is incredibly diverse. Common sectors include traditional village farming, modern agriculture, handicrafts, and a variety of modern industries. Since 1997, the economy has grown at an annual rate of more than seven percent. This

steady economic growth has reduced the nation's poverty rate by nearly 10 percent. India's biggest economic (and environmental) challenges in the years to come will be providing the means for its already large and steadily growing population to become and stay employed and providing adequate housing for them.

In the past decade, there have been many reported incidents of gays and lesbians (either out or suspected of being homosexual by their employers) who were wrongfully terminated from their employment due to their sexual preferences.² In addition, it is not uncommon for gay and lesbian couples to be evicted from their homes due to "immoral behavior."³ In some parts of India, both heterosexual and homosexual victims of HIV/AIDS are openly discriminated against and denied employment, medical care, and housing.⁴ However, government officials are currently addressing these issues. In 2008, Prime Minister Manmohan Singh made a public statement asking for more awareness and sensitivity towards HIV/AIDS patients in order to put an end to these human rights injustices.⁵

SOCIAL/GOVERNMENT PROGRAMS

The fact that homosexual acts are illegal in India, in concert with the notion that homosexual themes have not historically been part of social discourse, means that there are no government programs in place to support homosexuals. In the past decade, however, myriad social networks, programs and nongovernmental organizations (NGOs) that support homosexuals have sprung up throughout the country. Most of these organizations were founded in response to India's growing HIV/AIDS epidemic.

One of the leaders of the homosexual movement in India is the NGO Naz India, founded by Anjali Gopalan. Though the focus of the Naz India Foundation is HIV/AIDS prevention, it has also become a valuable resource for accurate information on homosexuality in India. Naz India is based in New Delhi and has been working on projects involving HIV/AIDS and sexual health since 1994. Naz works in collaboration with groups such as the Lawyers Collective, the Human Right Law Network, Amnesty International, and the International Gay and Lesbian Human Rights Commission. Naz India has collaborated with these agencies to address cases of sexual rights abuse. It also works with the police services in New Delhi, conducting weekly training workshops for police personnel. The training aims to build awareness of HIV/AIDS and tackles issues of discrimination, physical harassment, corruption, and human rights.

In 2006, the Men's Community Development Society (MCDS) was founded in the city of Chennai (formerly known as Madras) in the Tamil Nadu province. MCDS aims to provide a community and forum for homosexual men and to equip them with AIDS prevention resources and medical treatment for those already infected with the virus. The organization was founded with support from the Indian Community Welfare Organisation and the Tamil Nadu State AIDS Control Society. "Voices Against 377" is a nationwide NGO that works for the abolishment of India's antisodomy laws. Voices Against 377 is supported by 13 nonprofits that work for human rights in India. These nonprofits are: Amnesty International India (AI India), Anjuman, Breakthrough, Creating Resources for Empowerment in Action (CREA), Haq: the Centre for Child Rights, Jagori, Nigah, Nirantar, Partners for Law in Development (PLD), Prism, Saheli, Sama, and Talking about Reproductive and Sexual Health Issues (TARSHI).

SEXUALITY/SEXUAL PRACTICES

Indian society is traditionally sexually repressive; even straight men and women do not discuss sex openly. Desire is also tightly regulated, and there have been cases of heterosexual partners who were killed for transgressing caste boundaries.⁶ Considering how heterosexual practices are restricted in many parts of the country, one can logically understand why homosexuality is strictly forbidden. Many traditional Indians believe that homosexuals should be harassed, beaten, or put to death by the authorities for engaging in immoral sexual acts.⁷ Therefore, many homosexuals believe they must act out their same-sex desires in hiding. Until recently, there were very few ways for homosexuals to meet others in a safe social environment. Therefore, many visited prostitutes to fulfill their sexual needs. Homosexual prostitution clients hail from nearly every socioeconomic class. To make matters more dangerous, condom usage throughout India is particularly low.

Anyone who goes against the heterosexual norm is considered homosexual, including gender-conflicted, transgendered individuals, and cross-dressers. One of the most conspicuous forms of gender deviation in India is the group known as *hijras* (an Urdu term for eunuchs). The *hijras* belong to a Hindu caste of men who dress as women. Their primary religious task is to act as mediums for female goddesses and they are often involved in marriage ceremonies. Members of the *hijra* community typically leave their families when they are teenagers and take up residence with adult *hijras* in nearby large cities. Their social roles include providing entertainment such as singing and dancing at weddings and cultural festivals and engaging in anal intercourse (typically in a passive role) with men. They make their living primarily through these activities.

FAMILY

The traditional family model (heterosexual) is a mainstay of Indian culture and society. Traditional Indian marriages are arranged between families of the same caste, and all Indians are expected to maintain a heterosexual lifestyle by marrying and having children. Some homosexual men marry but also engage in homosexual activities on the side, either in the form of prostitution, through various casual encounters, or with a long-term partner. They either live in denial of their homosexuality or fear that their families will discover their hidden lifestyles. If this were to happen, the homosexual man would face severe isolation, and in some cases banishment from the family or violence.⁸

When it comes to familial expectations, lesbians are faced with challenges quite different from those experienced by homosexual men. Traditionally, Indian women are expected to uphold the honor of the nation by playing the roles of obedient daughter, submissive wife, and loving mother. Women's interactions with others are closely watched, and they must always be aware of their actions, both in the public and private milieus. Naturally, no other option exists for women outside of matrimony. By engaging in romantic relationships with other women, Indian lesbians operate outside the constraints of male domination. Therefore, the very notion of lesbianism rejects the very foundation of Indian society and is perceived by traditional Indians as a threat to traditional patriarchal structures and a moral abomination. Homosexual human rights activists have examined the ways in which the traditional Indian family model contributes to the violation of homosexual

rights. There have been cases of lesbians committing suicide as a result of their family's and society's rejection of their love and their lack of autonomy as homosexual women in this strictly heteropatriarchal society.⁹

COMMUNITY

The Indian cities of Delhi, Mumbai, Hyderabad, and Bangalore boast a vibrant underground gay nightlife that began in the 1990s. At first, police carefully monitored the gay hotspots and regularly harassed homosexuals. Since 2004, however, reports of this type of harassment have diminished, and police regularly turn a blind eye to these gatherings. Both magazines and Web sites dedicated to Indian tourism now include columns dedicated to covering gay happenings in Delhi and other major Indian cities on a weekly basis.¹⁰

The Internet has provided myriad opportunities for a gay South Asian cyber culture to flourish over the past decade. Popular gay dating sites include Gay Dia and IndusGay. Another avenue through which to connect with fellow gays is the online community Gay Bombay. In addition, Facebook has become a common way to connect with fellow homosexuals both in India and with members of the Indian Diaspora throughout the world, especially through the Facebook group "Queer and Trans Desis (South Asians)." There now exist hundreds of gay blogs, such as the popular Queeristan, that offer articles, anecdotes, and resources for Indian homosexuals.

Gay Pride celebrations among Indians have become increasingly more popular and conspicuous since 2000. In 2007 and 2008, diasporic "Queer Desis" in New York demonstrated for their own rights and for those of their gay counterparts in India. On the other side of the world, Indian gay organizations banded together in New Dehli to protest antigay laws. They held signs and shouted "377 quit India," a chant combining the antigay law (Section 377 of the Penal Code), that dates back to the colonial era, with a slogan used by the Quit India Movement, which sought to end British rule in the 1940s. In 2008, the major Indian cities of New Dehli, Bangalore, and Kolkata all hosted substantial Pride celebrations with parades and other events.

HEALTH

In general, HIV/AIDS has been a concern in India. According to a report put forth by UNAIDS in 2007, over 5 million Indians were infected with HIV at that time. However, in 2008 they issued a statement indicating that these estimates were inaccurate, and provided a new estimate of 3.5 million people, which is less than one percent of the total Indian population. Nevertheless, HIV/AIDS prevention programs are necessary so that this percentage does not increase.¹¹

The aforementioned Naz India Foundation is at the forefront of this effort, and has been dedicating large amounts of time and resources to holistic approaches to HIV/AIDS prevention and education. Their efforts are a response to the fact that many homosexual men who are infected with HIV do not seek medical treatment for fear of social exclusion or, in some cases, legal prosecution.

Due to the rigid heterosexual constraints imposed by Indian society, homosexual men and women face many mental health issues that sometimes culminate in suicide. There are over 30 documented cases of lesbians committing suicide

between the years of 2001 and 2005.¹² Most of these women were from working class, traditional Indian communities in which they experienced marginalization due to their sexual orientation and refusal to marry. Some of these women were from such rural communities that they had never heard of lesbianism or homosexual politics. Their suicides were the result of desires that had been labeled shameful and that they could not identify or name. Unlike women from affluent families who could move to major cities to meet other lesbians and engage in healthy relationships, rural women have no support system and often end up depressed and suicidal as a result of their geographic and ideological isolation.

Homosexual Indian men face many of the same pressures and mental health issues as their female counterparts. Because homosexuality has been illegal in India, many gay men try to pass as straight to protect their families and their careers. The persistent monitoring of their behavior and mannerisms can drive these men to develop complexes and distorted self-images. They can become hateful of the society that forces them to hide their true identities, and this hatred often bleeds into their social and professional relationships. There are numerous reports of doctors prescribing drugs to homosexual men that, in combination with therapy, will supposedly change their sexual orientation and allow them to live traditional heterosexual lives. This type of extreme psychiatric treatment only augments feelings of anxiety, depression, and resentment in these patients. The Milan Project, an offshoot of Naz India, has filed several complaints with the National Human Rights Commission of India detailing this type of psychiatric abuse among homosexual men.¹³

POLITICS AND LAW

The fundamental civil and criminal laws that govern India are included in the Indian Penal Code and the Criminal Procedure Code. Due to Britain's colonial influence on India, the Indian legal system is based on the English Common and Statutory Law. India accepts International Court of Justice jurisdiction with several exceptions. In addition, separate personal law codes apply to Muslims, Christians, and Hindus.

Due to a British colonial-era statute from 1860, Section 377 of the Indian Penal Code, homosexuality was illegal in India for hundreds of years. Section 377 rendered criminal "carnal intercourse against the order of nature." The punishment for these crimes varied from 10 years to life in prison. The relevant part of Section 377 reads:

Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

This law was rarely upheld in the 1990s and 2000s (when it was still in effect). In fact, since the mid-1980s there have been no convictions for homosexual activities in India. Due to its rather vague nature, the law was used in multiple ways, namely to threaten and blackmail homosexuals, to harass those involved in condom distribution amongst homosexuals and homosexual prostitutes, or to force homosexuals to return to their families (via police arrest), even if they are of legal age.

In response to these human rights violations, organizations like Naz India, the National AIDS Control Organization, the Law Commission of India, and the Planning Commission of India expressed support for the decriminalization of homosexuality and advocated for tolerance and equal rights for LGBT individuals. In addition, the People's Union of Civic Liberties wrote two reports on human rights violations faced by homosexuals and transsexuals (namely *hijras*) in India. Through their combined efforts, these groups raised awareness about homosexual rights issues and brought about several hearings to repeal section 377. In May 2008, the case was first heard in the Delhi High Court. In July 2009, homosexuality was fully decriminalized in India.

RELIGION AND SPIRITUALITY

Over 80 percent of the Indian population is Hindu, 13 percent are Muslim, two percent are Christian, two percent are Sikh, and the remaining three percent are unspecified/other. As the major religion, Hinduism has played an important role in shaping Indian customs and traditions. The oldest known set of scriptures, the *Rig Veda*, which dates from 1500–1200 B.C.E., makes no mention of homosexuality. Ancient religious texts written between the third and sixth centuries C.E., such as the *Manu Smriti*, *Arthashastra*, *Kamasutra*, *Upanishads* and *Puranas*, do include references to homosexuality. The *Kamasutra* includes an entire chapter on the practice of fellatio between men and eunuchs. In this text, both hetero and homosexual sex are discussed in terms not only of procreation, but also pleasure.

Throughout India's medieval period, between the 12th and 18th centuries C.E., the northern part of the country was dominated by Islamic values. The practice of pederasty was introduced and women were forced to withdraw from public life. The open attitudes toward sex that were enjoyed throughout the ancient era were transformed by Islamic values. During the colonial period, the British established an elite class of highly educated Indians that took on even stricter Christian heterosexual values.

In Hinduism, androgyny has historically been viewed as a divine quality. Many of the main deities are imaged as half male and half female, mirroring the Hindu belief that gods are made up of all of the elements of the cosmos, both male and female. One of the most recognized deities is Shiva, who is pictured as being male on the right side and female on the left. Hindus who worship Krishna, principally members of the Sakibhava cult, maintain that Krishna is the only male and that all other beings are female. In the past, male followers of this belief dressed like women and engaged in homosexual activities as a part of their worship rituals. Interestingly, in scripture, various Hindu deities change gender to participate in homosexual activities.

VIOLENCE

The open nature and adaptability of Section 377 of the Indian Penal Code has historically provided sufficient justification for the harassment and beating of gays by police. Families and medical professionals have also used Section 377 to rationalize forcing gays to undergo radical therapies (including drastic psychological medication) in order to cure them of their homosexuality. Many

homosexual activists believe that these forms of justified violence are so ingrained in Indian society that they will not come to an end until well after Section 377 is repealed.

Lesbian women face a double threat of violence by virtue of both their gender and their sexuality in a heteropatriarchal society. Due to their status as women in this long-standing, male-dominated social climate, they are denied access to the support systems gay men enjoy upon coming out. Public spaces are both heterosexist and highly gendered. Typically, men have more access to all public spaces than women. Therefore, lesbians do not even have the right to congregate in public parks, an opportunity enjoyed by some gay men (when they are not being harassed by police). Due to this lack of public access for lesbians, there are far fewer instances of lesbians being harassed or raped than their male counterparts.

Both psychological and physical forms of violence by students and teachers directed against suspected homosexuals have been prevalent in schools, but due to the fact that most of these cases go unreported, they are difficult to document. Typically, if the young victim reports violence enacted at school, it is repeated by the parents in an attempt to scare the child away from homosexuality and save the family from public shame. Furthermore, in some rural areas, there have been cases of young girls being lynched for engaging in activities deemed immoral.¹⁴

OUTLOOK FOR THE 21ST CENTURY

Due to the fact that homosexuality was illegal until very recently, the future will be difficult for Indian homosexuals as they continue to negotiate their positions in a society that violently rejects them. Despite vehement public opposition, organizations such as the Naz India Foundation are working tirelessly toward the legalization of homosexuality in India. If homosexuality were to become fully legal, this would resolve a number of problems that currently exist for homosexuals in the country, including the spread of HIV/AIDS in their communities and violence directed against them. From a human rights perspective, the next political step toward equality would be the legalization of same-sex unions. However, legalizing homosexuality would not necessarily put a stop to the violence that is visited upon homosexuals in the private and public spheres by both family members and strangers. Therefore, antidiscrimination and antiviolence laws need to be put in place to protect homosexuals in all venues.

Even after homosexuality is fully legalized, it will be a long time before this lifestyle is accepted and before homosexuals will be able to live like other Indians. The aforementioned political strides will only change the appearance of homosexual rights, but not necessarily the reality. Ideologies that have been ingrained in the Indian psyche for centuries will have to shift, and this can only begin through an awareness of issues regarding homosexuality. This, of course, requires open discussion and education for all Indians on the truth about Indian homosexuals to dispel the cultural myths that have been built up around them. This type of public awareness and education, in schools and otherwise, will be the key to India's acceptance of homosexuals and the reclamation of their basic human rights. The major questions involve whether the Indian gay and lesbian communities will be influenced by Western manifestations of homosexuality, or if they will find their own, distinctively Indian, gay and lesbian cultures.

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INDONESIA

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OVERVIEW

Indonesia is a country comprising 17,508 islands, about 6,000 of which are inhabited. The archipelagic state is the 16th-largest in the world, covering a total area of 1,919,440 square kilometers¹ of land and water, with neighboring countries including Malaysia, Timor Leste, Papua New Guinea, Singapore, the Philippines, and Australia. Straddling the Equator, the tropical country of Indonesia is home to more than 500 ethnolinguistic groups and thus embraces great cultural diversity.

In terms of population, Indonesia's is the fourth-highest in the world, with a projected number of 231 million people in 2007.² In 2006, the population growth was 1.2 percent annually, marking a decline partly attributable to a successful government-backed family planning program. The average population density is about 121 persons per square kilometer, highly concentrated on Java Island, especially in Jakarta, which is the capital city and located on the island's western end with the largest urban agglomeration of some 13.2 million people.

The Republic of Indonesia was declared in 1945 after a three-year period of Japanese occupation during World War II. This came after the country had proclaimed its independence from the colonial Dutch Empire, whose rule dated back



to the 17th century. However, it was not until late 1949 that the Dutch formally transferred sovereignty over the archipelago to the state. Fused by a democratic vision of nation-state building, the country has undergone several major political tribulations, including the violent transition from the first authoritarian government of Sukarno (1945–1967) to the next one, led by Suharto, and that saw the death and imprisonment of thousands of alleged communist sympathizers during the period of 1965–1966.

Suharto's leadership and his military-backed New Order regime (1967–1998) drove rapid, yet vulnerable, economic development of the country. Nevertheless, his success in bringing about Indonesia's economic stability was founded on pervasive practices of cronyism and the total silencing of political dissent. After ruling the country for more than 32 years, Suharto was forced to resign by a surge of student-led demonstrations amidst the 1997–1998 Asian financial crisis.

Entering the current democratic and decentralized political setting of the nation-state, Indonesia has yet to face new challenges prompted by the increasingly virulent Islamic fundamentalist forces in the society. This has virtually been reflected by the growing number of local policies adopting prosecution against LGBT people, a condition that was uncommon in the past despite Indonesia's known status as the country with the largest Muslim population (almost 90%). In the recent past, at worst the state, and also informed by a certain degree of Islamic conservatism, the state denied recognizing the existence of LGBT citizens and/or their rights, but did not do this in so far as to relegate them to an illegal offense category.

Indonesia was among the hardest hit during the mid-1990s Asian economic crisis and has steadily worked to regain its footing, with a reported 2007 gross domestic product (GDP) of approximately US\$432 billion.³ The service sector made up the largest share of the GDP in that year, followed by manufacturing and agriculture. Military expenses equal one percent of the Gross National Product.

OVERVIEW OF LGBT ISSUES

The role of the mainstream media has been crucial to the current formations of LGBT issues in Indonesian public discourse following greater freedom of the press in the post-Suharto era. Issues of same-sex marriage, rights activism, and empowering voices of sexual minority communities have been crucial aspects that feature the visibility of Indonesian LGBT identities. On the contrary, the media representations as such have also sparked stronger reactions in the public sphere, especially those coming from the state and Islamic religious authorities. If culturally infused same-sex relations and gender-transgressing subjects had widely been ignored before 1998, if they were not strongly denied or casually ridiculed, there is now a system of overt discrimination, stigmatization, marginalization, and Islamic religious-based hostility targeting lesbian, gay, *waria* (male to female transgender) and *tomboi* (female to male transgender) populations. Meanwhile, bisexuals are virtually invisible in Indonesian society. This is partly attributed to the fact that bisexuality as an identity is somehow not adopted by many whose behavior is such, and partly due to the fact that many ordinary women and men, without identifying as lesbian or gay, might engage in same-sex sexual relations or with transgendered people.

The prevalence of HIV in Indonesia is growing, and the increasing number of new HIV infections makes the epidemic there one of the fastest growing in Asia,

even though the aggregate national prevalence is as low as 0.16 percent.⁴ In the late 1980s, AIDS was widely perceived as the disease of white foreigners, women in prostitution, and homosexual men, but recent reports have shown that HIV infections mostly occur among intravenous drug-users through sharing needles, unprotected (hetero-)sexual contact and, to a lesser extent, unprotected sex between males. It is estimated that by the year 2010 the number of AIDS cases will have increased to 400,000, with 100,000 infected people having died; the number is expected to almost triple by 2015.⁵

Despite the country's adoption of Human Rights Law Number 39/1999 and the 2000 Amendment of the 1945 Constitution, which seeks to protect basic human rights, no articles guarantee protection for Indonesian citizens against discrimination and violence on the basis of sexual orientation or gender identity. There is also a considerable absence of laws recognizing same-sex marriage, civil unions, or domestic partnership benefits.

Complying with international pressures to remove homosexuality from the *Diagnostic and Statistical Manual (DSM)* as a mental disorder, a move initiated by the American Psychological Association in 1973, by 1983 the Ministry of Health no longer applied a pathologizing category to homosexuality. This was confirmed again in the *1993 Guidelines for the Categorization and Diagnosis of Mental Disorders III*, Indonesia's version of the *DSM*. Gender identity, however, is still categorized as a disorder. Yet, by popular and religious conventions, homosexuality is still understood as a deviance and abnormality from the social norms, a social sickness that could be cured and normalized by getting help from psychiatrists, religious leaders, or through the patient's own willingness.

Freedom of speech and association were also instigated by the democratic transformation after Suharto stepped down. Applied in an LGBT rights context, more and more people, including a moderate circle of Islamic and Christian leaders, have publicly stated their acceptance of sexual minorities as part of the spirit of diversity echoed by the country's national motto, "*bhinneka tunggal ika*" (unity in diversity). Despite the atmosphere conducive to speaking one's mind in public, whether through statements in mainstream media or on the Internet, the climate has also been tainted by hate speech practices, which, again, are imposed by representatives of Islamic fundamentalist groups. Today, the intensifying debates on LGBT issues between two opposite poles of the society have taken center stage in Indonesian public discourse.

EDUCATION

In 1984 the government launched the six-year compulsory education system (*Wajib Belajar*) for elementary school children, which was extended in 1994 to junior high school level, thus making education compulsory for nine years from ages 6 to 15. However, there has been great reluctance by the state to instill sexuality education within the school curricula. At best, the grade 7 biology textbook has a few pages about the anatomy of the reproductive organs and the biological changes associated with puberty, but there is no demonstrable teachings about HIV and AIDS, the importance of safer sex, or about sexuality in general.

The conventional disinterest toward institutionalizing sexual and reproductive health education in Indonesian schools is visible in the common presumptions that sexuality education will encourage students to engage in premarital sex by

providing students the means to experiment with sex and thus indirectly condone these activities. Back in 1994, the Soeharto government expressed commitment to the agenda of promoting the right of adolescents to sexual and reproductive health information resulting from the 1994 Cairo International Conference on Population and Development (ICPD). Yet until now the state has remained ambivalent on the grounds that such approaches are based on Western ideas and would be culturally and religiously inappropriate in Indonesia.

Right now, only nongovernmental organizations are actively advocating and developing sexuality information for youth, while the role of parents has been idle in this regard. Many parents still think that sexuality is a taboo subject, thus leaving their children in the dark without any information about sexuality, to say nothing of issues of sexual diversity.

EMPLOYMENT AND ECONOMICS

Despite the decelerating outlook of the global economy in 2008, Indonesia has succeeded in maintaining its growth. The country grew by 6.3 percent in 2007, a 10-year high since the economic crisis of the 1990s.⁶ The employment slow-down during the past decade has taken a reverse, with an increase of 4.5 million workers. Most of the increase in employment has come from the labor participation of previously inactive women. Meanwhile, the country's economy has also been supported by a large proportion of the labor force working in informal sectors, especially in service occupations sprawling within urban centers, yet these are workers with generally low incomes and the jobs are often unregulated and unreported in official statistics.

The burgeoning private sectors in Indonesia have also become employment opportunities for many gays and lesbians. Some gay men and lesbians have high-paying jobs in corporate management; the media usually conflates them with the executive classes.⁷ However, like most other Indonesian people, more gays and lesbians belong to the working-class and fill the various lines of lower-paid occupations, ranging from shop keeper to school teacher.

Because Indonesia has not implemented any form of antidiscrimination statutes based on sexual orientation in the workplace, many lesbian and gay employees choose not to be open about their sexuality due to the risk of losing their jobs. A similar condition also applies in civil service occupations. Meanwhile, some job opportunities involving transnational mobility have also become an option for nonheterosexual subjects who do not conform to the implicit repression in local employment scheme, as exemplified by the numerous women-who-love-women moving to Hong Kong or elsewhere abroad and becoming migrant workers.⁸

Stigma has been the main barrier for gender nonconforming subjects, such as *tomboi* and *waria*, to accessing employment. The fact that some transgendered people hold secondary education degrees does not grant them job opportunities in corporate environment, as many companies show reluctance to employ transgendered people for fear of losing their reputations and costumers.

Due to their visibly embodied gender nonconformity, female to male transgendered people have limited job opportunities compared to normative women in general, and sometimes find an option by working in conventional male domains,⁹ such as taxi-driving, parking vehicles, and so on. While in the *waria* context, the jobs they are associated with are petty commodity trading, street singing, and sex

work. Other prototypical professions for *waria* include hairdressers, beauticians, and television entertainers and hosts. Since the early 2000s, the visibility of *waria* or other forms of transvestism has been amplified in Indonesian televised comedy shows. Recently, the National Commission of Broadcasting, as part of a respond to a fatwa (religious ruling) by the Islamic Cleric Council of Indonesia against transvestism in the media,¹⁰ has warned several private television stations not to exploit *waria* or *banci* representations (the latter being one of several derogatory Indonesian words for effeminate men), which could exposed younger audiences to gender-identity confusion.

SOCIAL/ GOVERNMENT PROGRAMS

There are no specific assistance programs provided for LGBT in either the national or local levels of government. One carried out by the Jakarta Social Services department implicated a stigmatizing policy towards *waria* when the office sub-categorized the transgendered group under the auspices of handicapped persons. After receiving criticism from local *waria* rights groups in 2008, the department changed the policy and created instead a subdivision in charge of rehabilitating *waria* off the streets, namely the Subdinas Rehabilitasi Tuna Sosial, or Rehabilitation Services for Socially Differently abled.¹¹

On the other hand, another policy that recognizes LGBT as a category is Presidential Decree Number 75/2006, which provides state funding for the implementation of a three-year HIV and AIDS response program conducted by the National AIDS Commission. The targeted subjects for the prevention, care, support, and treatment strategies are most-at-risk populations, including men who have sex with men (MSM) and *waria*.

SEXUALITY/SEXUAL PRACTICES

Consideration of the concept of sexuality, dubbed *seksualitas* in Indonesian, has always been conflated with religions and the nation-state discourses. Both institutions see that active sexuality should only occur within marriage, thus confining sexual practices within the social norms of heterosexuality and reproduction. Sexual practices outside the marital bond (pre- or extra-) sanctioned by the state and religions are overtly prohibited.

The silence about sexuality in official or state discourse has been reinforced by the nonexistent educational curriculum about sexuality, the importance of safer sex, and HIV and AIDS. Some junior high school textbook materials have a few pages explaining the anatomy of the reproductive organs and the biological changes associated with puberty, but there is no curricular requirement or acknowledged need to teach about sexuality in health and social contexts. The strong tendency to adhere to the discourse of sexuality under certain moral and ideological values has also been evident in the current moral panic surrounding the debate over the proposed antipornography legislation in the country.

It was within this precarious framework of sexuality that reports of AIDS first emerged in the national health scene in 1987. In the 20 years since, the epidemic has grown from a low level, concentrated epidemic transmitted largely through the sharing of injecting equipment, to an estimated 190,000 HIV infections increasingly transmitted through unprotected sex.¹²

The fact that condoms are relatively easy to obtain does not translate into widespread protection. This is partly due to regular and systematic reproaches against safer-sex advocacy in Indonesia led by religious authorities who the movement of condoning sexual promiscuity. There is also Family Welfare Law Number 10/1992, which states that family planning services are only to be provided to married couples. While it is not illegal for unmarried people to use contraception, and they can legally procure contraceptives through public stores, this regulation has led many people to assume that it is illegal for unmarried people to use protection.

Heated debates on sexuality fused with moral and political undertones are demonstrated in a case when the government revoked a public service announcement of AIDS prevention within just two days after its first airing. The decision came after the ad campaign by Aksi Stop AIDS (Stop AIDS Action), a program developed by Family Health International, USAID, and the Ministry of Health, yielded protests from Islamic exponents. Similar scenes were also manifest following the recent government plan to install condom vending machines in Yogyakarta public areas.

FAMILY

The modern institution of the state has shaped the current composition of Indonesian families into a single model: the patriarchal and heterosexual nuclear family. Central to the fabrication of this model is the family planning program initiated in 1970 by the founding of Badan Koordinasi Keluarga Berencana Nasional–BKKBN (National Family Planning Coordination Board). During the 32 years of Suharto's New Order regime, the state embedded the basic construction of the ideal family, a heterosexual couple with two children, as early as the first level of elementary education. Ten years after the fall of the regime, the formation of the nuclear family has been widely accepted as an essential part of the social and cultural imagining of modern Indonesia. This, for example, can be viewed from the recurrent representations of a middle-class, professional nuclear family represented in today's consumer goods television commercials.

The family law system in Indonesia only acknowledges heterosexual marriage. The hegemony of marriage in the country is deeply entrenched within the narratives of religion, tradition, and nation.¹³ This social imperative to marry is so pervasive that, should any lesbian or gay man choose not to marry, there would be enormous social and economic repercussions.

Across Indonesia, the current customary age for a man to marry is in his late twenties, and the pressure escalates as he turns older. To remain unmarried into one's thirties would indicate some kind of ineptitude; one would be perceived as socially immature or economically incomplete. For women, the range of age for marriage has increased from early twenties to late twenties. This is attributed to women's wider access to employment fields. However, there endures the myth of an ideal biomedical age used by the demands for women to get married and begin the whole reproduction cycle, from which they can ultimately reach woman- or motherhood.

Indonesian lesbians and gay men have practiced diverse agencies against the dominant pressure to marry. Some gay men choose to identify with the notion that being a husband and a father is the only way to become an adult member of society, and so opt to get married. From those who have chosen to marry, some even continue having same-sex relations without sensing a contradiction in their

actions. There are also cases where gay men are forced to marry. In some of the most violent cases, the idea of having to go through with a marriage has been so distressing that these men choose to commit suicide. On the other hand, some who do not conform to the idea of marriage simply remain single throughout their adult life. Lesbians also choose more or less similar scenarios available in the spectrum of agency related to marriage, yet the challenges are far greater for women, not excluding *tomboi*,¹⁴ as they also have to face the prevailing issues of gender inequality within patriarchal Indonesian society. Meanwhile, being historically and culturally known in Indonesian contemporary society, the *waria* is the only major group of persons, other than the differently abled, who are excluded from compulsory heterosexual marriage. This allowance however does not necessarily mean that *waria* are more accepted by the society.

In the past, the mass media have highlighted the issue of same-sex marriage in Indonesia, such as that involving a lesbian couple, Jossie and Bonnie, in 1981¹⁵ and a more recent one, a gay marriage in Yogyakarta between Wim, a foreigner of Dutch origin, and a local man named Phillip, in 2003. These publicly consecrated same-sex marriages, however, remain practices located at the fringes of the society, and they have not led to more organized movements advocating the issue. Indonesian Law of Marriage Number 1/1974 still only recognizes marriage as being between a man and a woman.

COMMUNITY

The first organization of *waria* was established in the capital city of Jakarta in the late 1960s; the *Himpunan Wadam Djakarta* (Hiwad, the Jakarta Transvestite Association) was facilitated by then-Governor Ali Sadikin. Many other cities saw the formation of *waria* communities and organizations. In 1982, Lambda Indonesia, a gay organization, was formed in Solo, Central Java by Dédé Oetomo and a few friends. At about the same time, *Perlesin* (Persatuan Lesbian Indonesia, the Indonesian Lesbian Association) was formed by lesbians in Jakarta, however the latter organization folded soon after. In five years' time Lambda Indonesia expanded, but the national leadership fizzled out. Oetomo and his then-partner, Ruddy Mustapha went on to establish *GAYa NUSANTARA* in 1987.

Until now, organizations have been one of the prototypical realizations of the LGBT movement in Indonesia as it continues to engage actively with sexual diversity issues in the country. In their early period, these organizations functioned more as the pivotal point linking various gay and *waria* activist groups located in various cities across the islands, such as *GAYa PRLAngan* in West Java, *GAYa DEWATA* in Bali, *GAYa CELEBES* in Makassar, Sulawesi, and so on. Recently, their approach has become more inclusive and integrative of general LGBT movements, with activities ranging from HIV-AIDS campaigns in grassroots communities, community center provision for lesbians, gay men, and *waria*, the publication of magazines and seminal texts, to policy advocacy.

Within the last 30 years, a handful of LGBT-related groups have flourished and disbanded. Some gay and *waria* organizations gained momentum through an HIV-AIDS response program boosted in early 1990s, while lesbian groups were fuelled by the women's movements thriving later in the same decade. The 1998 political reform movement also became a crucial turning point for LGBT identity politics in Indonesia.

These LGBT organizations have been working through the many strands of approaches and activism, in line with local, regional, and global contexts. Organizations like Gessang in Solo, Central Java and Abiasa, based in West Java are focusing on HIV-AIDS prevention, care, support, and treatment among gay men, *waria*, and other MSM. Community-based lesbian support groups such as Ardhanary Institute and Institut Pelangi Perempuan (Women's Rainbow Institute) were founded to empower and advocate for the rights of lesbians, bisexual women, and female to male transgenders. *Arus Pelangi* (Rainbow Current) and its network of community-based groups scattering in different provinces are spearheading antidiscrimination and rights protection for all LGBT people. Based in Jakarta, Qmunity has organized the Q!Film Festival, one of the largest queer film festivals in Asia, since 2001. During the eight years of the film festival's existence, approximately 85,000 people nationwide have participated.

Most of the organizations mentioned here are nonprofit and accept support from international funders while working to develop their own linkages through regional or global networks. Many of the organizations' programs are concentrated in urban centers, such as Jakarta, Surabaya, and Yogyakarta. Moreover, in the urban settings (but increasingly in rural settings as well) the rise of Internet technology in late 1990s has also endorsed the formation of Indonesian LGBT communities in cyberspace. Catering to the needs of some gay men and lesbians unwilling to expose their sexuality in heterosexual society, the Internet-based media of e-mail forums, mailing lists, Internet Relay Chat (IRC), and memberships in Web sites has become effective means for these people to communicate, socialize, and create a community.

Apart from the burgeoning LGBT communities in Indonesian urban sites, however, there remain questions about how LGBT subjects socialize as a community within the rural areas, in view of the fact that more than 80 percent of Indonesians are based in villages,¹⁶ even if they live to work in the cities. This is added to the fact that there are also many nonheterosexual people who may not identify with the available pretexts of LGBT formations developed in the urban locations.

HEALTH

The state does not contribute much to health expenditures in the country. Health care is mostly provided via the private sector. While in recent years there has been an increase in general spending on health attributed to the support of local administrations, the total amount allocated is much lower compared to the overall spending on health and its improving outcome in neighboring countries such as Malaysia, the Philippines, and Vietnam.

Tuberculosis, measles, malaria, and dengue fever remain high profile on the national health scene, while diagnoses of other conditions, such as diabetes, cancer, and heart disease continue to rise rapidly. In the context of AIDS, while the estimated annual number of new HIV infections decreased in other Asian countries in 2007, in Indonesia the prevalence of HIV is growing. In fact, the increasing number of new HIV infections in Indonesia makes the epidemic one of the fastest growing in Asia. The most common mode of transmission of HIV is through the use of contaminated needles, unprotected sex and, to a lesser extent, unprotected same-sex practices among men (including *waria*). Since 2004, the government has guaranteed that antiretroviral medication can be obtained free of charge.

There is no specific health support provided for the needs of sexual minority groups. On the other hand, stigma and rhetorical blame have been actively hindering attempts by gay men and *waria* to access HIV and AIDS information, voluntary counseling, and testing services, as well as care, support, and treatment for those already living with the virus.

The national social health insurance program for the poor, Askeskin, appears only to provide minimal relief, mainly assigned to opportunistic infections, tuberculosis, and pediatric care. There have even been reports of obstacles for poor people living with HIV in accessing this type of insurance.

Transgendered persons take on different views on sex-reassignment surgery. Among *waria*, who generally perceive themselves as women trapped in male bodies, body modification practices are common. The most traditional forms of body modification for *waria* include consuming *jamu* (traditional herbal medicines) or inserting padding inside one's clothes to create breasts. The latter method is increasingly rare nowadays, and is more often replaced by more permanent body modifications. The most common is by consuming of female hormones by taking birth-control pills or via hormone injections. The second-most common type of body modification comes from injecting liquid silicone. Due to its lower cost, this method, which focuses on the facial and chest areas, is more popular among *waria* when compared to optional, yet costly, plastic surgery. Nevertheless, a number of health problems have arisen from injecting silicone under the skin, due to improper procedures that can cause infections. The last and least commonly practiced body modification method is gender reassignment surgery, which is unpopular among *waria*, despite the fact that this procedure has been available since 1973 and has been undertaken by some local transsexual celebrities. There remain a few *waria* who have gone through with the operation for many different reasons. Some *waria* are financially unable to have the operation, while others do not wish to do so out of religiosity or fear. There are also those who simply accept themselves as *waria*, a woman trapped inside a man's body.¹⁷ For *tomboi*, hormone therapy has also become a more viable way to adopt some male physical attributes, but there have not yet been any reports of gender reassignment surgeries conducted on an Indonesian female-to-male patient.

POLITICS AND LAW

Indonesian LGBT subjects' participation in politics and the law has begun to grab the limelight of the political stage. Political recognition of LGBT rights in Indonesia is exemplified by the reports by the National Human Rights Commission's inclusion of LGBT persons in their list of populations in need of rights protection. During the first multiparty democratic elections in 1999, the now badly splintered People's Democratic Party (PRD) demanded full rights and recognition for "homosexuals and transsexuals."

Even so, the increasing numbers and voices of people and pressure groups working to advocate for LGBT political and legal interests at the executive and legislative levels have been relatively too small and ephemeral to generate effective results.

In terms of laws and regulations, the National Civil Code of Indonesia, inherited from the Dutch Civil Code, which was based on the Napoleonic Code, does not hold homosexuality and transgenderism under the rubric of penal law. The state has also adopted Human Rights Law Number 39/1999 and the 2000 Amendment of the 1945 Constitution, which seek to protect basic human rights, yet local

bylaws and regulations have all the inclination to work against the framework of minority rights protection stipulated in the national legislation.

Local ordinances that currently criminalize LGBT are, among others, the anti-prostitution bylaw issued by the Palembang Municipal Administration in 2004, which defines prostitution as including homosexuality, lesbianism, sodomy, sexual harassment, and other pornographic acts. The anti-prostitution ordinances in Tangerang and Indramayu (both in West Java) endanger the freedom of expression, assembly, and association by barring anyone who exhibits a behavior that raises the suspicion of being a prostitute from the public site. This article could impinge on *waria* as well as normative women simply suspecting they are carrying out prostitution work.¹⁸

The latest controversy on the proposed Pornography Bill also highlights some LGBT stigmatization, instead of recognition, conducted by the state by defining deviant sexual intercourse as intercourse or other forms of sexual activity with corpses or animals, oral sex, anal sex, and lesbian and homosexual sex.

Discriminatory practices of the state are also indicative in the Civil Administration Law Number 23/ 2006 and its bylaw, which recognizes the binary nature of male and female genders only, while excluding transgendered identities such *waria* and *tomboi*. As a consequence, transgendered people are regularly unable to get hold of basic legal documentation on equal terms with other citizens, often with dire consequences in terms of access to health care and other services requiring identity documentation.

RELIGION AND SPIRITUALITY

Despite Indonesia's constitutional recognition of world's major religions such as Protestantism, Roman Catholicism, Hinduism, and Buddhism, Islam is by far the dominant one. Islamic teachings and traditions in the country date back at least to the 13th century, when it was spreading through the archipelago via the global trade networks connecting the Far East with the Arab World, Africa, and Europe. A vast majority of lesbians, gay men, *tomboi*, and *waria* in the country are registered Muslims.

The paramount religious stance on homosexuality is that it is a sinful, deviant, and unnatural behavior, and should be contained through disciplinary and prescriptive measures so as not to incite social and religious disorder. The utmost homophobic Islamic hardliners have sometimes cited the Koranic story of Lot to justify discrimination and violence against sexual minority groups.

The explicit condemnation and intimidation based on sexual orientation and gender identity, however, does not compel LGBT people to stop embracing and practicing their religion. Access to prayer, transcendence, and faith are creatively initiated and reinterpreted by sexual minorities, as exemplified by the establishment of the *pesantren* (Islamic boarding school) for *waria* in Yogyakarta,¹⁹ or the existing LGBT prayer groups in East Java cities, initiated in a response to the homophobic stance of Christian orthodoxy.

Since the early 2000s, more and more progressive religious figures, above all those from the Muslim liberal forefront, have declared their acceptance of homosexuality and thus challenged dominant Islam's position in contemporary Indonesia.²⁰ At any rate, the heated debates on homosexuality and religion have brought the Indonesian public to a new level of discourse.

VIOLENCE

The historical trajectory of human rights enforcement in Indonesia has been tainted many times by violent abuses imposed by the ruling powers. Direct involvement of the state in the death and imprisonment of thousands accused of being communist affiliates between 1965 and 1966, as well as various sectarian clashes in Aceh, the former East Timor and Papua between the 1970s and late 1990s, has gained notoriety for the country among global human rights watchdogs and advocates. The long list of state-imposed acts of violence has also been marked by the Suharto regime's suspected conspiracy in the May 1998 riots, which led to the mass rapes of ethnic Chinese women and the burning alive of working class and urban poor who were goaded into looting shops in Jakarta.

Until the recent past, along with other potential dissenting voices, LGBT voices had also been repressed into silence by the state's hegemonic discourse on family, marriage, and nationalism. Any indications of nonheterosexuality were barred from the public, such as in the government's intervention in the folk-art performance of *reog* in Ponorogo, East Java, in 1983.²¹ This institutionalized tradition of sexual relations between *reog*'s male practitioners (*warok* and *gemblak*) was silenced and discouraged, with demands that the *reog* troupes replace *gemblak* dancers with young girls.²²

The indigenous transgendered or multigendered ritual positions practiced by all four genders in the Bugis culture of South Sulawesi, known as *bissu*, had also been a target of state repression and violence. The gender transcendent role that *bissu* fill in the local society included providing advice when a particular approval from the powers of the spiritual world is required. The group-specific "inter-sexuality" is not exclusively connected to their anatomy, but to their point in the Bugis culture, their genderless (or all all-encompassing gender) identity and their exhibit of many types that can not be accurately allocated to any one sex. In the mid 1960s, however, the traditional ritual practices and the profession of *bissu* were forbidden, and they were accused of being un-Islamic and linked to the Communist Party of Indonesia.

Since the authoritarian government was ousted in 1998, state-imposed violence has receded, but has also been replaced by a new form of violence, this time involving paramilitary groups formed by the radical forces Islam that deny the development of democratic and plural civil society that recognizes, among others, the right of sexual diversity.

In 2000, a gathering of gay men and *waria* in Kaliurang, Yogyakarta, held in observance of solidarity among sexual minorities and AIDS campaign activists, was attacked by some 150 men claiming to be members of the local Islamic youth group, Gerakan Pemuda Ka'bah (Ka'bah Youth Movement). The celebratory event, called Kerlap-Kerlip Warna Kedaton 2000 (KKWK 2000,—literally, Flickering Colors of the Royal Court) turned into a bloody incident that left several injured and hospitalized. Starting in 1997, and especially since that moment, death threats, armed group raids, and hostile harassment have been the constant troubles that loom over every public LGBT-related event, such as was the case of the 2005 Miss *Waria* pageant in Jakarta, which was broken up by another paramilitary Islamic group, dubbed Front Pembela Islam (FPI-Islam Defenders Front) or the continuous threats received by John Badalu and other members of Qmunity, the organization in charge for the annual holding of Q!Film Festival.

Another form of violence is also found in the media industry, where homosexuality is currently being demonized and criminalized in the press coverage of a serial murder involving a local gay man. The media has conflated such crime offenses to the pretext of social deviancy and abnormality constructed around homosexuality, and in doing so has incited public hatred towards gay men.

Meanwhile, with the ongoing decentralization process at the executive level, local bureaucrats and state apparatuses have seemingly reproduced homophobic violence through physical abuse and torture. This case was materialized, for instance, in the recent police abuse of two gay men in Aceh province, where they were detained for committing adultery among men. Local human rights watch groups have also recorded other cases of abuse towards lesbians, gay men, *tomboi*, and *waria* in different locales and forms.

OUTLOOK FOR THE 21ST CENTURY

Indonesia's LGBT movement faces considerable challenges in every aspect of its contemporary Islamic society. Although there have been dramatic transformations in terms of LGBT visibility in public, as well as in the political, economic, and cultural landscapes in the country, comprehensive efforts still need to be made. The list of activism work starts with advocating for sexual minority rights, ending phobic narratives about lesbians, gay men, *tomboi*, and *waria*, deconstructing modern invented heteronormative cultures, and promoting sustained and equal access for nonheterosexual and transgendered individuals.

One of the most pressing needs in the struggle for equal LGBT rights is to continue empowering the increased number of LGBT persons who are now living openly.

RESOURCE GUIDE

Suggested Reading

- Evelyn Blackwood, "Tombois in West Sumatra: Constructing Masculinity and Erotic Desire," *Cultural Anthropology* 13, no. 4 (1998): 491–521.
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- Saskia E. Wieringa, "Globalisation, Love, Intimacy and Silence in Working Class Butch/Fem Community in Jakarta," *Amsterdam School for Social Science Research. Working Paper Series*, 2005, <http://www.assr.nl/workingpapers/documents/ASSR-WP0508.pdf> (accessed October 22, 2009).
- Walter L. Williams, "Gay Self-Respect in Indonesia: The Life History of a Chinese Man from Central Java," *Oceanic Homosexualities*, ed. Stephen O. Murray (New York: Garland Publishing, 1992), 375–85.

Video/Films

- Arisan! (The Gathering)*, DVD, directed by Nia Dinata (2003; Kalyana Shira Films, 2003). A comedy that pokes fun at Indonesia's upper crust. The main character is a young gay man who hides his sexual orientation from his family only to soon become involved in a same-sex relationship, and he must cope with the societal realities of being out of the closet. The film has garnered international attention for its gay-positive message.
- Detik Terakhir (Last Second)*, DVD, directed by Nanang Istiabudi (2005; Indika Entertainment, 2005). A lesbian couple deals with the harsh realities of illicit drug-abuse, prostitution, and troubled family. The script is adapted from the novel *Jangan Beri Aku Narkoba (Don't Give Me Illicit Drugs)*, by Alberthiene Endah.
- The Last Bissu*, DVD, directed by Rhoda Grauer (2004; Manitou Media Ltd. and Salto Films, 2005). This documentary follows the daily life of Saidi, a high priest of an almost extinct religious sect, who is determined not to be the last of the Bissu.
- Renita, Renita*, DVD, directed by Tonny Trimarasanto (2006). Documentary about Renita, who was born a male but wanted to be female since she was a child. Her parents forced her to study at an Islamic school where she was bullied and ostracized. She rebelled by becoming a sex worker in the hope of finding freedom, but instead found that it came at a cost. Won Best Short Movie at the Cinemanila International Film Festival in 2007.

Web Sites

- Boyzforum, <http://www.boyzforum.com/>.
Member Web site for gay and bisexual Indonesian men to socialize.
- It's My Life, <http://itsmylifeclub.com>. Provides information on STDs, HIV and AIDS for gay men and other MSM. Access requires free membership.
- Q!Film Festival, <http://www.qfilmfestival.org/>.
Provides the latest updates about the film festival organized by QMunity, which travels all year starting in Jakarta and moving to Bali, Bandung, Yogyakarta, Surabaya and Makassar, South Sulawesi.
- Satupelangi, <http://www.satupelangi.com/>.
Interactive site for lesbians in Indonesia as well as abroad.

Organizations

Abiasa, <http://www.abiasa.org>.

Focusing on the empowerment of MSM communities and their health issues including in HIV-AIDS prevention.

Ardhanary Institute, ardhanary.institute@gmail.com.

Organization working for research, publication, and advocacy for the rights of lesbians, bisexualism and female-to-male transsexuals.

Arus Pelangi (Rainbow Current), <http://www.aruspelangi.or.id/>.

Advocates issues of LGBT rights and welfare by taking active roles in the processes of formal policy reform and protection of the LGBT communities.

GAYa NUSANTARA, www.gayanusantara.org.

Works on research, education, rights, and policy advocacy as well as networking in local, regional, and international settings for the development of LGBT movements. Publishes a series of research reports and articles on LGBT issues and a monthly bulletin under the same name "GAYa NUSANTARA."

GESSANG Foundation, <http://gessang.org/>.

GESSANG is an acronym for Gerakan Sosial, Advokasi dan Hak Asasi Manusia untuk GAY Surakarta (Social Movement, Advocacy and Human Rights for Gay in Surakarta—the other name for Solo).

Ikatan Gaya Arema, www.igama.org.

Institut Pelangi Perempuan (Women Rainbow Institute), pelangiperempuan@gmail.com.

Community-based group seeking to empower lesbian youth within their social, cultural, and political contexts.

NOTES

1. One kilometer equals 0.6 miles.
2. United Nations, "Country Profile in Summary Statistics," 2008, <http://data.un.org/CountryProfile.aspx?crname=Indonesia#Summary> (accessed October 15, 2008).
3. World Bank, "World Development of Indicators of Indonesia," 2008, <http://ddp-ext.worldbank.org/ext/DDPQQ/report.do?method=showReport> (accessed October 15, 2008).
4. National AIDS Commission (of Indonesia), "Republic of Indonesia, Country Report on the follow-up to the Declaration of Commitment on HIV/AIDS (UNGASS) Reporting Period 2006–2007," 2008, http://data.unaids.org/pub/Report/2008/indonesia_2008_country_progress_report_en.pdf (accessed October 16, 2008), 7.
5. National AIDS Commission (of Indonesia), "2007–2010 HIV and AIDS Response Strategies," 2007, [http://www.undp.or.id/programme/pro-poor/The%20National%20HIV%20&%20AIDS%20Strategy%202007–2010%20\(English\).pdf](http://www.undp.or.id/programme/pro-poor/The%20National%20HIV%20&%20AIDS%20Strategy%202007–2010%20(English).pdf) (accessed October 16, 2008), 10.
6. World Bank, "Indonesia: Economy and Social Update in April 2008," <http://sitresources.worldbank.org/INTINDONESIA/Resources/Country-Update/ecsos.update.apr2008.pdf> (accessed October 15, 2008).
7. Tom Boellstorff, *The Gay Archipelago: Sexuality and Nation in Indonesia* (Princeton, NJ: Princeton University Press, 2005), 143–46.
8. Tom Boellstorff, "Berkunjung ke Kantong-Kantong Para TKW di Hongkong (1) Ganti Nama Benny, Ibu 2 Anak Jadi Lesbian (Visiting women migrant workers pocket in Hong Kong (1): Changed her name to Benny, mother of two becoming a lesbian)," *Indo Pos/Jawa Pos News Network*, December 21, 2006, http://asia.geocities.com/arus_pelangi/klipingan/061230indopos_tkw_hkg.html (accessed October 18, 2008).
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across Cultures, ed. Evelyn Blackwood and Saskia E. Wieringa (New York: Columbia University Press, 1999), 206–9.

10. Nur Hidayat, “Bredel Banci di Televisi (Barring Banci in Television),” *Tempo Interaktif Magazine*, September 15, 2008, <http://majalah.tempointeraktif.com/id/email/2008/09/15/TV/mbm.20080915.TV128209.id.html> (accessed October 17, 2008).

11. Arus Pelangi, “Jadi Kamu tidak Merasa Bersalah?” *Studi Kasus Diskriminasi dan Kekerasan terhadap LGBTI* (“So You Don’t Feel Guilty?” *Study Cases on Discriminations and Violence against LGBTI*) (Arus Pelangi and Tifa Foundation, 2008), 21.

12. National AIDS Commission (of Indonesia), “Country Report,” 18.

13. Tom Boellstorff, “The Perfect Path: Gay Men, Marriage, Indonesia,” *GLQ* 5, no. 4 (1999): 475–510.

14. Evelyn Blackwood, “Transnational in One Place: Indonesian Readings,” *Gender and Society* 19, no. 2 (2005): 221–42.

15. Boellstorff, *The Gay Archipelago*, 63–64.

16. Dede Oetomo, “Patterns of Bisexuality in Indonesia,” in *Bisexuality and HIV/AIDS: A Global Perspective*, ed. R. Tielman, M. Carballo, and A. Hendricks (New York: Prometheus Books, 1991).

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18. International Gay and Lesbian Human Rights Commission, “Human Rights Abuses Against Sexual Minorities in Indonesia,” 2007, <http://www.iglhrc.org/site/iglhrc/section.php?id=5&detail=815> (accessed October 21, 2008).

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20. Abdul Khalik, “Islam ‘Recognizes Homosexuality,’” *The Jakarta Post*, October 23, 2008, <http://www.thejakartapost.com/news/2008/03/27/islam-039recognizes-homosexuality039.html> (accessed October 23, 2008).

21. *Reog* is a traditional dance performance with several dancers wearing bright colorful costumes accompanied by gamelan music. Performed in open spaces, this dance, combined with a magic show or a trance dance, draws a lot of spectators. The *reog* troupes include the *warok*, which were said to follow a strict regime of ascetic discipline, one of rules being that they were forbidden to have sexual intercourse with women. This prohibition was predicated on the belief that the resulting loss of sperm would deplete their supernatural powers. To aid them in their endeavor, each *warok* enlisted the aid of a young boy known as a *gemblak* who acted as a “substitute” woman.

22. Ian Douglas Wilson, “Reog Pongoro: Spirituality, Sexuality and Power in a Javanese Performance Tradition,” *Intersections: Gender and Sexuality in Asia and the Pacific* 2 (1999), <http://intersections.anu.edu.au/issue2/Warok.html> (accessed October 22, 2008).

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JAPAN

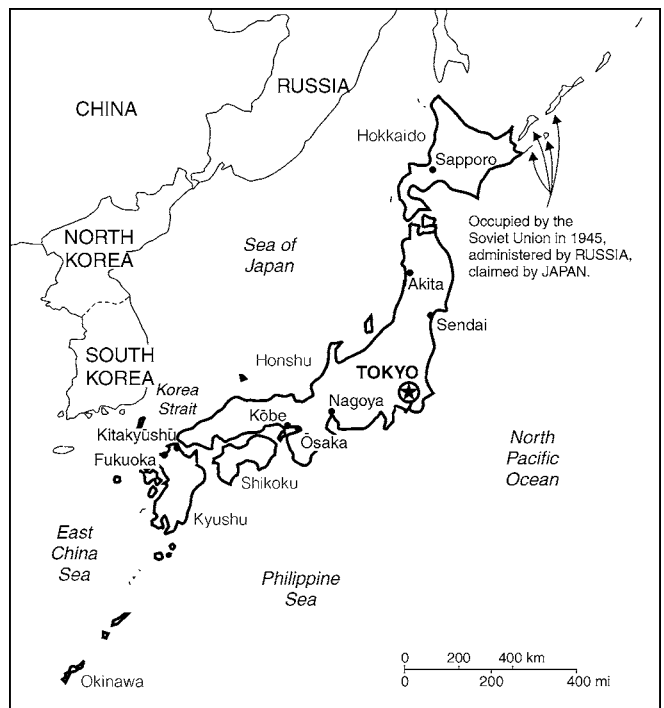
*Katsuhiko Suganuma, Hitoshi Ishida,
and Ikuko Sugiura*

OVERVIEW

Japan is an archipelago located in eastern Asia. It consists of four main islands, Hokkaidō, Honshū, Shikoku, and Kyūshū, as well as many smaller islands. To the west, it is separated from Korea and Russia by the Sea of Japan, while it faces the Pacific Ocean to the east, and the East China Sea to the south. With a total area of about 378,000 square kilometers, Japan has a population of over 125 million people.¹ The consistent decline in the birth rate since the 1970s (1.26 as of 2005) combined with high standards of health care and life expectancy (78.53 for men and 85.49 for women, as of 2005)² means that Japan is an aging country with one of the longest life spans in the world.

Many Japanese people regard Japan as a culturally and linguistically homogenous nation. Despite the fact that Japan has small populations of ethnic minorities, referred to as *zainichi* (residents of Japan) mainly of Korean and Chinese descent, as well as social minorities such as *buraku* (“hamlet” people, a formerly untouchable caste) and the indigenous Ainu tribe of Hokkaidō, most Japanese commonly assume that Japan is a monoethnic society. Claims of social and cultural homogeneity in Japan are expected to be challenged in years to come, however, as Japan will need to rely more on migrant workers to deal with its shrinking population.

Despite its legacy of cultural insularity, Japan has a rich history of interaction with other cultures. Japan has imported a great deal from the Chinese culture since the seventh century,



including the religions of Buddhism and Confucianism. It can be said that Shintō (“the way of gods”), which was adopted as a national religion during the Meiji period (1868–1912), and it is often considered Japan’s indigenous religion. It came into existence by combining Buddhism and Confucianism with Japanese nativist ideology.

Cultural interaction between Japan and foreign states was largely suspended in the early 17th century due to the nation’s self-seclusion policy, which allowed only limited cultural and economic trade and diplomatic exchange with a few countries, such as the Netherlands and China. By the mid 19th century, however, Japan began to emerge from its seclusion and rigorously transformed its government, military, and industry to conform to Western practices. The national project of “civilization and enlightenment” dating from the Meiji Restoration of 1868, resulted in Japan being more influenced by the West than by other neighboring nations in Asia. A slogan pioneered by political and cultural leaders of the Meiji period, *datsua-ron* (“theory for leaving Asia”) is emblematic of the Japanese nation’s preference for the West over the East. Borrowing from the West and attempts to attain parity therewith, however, resulted in conflict with Western and Asian nations alike, leading up to the Second World War. During the war, Japan rejected Western democracy and turned once again toward Asia, this time as a colonizer, a project that itself began in the late 19th century. In the postwar period, Japan quickly recovered from its defeat and has once again rebuilt its self-esteem under the strong influence of the United States.

The project of nation building in Japan has had a long history of interaction with other cultures. LGBT culture in Japan has similarly been strongly influenced by cross-cultural contacts.

OVERVIEW OF LGBT ISSUES

In the premodern context, the lesbian, gay, bisexual, and transgendered cultures of Japan each has had their own history within the literary and social spheres. Since the 1990s, however, there has been a surge of what can be termed collective LGBT activism by those who consider themselves to be part of the general category of “sexual minorities.”

In the immediate postwar period, homosexual individuals were skeptical about the medical theories imported and expanded upon from the early 20th century that defined homosexuality and transgenderism as perverse,³ but such dissent did not amount to a collective force for challenging the hegemony of the discourse. Although homosexuality was declassified as a mental disorder in the United States in 1973 with the publication of the new *Diagnostic and Statistical Manual of Mental Disorders (DSM)*, a move that was reported in the Japanese media, the public and medical institutions of Japan continued to relegate homosexuality to the realm of abnormality.

The advent of a collective gay rights movement in Japan was closely related to the AIDS crisis that occurred in the mid-1980s. Despite the fact that the majority of Japanese people who contracted HIV during that decade were hemophiliacs exposed to nonsterilized blood products, in 1988 the government passed the controversial AIDS Prevention Law, which was intended to identify male homosexuals and other sexual minorities, including sex workers, as the fundamental source of HIV infection.⁴ The law infuriated gay activists, who suspected that the

government was utilizing male homosexuals as a scapegoat to deflect public criticism away from government involvement in the circulation of nonsterilized blood products. The mobilization of gay activism was pursued in an unprecedented manner in the 1990s in response to the government's neglect of and disrespect for homosexual people. Prominent activist groups such as the Japanese International Lesbian and Gay Association (JILGA) and Japan Association for Lesbian and Gay Movement (OCCUR) were established in 1984 and 1986, respectively.

The 1990s were also the period when Japanese homosexual cultures became more open and visible in the public domain. Two major elements were central to this social phenomenon. One was related to the increasing interest of the Japanese media in gay culture, particularly lifestyle magazines aimed at women that disseminated the idea that gay men are trendier and more sensitive than straight men.⁵ Other media, such as comics and movies, and especially those of the genres YAOI (Yama nashi, Ochi nashi, Imi nashi [no climax, no resolution, no meaning]) and BL (Boys Love) also played a substantial role in promulgating these depictions of gay men. This Japanese fascination with gay culture in the early 1990s is now termed the "Gay Boom" phenomenon.

Another factor that contributed to the social visibility of homosexual culture in Japan came from Japanese homosexuals themselves. Partially to subvert the stereotypes of gays and lesbians that proliferated at the time, Japanese gays and lesbians began to speak out in public on their own terms. A range of what can be described as "coming out books" were published during the 1990s by Japanese gay and lesbian authors. Among these, Fushimi Noriaki's *Private Gay Life* (1991), Kakefuda Hiroko's *On Being a "Lesbian"* (1992), and Hirano Hiroaki's *Anti-Heterosexism* (1994) are now considered the classic texts for the Japanese gay and lesbian liberation movements. In 1991, the activist group OCCUR was involved in the first court case in Japanese history where the rights of homosexual citizens were discussed. OCCUR sued the Tokyo Metropolitan government for denying the group access to a government-run youth facility (Fuchū seinen no ie) because the government agency considered the characteristics and nature of homosexuals to be unfit and improper. The Tokyo district court decided in favor of OCCUR in 1994, and a higher court upheld the decision after a government appeal in 1997.⁶

From the middle of the 1990s, academic journals in the humanities began publishing translated articles from foreign queer theorists such as Teresa de Lauretis, Judith Butler, and Eve Kosofsky Sedgwick. As a result, the *kuia*, a Japanese transliteration of the English word "queer," began to appear in many LGBT-related Japanese publications. Earlier in the decade, the first lesbian and gay Tokyo film festival and street parades were held, albeit on a small scale and budget, and set the basic parameters for other similar gay-themed events in other major cities in subsequent years. The organization of these events depended on the collaboration among diverse groups within the Japanese LGBT community.

Beginning in the late 1990s, a range of publications, including academic books and popular magazines, started to specifically address the notion or possibility of same-sex partnerships in Japan. LGBT activism took a critical turn from focusing on the de-pathologization of homosexuality in the early 1990s to claiming partnership rights in the 21st century. In the 2000s, Otsuji Kanako, the first out lesbian politician in Japan, has been instrumental in bringing about changes in the legal conditions facing sexual minorities in Japan, and has further helped to invigorate LGBT community activism.

Compared with the postwar history of gay men and lesbians, very little is known about transgendered people, transvestites, and transsexuals in Japan, except limited gender-bending performances in traditional theatre culture such as kabuki and the more contemporary, all-female Takarazuka musical revue. Both transvestism and transsexualism in general were treated as a subcategory of homosexuality in medial discourse for a long time. In the 1980s, the gradual separation of the categories homosexuality and transgender took place alongside changes to the *DSM-III*. The medicalization of transgenderism as a category of mental disorder has continued in Japan, especially after doctors from Saitama Medial University submitted a research proposal on sex reassignment surgery (SRS) to the university's ethical committee in 1995. In 1997, the Japanese Society of Psychiatry and Neurology (JSPN) announced their guidelines for the treatment for people with gender identity disorder (GID). In October 1998, the first SRS on a male to female (MTF hereafter) patient was conducted under the guidelines, and another was performed on a second MTF in July 1999.

The 2003 election of transwoman Kamikawa Aya added further impetus to Japanese transgender activism. Kamikawa became a member of a ward assembly in Tokyo in April 2003, and played an important role in lobbying for legislation concerning people with GID (known as the Law Concerning Special Rules Regarding the Sex Status of Persons with Gender Identity Disorder), which passed in July 2003 and gave people diagnosed with GID the right to change their gender in official records under certain conditions.⁷

Alongside the advent of transgender activism, social support groups for intersexuals (or DSD, people with disorders of sexual development) also started to emerge in the early 1990s. These include Himawarino kai (Sunflower Club, 1991) in Osaka, and Hijura Nippon (Hijras Japan, 1995; the group changed its name to Peer Support for Intersexuals [PESFIS] in 1997). During this period, a number of intersex activists collaborated closely with transgender activists with the aim of criticizing the gender binary embedded in Japanese society. Thanks to such activism, by the late 1990s the existence of intersexed people began to be acknowledged in Japanese society, and educational materials used in public schools now make reference to intersexuality as a legitimate sexual identity. Furthermore, Rokuhana Chiyo's graphic novel *IS*, based on the theme of intersexuality, was awarded the Manga Prize from the prestigious Japanese publisher Kodansha and has subsequently been widely read and garnered high recognition.

EDUCATION

The Ministry of Education, Culture, Sports, Science, and Technology, which has authority over education in Japan, has yet to adequately harness its political power in order to make school environments more friendly to LGBT students and teachers. Recent research shows that more than half of gay and bisexual men who were interviewed experienced bullying at school that resulted in a lack of confidence about their own sexuality. They also reported struggling at school due to an educational environment that fails to recognize nonheteronormative sexuality. It is said that two out of three gay and bisexual youth in school have considered committing suicide, and 15 percent of them have actually attempted it.⁸ No Japanese studies have been conducted on lesbian youth in schools.

Similar to the situation of gay youth, students with GID suffer tremendously from not being able to cope with the heterogender-normative school environment. Statistics show that there is a huge disparity in education between female to male transgenders (FTM) and MTF transgenders. While fewer than half of FTMs go on to college, more than 70 percent of MTFs do. The number of transwomen who go to college is far greater than the national average.⁹

Community support groups designed specifically for LGBT youth are still very few in number. It was only in 2009 when university students across Japan collaborated to create a support group called *Reinbō karejji* (“Rainbow College”) as a space where LGBT youth could meet each other and discuss their challenges. Some positive steps in terms of exposing the problematic realities of the education system in Japan were made when school teachers such as Ikeda Kumiko (1999), came out in public by voicing their critiques in published books. In 2001, a peer support group for LGBT teachers in Japan, the Sexual Minority Teachers’ Network was organized.

EMPLOYMENT AND ECONOMICS

In recent decades, Japan has developed an economy roughly half the size of the U.S. economy. In 2005, Japan’s gross domestic product (GDP) was \$5,066 (US\$ bn.), as opposed to the United States’ GDP of \$11,140 (US\$ bn.).¹⁰ Since the “bubble economy” of the late 1980s collapsed at the beginning of the 1990s, Japan has faced a severe economic recession and has struggled with high unemployment rates relative to those during the economic boom (e.g., 5.3% as of 2003).¹¹

The Japanese economy has gradually recovered in the 21st century. The Japanese government has continued to innovate and implement deregulation of the private and public sectors, following the United States’ model of neoliberalism. This has led to increased income disparity and a reduction of social security, which threatens to create a society in which the strong prey upon the weak. Under such circumstances, the primary concern of the general public will tend to be their everyday needs. For this reason, public attention will be deflected from such issues as LGBT politics.

Issues of discrimination against LGBT people in the workplace have yet to appear in public debates. This lack of discussion, however, does not indicate the absence of such discrimination. Given that radical gay and lesbian identity politics began only in the late 1980s, the majority of homosexuals in Japan are still by and large closeted in the workplace. In the case of gay men, the postwar lifetime employment system, called *shūshin koyōsei*, in which marital status is considered important for promotion, has put tremendous pressure on them to marry, forcing many to reluctantly enter into marriage with a woman. In recent years, this employment pattern has been under radical reconstruction due to the economic recession and foreign pressure for Japanese companies to be compatible with the global standard of economic rationalism. As a result, the marital status of gay men in the workplace has tended to cause fewer obstacles for promotion or job security today than it did in the past.

Although there has been no academic research conducted on employment rates and income levels for lesbians and bisexual women in Japan, they are assumed to parallel, to some degree, those of Japanese women in general. A substantial income

gap exists between men and women in Japan; records show that full-time female workers earned less than 70 percent of that earned by their male counterparts in 2008. In addition, the number of companies that employ women solely as contract workers has increased significantly in recent years; as of 2008, 53.5 percent of female workers were contract-based employees, compared to 31.9 percent in 1985. The average income of casual female employees has been consistently lower than the 50 percent of that of full-time male workers in the last 20 years, and thus far shown no sign of improvement.¹² Under such unequal social conditions, Japanese lesbians and bisexual women remain economically disadvantaged in society.

Transgendered people face great difficulty in pursuing careers in mainstream work environments. The frequency of changing occupations is high for transgendered workers, and their average incomes tend to be lower than the national standard. Furthermore, a study shows that 35 percent of them live alone. In the workplace, 30 percent decide not to disclose their GID condition and remain closeted, and 20 percent have experienced discrimination due to their gender identity. One can observe a pattern in employment: FTMs tend to be employed in the blue-collar sector, as opposed to MTFs, who primarily work in white-collar occupations. As previously mentioned, MTFs tend to have more education than FTMs. At the same time, the employment rate of MTFs is significantly lower than for nontransgendered people with similar educational qualifications. Only 18.2 percent of MTFs were successful in gaining employment in 2003.¹³ These numbers demonstrate the significant difficulties facing transgendered people in Japan.

SOCIAL/GOVERNMENTAL PROGRAMS

While there has been extensive activity by nonprofit organizations and non-governmental organizations in support of sexual minorities in Japan, the government has been reluctant to organize any special programs geared to the needs of LGBT people. There is a nationally funded research institute for HIV, the AIDS Research Center of the National Institute of Infectious Diseases, yet it is normally considered a state-sponsored project for the general public, not one exclusively for LGBT people. As an alternative, LGBT community-based organizations for HIV prevention and AIDS patients, such as Pureisu Tokyo (Place Tokyo), have been far more effective in terms of providing direct services and support for sexual minorities. The situation is similar in other social sectors, including education and employment.

SEXUALITY/SEXUAL PRACTICES

In contemporary Japan, the general public's view on homosexual relations varies. According to the Japanese General Social Survey of 2000, the younger generation tends to be more understanding of homosexual relations than older generations. Moreover, women, in general, are more inclined than men to show tolerance.¹⁴

Same-sex intimacy existed in premodern and early modern Japan; historical literature and art depicting male-male homoeroticism is well documented. From the medieval era until the fall of the Edo period (1603–1868), social and cultural customs related to male-male eroticism, if not male homosexual behavior, were widely accepted and known as *nanshoku* (male-male eroticism), *shūdō*, or *wakashūdō* (the way of male youths). Homoerotic intimacy was almost exclusively between a senior

and junior partner, and it functioned as cultural ethos. In the Meiji period, male-male eroticism continued to be prevalent, especially among male students in school, yet also began to be perceived as feudal and outdated by supporters of Western practices, so much so that it was considered as a negative benchmark against which the newly civilized cultural code that the Meiji government envisaged was measured. Up until this point in Japanese history, homosexuality was primarily a matter of physical acts and behaviors rather than an identity or subject position. In the early decades of the 20th century, Western medical and sexological discourse about homosexuality began to reshape the Japanese understanding of same-sex sexuality and transgenderism in general. This Western influence has been credited with the increasing prevalence of the misconceptions of homosexuality and transgenderism as pathological mental and/or physical conditions. This essentialist conceptualization of homosexuality and its identity was gradually cemented in postwar Japan.

While Japan has adopted Western theories of sexology, intimate relationships between women, especially in girls' schools, were known as *ome* or *esu*. The archetypal pattern for romantic intimacy among girls was considered to be a relationship between an older and a younger student. Whether this image was accurate or not, such hierarchical relationships were generally regarded as both an extension of friendship and limited to youth, and thus not threatening to the social order. A prominent double suicide in July 1911 by two girls' school graduates, however, triggered a media sensation that saw intensified popular discussion of intimacy between women. Nonetheless, even after the incident, the subject of *esu* remained less threatening to the Japanese social order than its male counterpart.

Although it can be said that the custom of *esu* is on the verge of disappearing in Japan due to the decrease in the number of girls' schools after postwar educational reform, the reality remains unknown in present day. One survey conducted on women who do not identify as heterosexual indicates that the majority of them first fell in love with female friends in school. The first sexual experience for these women often took place when they were in their teens and twenties; for half of them, their first sexual experience was with a female partner. Kissing, foreplay, and vaginal stimulation are the most common sexual behaviors between these women. Gender role-playing, where relationships form between a masculine and a feminine partner, was not considered negative among the women surveyed.¹⁵

A postwar transgender community first emerged in the 1950s. It has consisted primarily of two groups: MTF transgenders themselves, and heterosexual men who fancy them. In 1979, a transgender salon called the Elizabeth Club opened to cater exclusively to MTF transgenders. In 1981, the club launched the journal *Kuīn* (*Queen*), which addresses Japanese MTF transgender culture. One of the main features of the journal was a self-photo shoot competition among subscribers. This kind of competition for perfecting female mannerisms and attire among MTF transgenders themselves led to a situation where the practice of MTF transgenderism/transvestism was often pursued as a competition among peers, instead of being aimed at a heterosexual male audience.

Since guidelines permitting sex reassignment surgery were introduced in 1997, a hierarchal categorization within the transgendered community has developed. Those who are medically diagnosed with gender identity disorder and choose to undergo SRS have been granted the greatest legitimacy. On the other hand, people who cannot or have not undergone SRS are considered "inferior" transgenders, and transvestites are placed at the very bottom of the hierarchy. Such taxonomical

validation has reinforced the traditional discourse on transgenders in general, which says “they are trapped in the wrong body.”

In terms of sexual preferences, demographically FTMs are generally attracted to females and thus desire heterosexual relationships. Among MTFs, the majority are attracted to men and similarly pursue heterosexual relationships, but a sizeable minority are also attracted to women.¹⁶

FAMILY

In Japan, it is the general consensus that the current constitution does not grant anyone the right to marry a person of the same sex due to Article 24, which states that a married couple consists of a male and a female. Since it would be necessary to win over two-thirds of the vote in both houses of the national Diet, and a majority of votes in a national referendum, in order to amend Japan’s Constitution, it is at present considered too difficult to expand the definition of marriage to include homosexual couples. Although Japan’s divorce rate over the last decade has been much higher than its past average,¹⁷ the heterosexual married couple continues to hold normative status in society. In this regard, it is more reasonable and realistic for LGBT activists to lobby for the legalization of same-sex partnerships. In the meantime, there is a law available for homosexual couples to utilize strategically in order for their relationship to be legally recognized; they can claim the legal guardianship of their partner through the adoption law, *futsū yōshien gumi*, as defined in Article 792 of the Civil Code. Despite the fact that this law mainly applies to persons who wish to adopt minors, the law technically allows homosexual couples to claim a familial relationship whereby related legal rights are granted.¹⁸

Within Japan, all individuals with Japanese nationality are listed in a family register, or *koseki*, which renders the family the basic sociolegal unit to which individuals belong. The *koseki* normally consists of a married couple and their unmarried children. When children marry, their names are removed from the parents’ *koseki* and registered on a new *koseki* with their spouse. Although the newly married couple has the right to designate either the female or the male partner as the head of household on the *koseki*, in contemporary Japan the majority of newly married couples assign this title to male partner.¹⁹

The aforementioned 2003 law concerning GID allows individuals who have undergone SRS to change their gender on their *koseki*, but only under a strict set of criteria. An individual may only change her or his legal sex upon reaching the age of majority, which is currently 20 years of age. He or she must not be married at the time of application, must not have children, must have the reproductive organs removed as a part of SRS, and, finally, must have surgically obtained the external genitalia of the gender to which she or he wishes to be legally reassigned.²⁰ Thus, the law only affords formal recognition to those willing to undergo pathologization as suffering from GID and surgical correction of that disorder, who subsequently will not intervene or impose any threat to the traditional definition of marriage and parenthood in Japan.

COMMUNITY

The concept of an LGBT community is relatively recent in the history of Japanese LGBT culture. There is very little documentation of groups or associations

of homosexual people with the specific aim of initiating political movements prior to the postwar era. Soon after the war, however, numerous groups and social communities for homosexual people, almost exclusively for gay men, started to appear. Liberated from wartime repression of speech and expression, the immediate postwar Japan saw a burst of publications on sexual customs. Literature, magazines, and movies were the main media that gave both representation of and voice to homosexuals. Among these, from the late 1940s to the 1950s, writers and readers of what can be termed as *kasutori zasshi* (pulp magazines) or *hentai zasshi* (perverse magazines) enthusiastically discussed a diverse range of human sexuality, including homosexuality, bisexuality, and sadomasochism. Over time, the writers and readers of those magazines who were homosexuals began to create groups for men with homosexual desires and interests. A group called Fuzoku kagaku kenkyūkai (Research Group for Sexual Customs) was one of the earliest of these.²¹ Some prominent writers were involved in launching the first exclusively gay male oriented magazine in the history of Japan, called *ADONIS*, a noncommercial publication available only by subscription and published between 1952 and 1962. From 1971 onwards, a sense of community among gay men was further developed through the birth of the nationally distributed gay magazine *Barazoku*.

While there has been an increasing amount of collaboration between the lesbian and gay communities in recent years, the lesbian community has its own distinct history. By the late 1960s, more than 20 lesbian bars, called *rezu bā* (lez bars), existed in Tokyo.²² Those bars were usually frequented by heterosexual customers, however, but patrons were served by female hostesses in male clothes. Those bars started to disappear by the mid- to late 1970s. In June 1985, the first female-run bar to target lesbian-identified customers opened for business in Shinjuku ni-chōme, the biggest gay neighborhood in Tokyo. Today, there are fewer than 10 lesbian bars in Shinjuku ni-chōme, and a few in other major metropolitan areas, a paltry sum in comparison with the impressively large number of gay bars around the country.

While lesbian bar history seems to contradict this, the establishment of the Japanese lesbian community is generally considered to have occurred with the inauguration of the Tokyo-based lesbian organization *Wakakusa no kai* (Young Grass Club) in 1971. During its 15 years of existence, at least 500 women were members.²³ The main purpose of the group was to help women meet other women who were interested in pursuing romantic relationships. In contrast with the lack of social activism displayed by the Young Grass Club, in the mid-1970s self-identified lesbian feminists began to fight for social and political rights. Lesbian feminism developed from the women's liberation movement, which itself emerged in 1970. Lesbian feminists went on to publish several small magazines in 1976 through which to pursue their own activism.²⁴ In 1987, the community center for lesbians, *Regumi Sutajio Tokyo* (Lesbian Group Studio Tokyo), was created, and became the networking hub for lesbians in Japan.

In 1990s, the lesbian writer *Kakefuda Hiroko* played a significant role in critiquing Japanese heterosexism from a lesbian point of view. She was also involved in publishing a new lesbian community-based magazine, *LABRYS* (1992–1995), and establishing a community center for lesbians and bisexual women called *LOUD* (Lesbians of Undeniable Drive) in Tokyo (1995–present) to encourage the generation of Japanese lesbians who were born in the 1960s and 1970s to participate in activism.

Until the first half of the 1990s, there was criticism of bisexual women among the lesbian community. The controversy was in regard to whether bisexual women should be allowed to take part in lesbian events. Although discrimination against bisexual women within the lesbian community did not entirely disappear, Uiminzu uikendo (Women's Weekends) was inaugurated as a community event mainly for bisexual women in 1993, followed by Uiminzu Bainetto (the Women's Bisexual-Network) in 1994. Kakefuda assured her readers that her magazine and organized community centers such as *LABRYS* and *LOUD* were devoted to "lesbian and bisexual women" in order to show her consideration and support for bisexual women. Furthermore, the commercial magazines such as *Furiine* (Phryné, 1995), and *Aniisu* (Anise, 1996–1997, 2001–2003) also expressed their understanding of and support for bisexual women by formally describing themselves as being targeted at "women who love women," and also prominently featured bisexual women in their pages, which served to increase the visibility of bisexual women in the community. As a result of these efforts, by the late 1990s, explicit discrimination against bisexual women among lesbians became increasingly rare.

As for the transgendered activist community, Torai Masae published the first Japanese self-help magazine for people with gender identity disorder, *FTM Nippon* (FtM Japan, Asian TS Club), in 1994. At the same time, as the Saitama Medical University worked to conduct the first SRS surgery in Japan, the transgender organization Trans-Net Japan (TNJ) was established. TNJ worked with a coalition of medical institutions and authorities and organized workshops and study groups for transgendered people and their families. However, as the medicalization of GID increased, fewer transgendered people allied themselves with other gender minorities, especially feminists, critiquing the gender binary in society. In particular, transgendered people located in the Tokyo area withdrew from the coalition and went so far as to create a group exclusively for transsexuals. On the other hand, it seems that groups in Osaka continue to be more willing to network politically with other gender and social minorities, such as *buraku* people.

HEALTH

In response to fears of harassment and prejudice, many LGBT people in Japan seek medical treatment and attention without disclosing their sexual and gender orientation. They are also denied the right to extend their health insurance to their partner, subjecting LGBT people to mental and economic vulnerability.

In Japan, access to reproductive medical technologies is limited to married or de-facto heterosexual couples. Therefore, lesbian and bisexual women are excluded from a supportive environment for reproduction. As a consequence, they are forced to seek opportunities for insemination independently through their male peer network or via foreign artificial insemination services. Successful cases through such procedures are still rare, and lesbian mothers can expect to face economic and social difficulties in raising their children. One support group, *re mazā no kai* (1993-present), does its best to provide a supportive environment and information for lesbian mothers.

There has been little research conducted on the mental health of lesbians in Japan. There exists only one survey from 1998 addressing lesbian and bisexual women's concerns and experience regarding their sexuality. According to the data, 73.2 percent had never seen or consulted with counselors or psychiatrists in order

to come to terms with their own sexuality, whereas 24.2 percent said that they had, and 1.6 percent were even hospitalized for that reason. Of the women surveyed, 18.7 percent had attempted suicide at some time, and 56.2 percent had considered it but never pursued it. Other results from the survey indicated that lesbians and bisexual women tended to suffer from a sense of isolation caused by anxiety about their own sexuality.²⁵ As for the mental health of gay men, studies show that 64 percent have thought of committing suicide, and 15.1 percent have actually attempted it.²⁶ Gay men who have come out to many people, as compared with those who have not, tend to have less anxiety about their inner self and maintain high levels of self-esteem. Furthermore, the more acceptance they receive, the less internalized homophobia they have.²⁷ Among reported cases of HIV infection, gay men make up more than 50 percent of the total in Japan. The younger generation of gay and bisexual men makes up a much higher percentage of those infected than other population groups.²⁸ The increasing infection rate is a serious concern for the gay community in Japan.

Since the late 1990s, the discussion of health for transgendered people has revolved around the treatment of GID. As noted, the Japanese Society of Psychiatry and Neurology acknowledged GID as a mental disorder in 1997, and specified treatment guidelines closely following foreign precedents such as those established by the Henry Benjamin International Gender Dysphoria Association (e.g., *Standards of Care [SOC]*). They include a specific requirement that a significant number of medical institutions need to be jointly involved in the treatment process.

Following the *SOC* and *DSM-IV*, treatment was initially conducted in multiple stages. First, the patients went through counseling with psychiatrists, and then proceeded to hormone therapy. After these two stages were completed, patients could have sex reassignment surgery. However, the national health insurance only covered the initial counseling costs. In 2006, the guidelines were revised so that now the three-stage procedure is no longer compulsory. The new guidelines also specify that the choice of treatment should be made on an individual basis. While these changes can be perceived as positive steps for many transgendered patients, it is worth noting that the revisions also advise that patients should be solely held responsible for any problems caused by the choices or decisions they make during the course of their treatment. This way of shifting the responsibility onto individuals can be read as another example of the rapidly accelerating neoliberalist condition of present-day Japan.

By 2003, it was reported that approximately 2,200 people had been diagnosed as GID patients. Many issues concerning patients with GID still largely remain unresolved. They are still made to bear sole responsibility for the costs of hormone therapy and SRS. Furthermore, the market price for the hormone pills is extremely arbitrary. As a result, patients are often vulnerable to manipulation by the dealers. Some have no other choice but to purchase cheaper hormone pills from overseas through the Internet and face the higher risk of suffering from related side effects. A parallel can be found in the costs of surgery. Because of the high cost of surgery in Japan, a growing number of Japanese patients choose to go overseas, especially to countries such as Thailand, to have the surgery done at a relatively lower cost.

Lastly, the media has used the notion of eugenics to manipulate the condition of intersexed people in Japan. Most newborn babies with ambiguous reproductive organs have been forced to undergo surgery to determine their gender. In 1989, categories such Congenital Adrenal Hyperplasia were added to the guidelines for

conducting mass-screening for birth defects in all newborn babies, further pathologizing intersexed people. Since the late 1990s, intersex activist have criticized such guidelines as “eugenics fundamentalism.” In Japan, a parent has two weeks to submit a birth certificate for a newborn infant, including a report of the gender. If the sex of the infant cannot be determined by its external genitalia, the period can be extended until the child reaches 20 years of age. Some intersex activists and feminists have argued that such legal conditions should be expanded and applied to all individuals in order to determine their own sex based on their own will, rather than having parents or the medical authorities make the decision.

POLITICS AND LAW

In Japan, an individual’s gender is legally recorded in the *koseki* (family register). After the first sex reassignment surgery was conducted in 1998, the government was confronted with the need to propose legislative measures to accommodate the needs of postoperative transsexuals. Since the government was reluctant to amend the relevant clause of the Civil Code, it sought a solution by enacting a special amendment to the existing family register law. This was how the aforementioned law concerning GID people was passed in 2003. Since the law became effective in July 2004, more than 500 applications from individuals who wish to change their legal gender have been approved.

Further advancement of LGBT civil rights in Japan goes hand in hand with the nation’s recent campaign for human rights education. In response to external pressure, such as the United Nations Decade for Human Rights Education (1995–2004), the Japanese government passed the Human Rights Protection Act in 1996. The Human Rights Protection Bill, which was proposed to the Diet in 2002, was the first comprehensive legal outline of human rights protection in Japan in which the term “sexual orientation” was included in the list of socially disadvantaged groups in need of fair treatment and respect in society. At the same time, the bill was subject to severe criticism for its inclusion of provisions that would restrict the media and its potential to limit the rights of citizens to access information. As a consequence, the bill was rejected in 2005, and has not since been resubmitted to the legislature. Although the government’s proposal of the bill was largely in reaction to external pressure, efforts by LGBT activists and lobbyists have also pushed the government toward creating better social conditions for sexual minorities.

RELIGION AND SPIRITUALITY

The relationship between LGBT culture and religion in Japan is complex. Unlike many other countries, there is no proscription of either homosexuality or homosexual acts in the postwar Japanese constitution and criminal laws, nor was there ever, except during a brief period in the 19th century. Moreover, in contrast to Christian and Muslim doctrines, which in some cases have been formally adopted as state religions, there have been few instances of the chief Japanese religions, Buddhism and Shinto, aggressively condemning homosexual behavior in terms of morality. Consequently, the gay and lesbian liberation movement since the latter half of the 20th century has never identified any religious group as a fundamental source of homophobia in Japan. Activists have instead criticized traditional

dimensions of the Japanese social structure that deems homosexuality as ultimately “beyond the pale.” This criticism is in reference to the idea that homosexual behavior can be tolerated as long as an individual pursues his or her social responsibility and familial obligations. For a male, so long as he fulfills his duties of marriage, reproduction, and looking after the welfare of his family, covert homosexual behavior would not create any social disturbance. This notion of family obligation was rigorously enforced under the Meiji Civil Code, in which the smallest unit in society was inscribed within the category of the *ie* (house or family), which today is formalized via the previously mentioned *koseki* system. Similar to a religion, the ideology of what can be termed as family centrism in Japan functions to hinder many LGBT people from pursuing nonheterosexual lifestyles and identities. Explicit conflict between religious conservatives and LGBT activism has yet to be observed in Japan, with the exception of certain Christian communities.

VIOLENCE

Japan’s crime rate is one of the lowest among developed countries.²⁹ However, the notion of hate crimes against LGBT people has not been recognized in Japan. In February 2000, one gay man was murdered by several attackers in Yumenoshima Ryokudō Park, located in Shinkiba, Tokyo. The park is widely known in the area as a cruising spot for gay men. A similar incident occurred at the same location in July 2006. This time, a gay man who was cruising for a sex partner was brutally bashed and robbed by high school students. Neither case led to rigorous public discussion about the need to protect sexual minorities from violence and hate crimes based on their sexual orientation.

There have been no reported cases of hate crimes against lesbians or bisexual women.

Because the lesbian community has been strongly influenced by lesbian feminist discourse, which strongly links violence and masculinity, violence between women was not sufficiently recognized within the community until the 1980s. However, after the notion of domestic violence was introduced into Japan in the 1990s, this issue has gradually come to the surface. Meanwhile, the Law for the Prevention of Spousal Violence and the Protection of Victims (2001, revised in 2004) defines domestic partners in terms of conjugal or nonmarital heterosexual relations, thereby not accommodating homosexual couples in its legislation. As a consequence, homosexual people, whether the victim or assailant in cases of domestic violence, do not have access to public support and counseling services, and are forced to solve such problems on their own.

Overt forms of violence against LGBT people in Japan from the police, religious groups, and society in general are a rare occurrence. However, representations of LGBT people on television and in other media are often manipulated. For example, such representational violence is salient within the aforementioned YA/OI/slash genre of comic books, in which women readers consume and appropriate images of sexual and romantic intimacy between men.

OUTLOOK FOR THE 21ST CENTURY

In discussing the future prospects of Japanese LGBT culture, one needs to take into serious account the complex relationships that they have and will continue

to have with the ever-growing influence of globalization. The development of media technologies such as the Internet, which transcends national and cultural boundaries in an unprecedented manner, will confront Japan with the need to come up with new ways of understanding what constitutes a Japanese LGBT culture.

RESOURCE GUIDE

Suggested Reading

- Sharon Chalmers, *Emerging Lesbian Voices from Japan* (New York: Routledge Curzon, 2002).
- Noriaki Fushimi, *Kuia paradaisu [Queer Paradise]* (Tokyo: Shōei sha, 1996).
- Yuri Horie, “Rezubian” *toiu ikikata: kirisutokyo no iseiaishugi wo tou [A “Lesbian” Way of Living: Questioning the Heterosexism of Christianity]* (Tokyo: Shinkyō shuppan sha, 2006).
- Kumiko Ikeda, *Sensei no rezubian sengen: tsunagaru tame no kamuauto [A Teacher’s Lesbian Declaration: Coming out to Connect]* (Tokyo: Kamogawa shuppan, 1999).
- Yuriko Ino, *Rezubian de aru “watashitachi” no sutōri [The Stories of “Ourselves” Being Lesbians]* (Tokyo: Seikatsu shoin, 2008).
- Marō Izumo, *Manaita no ue no koi [Love upon the Chopping Board]* (Tokyo: Takarajima sha, 1993).
- Hiroko Kakefuda, “Rezubian” *de aru, to iu koto [On Being a “Lesbian”]* (Tokyo: Kawade shobō shinsha, 1992).
- Mark McLelland, *Queer Japan from the Pacific War to the Internet Age* (Lanham, MD: Rowman and Littlefield, 2005).
- Kanako Otsuji, *Kamingu auto: jibunrashisa o mitsukeru tabi [Coming out: A Journey to Find Yourself]* (Tokyo: Kōdan sha, 2005).
- Gregory Pflugfelder, *Cartographies of Desire: Male-Male Sexuality in Japanese Discourse, 1600–1950* (Berkeley: University of California Press, 1999).
- Michiru Sasano, *Coming OUT!* (Tokyo: Gentō sha, 1995).
- Rei Tanaka, *Toransujendā femizumu [Transenders and Feminism]* (Tokyo: Impakuto shuppan kai, 2006).
- Masae Torai, *Onna kara otoko ninatta watashi [I Became Man from Woman]* (Tokyo: Seikyū sha, 1996).
- Hitomi Toyama, *Otokotoshite ikiru josei tachi: MISS dandī [Women Living as Men: Miss Dandy]* (Tokyo: Shinchō sha, 1999).
- Keith Vincent, Takashi Kazama, and Kazuya Kawaguchi, *Gei stadīzu [Gay Studies]* (Tokyo: Seido sha, 1997).
- Tsuneco Watanabe, *Toransujendā no bunka: isekai e ekkyō suru chi [Transgender Culture: Transgressive Knowledge toward a Different World]* (Tokyo: Keisō shobō, 1989).

Organizations

- akta, <http://www.rainbowring.org/akta/>.
Organizes diverse AIDS prevention campaigns. It is part of the Japanese Foundation for AIDS Prevention.
- Angel Life Nagoya, <http://aln.sakura.ne.jp/>.
Based in Nagoya, the group organizes HIV and AIDS prevention campaigns, and has been active in the organization of the annual Nagoya Lesbian and Gay Revolution pride event.
- ESTO, <http://akita.cool.ne.jp/esto/>.
Provides support and information for people with gender identity disorder.

Flying Stage, <http://www.flyingstage.com/>.

The only theatrical company in Japan that self-identifies as a “gay theater group.”

G-FRONT Kansai, <http://www5e.biglobe.ne.jp/~gfront/>.

Offers a network and organizes events for sexual minorities.

gid.jp, <http://gid.jp/>.

Involved in lobbying activities for improving the legal conditions facing people with gender identity disorder.

Hokkaido sekusharu mainoritī kyōkai (Hokkaido Sexual Minority Association) Sapporo

Meeting, <http://pablo1974.com/hsa/>.

Provides self-help support services for sexual minorities.

Japan Association for Lesbian and Gay Movement (OCCUR), <http://www.occur.or.jp/a/a001top.htm>.

Located in Tokyo, the group provides counseling services, legal advice, and HIV prevention information for sexual minorities.

Japan Association for Queer Studies, <http://queerjp.org/>.

Academic association that organizes an annual conference and publishes an annual journal.

Kweeya, <http://kweeya.jp/>.

Offers space for organizing social events for sexual minorities. It also publishes an e-magazine.

KyoseiNet for LGBT, <http://kyoseinet.blog25.fc2.com/>.

A nonpartisan LGBT lobby group campaigning for lesbian, gay, bisexual, intersex, and transgender visibility and human rights in Japan.

LOUD (Lesbians of Undeniable Drive), <http://www.space-loud.org/loud/>.

Provides a space for lesbian and bisexual women.

“Ningen to Sei” Kyōiku kenkyū kyōgikai, <http://seikyokyo.org/index.html>.

Coordinates sex education in schools and provides information for families. It also publishes a quarterly magazine, *Sekushuaritī* (*Sexuality*).

PA/F SPACE, <http://www.pafspace.com/>.

Provides a space for organizing support groups and events for sexual minorities and feminists.

Peer Friends, <http://www.taigaweb.jp/pf/0410new/top.htm>.

Provides a peer network for gay youth.

Peer Support For Inter Sex (pesfis), <http://hwbb.gyao.ne.jp/pesfis-pb/>.

Convened by Hashimoto Hideo, it provides support and information for intersex children and their family members.

Pureisu Tokyo, <http://www.ptokyo.com/>.

Provides support for people with HIV and organizes AIDS prevention campaigns.

QWRC (Queer and Women’s Resource Center), <http://www.qwrc.org/>.

Functions as an information center for LGBTI culture and feminism.

Rainbow College, <http://rainbowcollege.blog68.fc2.com/>.

Provides a network for LGBT students in schools.

Regumi Studio Tokyo, <http://regumi.sakura.ne.jp/>.

The oldest existing lesbian organization in Japan. It publishes the monthly newsletter, *Regumi tsūshin* (*Regumi Journal*).

Re Mother, <http://www.geocities.co.jp/Milkyway-Sirius/4157/>.

Organizes events for lesbian mothers.

Sexual Minority.net, <http://sexual-minority.net/>.

Based in Fukuoka prefecture, the organization provides support services and legal consultations for the needs of sexual minorities.

Sexuality Teacher’s Network (STN21), <http://homepage3.nifty.com/stn/>.

Offers a network for LGBT teachers to share their experience and develop Japan’s education system on sexuality.

- Sukotan Project, info@sukotan.com, <http://www.sukotan.com/>.
Organizes workshops and events for homosexuals and provides counseling and social services.
- Tokyo International Lesbian & Gay Film Festival, <http://www.tokyo-lgff.org/>.
Organizes an annual queer film festival in Tokyo.
- Tokyo PRIDE, <http://www.tokyo-pride.org/>.
Organizes an annual parade for sexual minorities in Tokyo.
- Trans-Net Japan, <http://www.tnJapan.com/home.htm>.
Founded in 1996, it has functioned as a self-help group for people with gender identity disorder, transsexuals, and transgendered people.

Web Sites

- All About Japan—Homosexuality, <http://allabout.co.jp/relationship/homosexual/>.
Provides information about homosexuality.
- Anno Job Log, <http://d.hatena.ne.jp/annojo/>.
Blog dedicated to providing up-to-date information on gender identity disorder.
- Bravissima!, <http://www.bravissima.com//>
Provides information and an online community space for Japanese female sexual minorities.
- Gay Japan News, <http://gayjapannews.com/>.
News site that reports on LGBT issues from around the world.
- Girl's Paradise, <http://angel.squares.net/deai/girl.shtml>.
An online dating site for lesbians.
- G PRESS INDEX (GIX), <http://www.gpress.com/>.
Portal aimed at the interests of gay men.
- Intersex Initiative Japan, <http://www.intersexinitiative.org/japan/index.html>.
In collaboration with the Intersex Initiative in the United States, provides up-to-date information about intersex issues in Japanese.
- Men's Net Japan, <http://www.mensnet.jp//>
An online dating site for gay men.
- Minna no Kyanpasu, <http://lgbtresearch07.blog104.fc2.com/>.
Provides LGBT-friendly information to college students in Japan.
- Personal Web site of the male-to-female cross-dresser Mitsuhashi Junko, <http://www4.wisnet.ne.jp/~junko/>.
Provides a detailed historical account of Japan's cross-dressing culture.
- STAGPASS, <http://www.stag.jp/>.
Portal aimed at the interests of gay men.

Films

- Bara no sōretsu (Funeral Parade of Roses)*, DVD, directed by Matsumoto Toshio (1969; ATG, 2004). A “reverse Oedipal story” set in late 1960s Shinjuku, Tokyo where perversity is ubiquitous.
- Senjō no meri kurisumasu (Merry Christmas, Mr. Lawrence)*, DVD, directed by Oshima Nagisa (1983; Shōchiku, 2000). A homoerotic story between men set in a Japanese military prison camp on Java during the Second World War.
- Shugā suīto (Sugar Sweet)*, DVD, directed by Desiree Lim (2001; ENGEL, 2001). This film tells the story of Naomi, a female film director of lesbian pornographic videos who endeavors to rescue lesbian subjectivity by creating a lesbian film for lesbians, in contrast to the vast majority of lesbian-themed pornography which is aimed at and largely consumed by a heterosexual male audience.
- Hatachi no binetsu (A Touch of Fever)*, DVD, directed by Hashiguchi Ryosuke (1993; Nihon Herarudo, 2004). Depicts lives of male school-aged hustlers in the Shinjuku ni-chōme district of Tokyo.

Shōjo kakumei Utena: Adoressensu mokushiroku (Revolutionary Girl Utena: Adolescence Apocalypse), DVD, directed by Ikuhara Kunihiko (1999; Bipapasu, 2000). A film version of the popular animation *Revolutionary Girl Utena*. The film tells the story of a girl who cross-dresses and is transferred to a prestigious boarding school is Utena. She and her friends fight to obtain a revolutionary power to transform the world.

Yurisai (Lily Festival), VHS, directed by Hamano Sachi (2001; Tantan sha, 2001). Filmed by a female director of soft-core pornographic movies, it narrates elderly women's sexuality from a lesbian point of view. It won the grand prix at the Philadelphia International Gay & Lesbian Film Festival.

Mezon do Himiko (La Maison de Himiko, The House of Himiko), DVD, directed by Inudo Isshin (2005; Asumikku Esu, 2006). Set in a retirement home, the story unfolds itself through a complex relationship between elderly Himiko, whose life will soon to end due to cancer, a young man who loves Himiko, and Himiko's daughter, who loathes her father.

NOTES

Japanese names are written here in the traditional Japanese order: that is, surname first, except where the person concerned has adopted English conventions, including the three authors. Long vowels in Japanese are indicated with macron (e.g., Shintō), except for words commonly rendered in English without them.

1. For more detailed information on Japan's geography, see Richard Bowring and Peter Kornicki, eds., *The Cambridge Encyclopedia of Japan* (Cambridge: Cambridge University Press, 1993).

2. Ministry of Health, Labour and Welfare, "Nihonjin no heikin jumyō" ["Average Life Expectancy of Japanese People"], <http://www.mhlw.go.jp/toukei/saikin/hw/life/life05/index.html> (accessed May 3, 2008).

3. For more detailed information of this discussion, see Hitoshi Ishida, Mark McLelland, and Takanori Murakami, "The Origins of 'Queer Studies' in Postwar Japan," in *Genders, Transgenders and Sexualities in Japan*, ed. Mark McLelland and Romit Dasgupta (New York: Routledge, 2005), 33–48.

4. For an elaborated discussion of this issue, see Tetsurō Onitsuka, "Gei libu to eizu akutibizumu" ["Gay Liberation and AIDS Activism"], in *Kuia sutadiizu [Queer Studies]* '96 (1996): 124–37.

5. See Mark McLelland, *Male Homosexuality in Modern Japan* (Richmond, VA: Curzon, 2000), 32–37.

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10. Ministry of Economy, Trade and Industry, "Tsūshō hakusho 2007 nenban" ["Commerce White Paper 2007"], 2007, <http://www.meti.go.jp/report/tsuhaku2007/2007honbun/index.html> (accessed May 5, 2008).

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12. Cabinet Office, “Danjo kyōdō sankaku hakusho heisei 21 nenban” [“Gender Equality White Paper 2009”], 2009, http://www.gender.go.jp/whitepaper/h21/zentai/html/honpen/b1_s02_01.html (accessed July 14, 2009), http://www.gender.go.jp/whitepaper/h21/zentai/html/honpen/b1_s02_02.html (accessed July 14, 2009).

13. Hitoshi Ishida, “Research on Transgenders QOL: An Analysis and Estimation Based on a Social Survey,” in *The Toyota Foundation Research Grant Report* (Tokyo: The Toyota Foundation, 2004), 2.

14. See Noriko Iwai, et al., eds., *Nihonjin no sugata: JGSS ni miru ishiki to kōdō [The Shape of the Japanese: Their Consensus and Behavior from the Perspective of the JGSS]* (Tokyo: Yuhikaku sensho, 2002).

15. Research group for sexual consciousness, *310 nin no seiishiki: iseiaisha dewa nai ‘onna’ tachi no ankēto [Sexual Consciousness of 310 People: A Survey of Non-heterosexual Women]* (Tokyo: Nanatsumori shokan, 1998), 168, 182–84.

16. See Ako Takamatsu, “Gendā kurinikku no jissai” [“Facts of Gender Clinic”], *The World of Obstetrics and Gynecology* 51 (1999): 127–34. Also see Ishida, “Research on Transgenders QOL.”

17. The divorce rate rose from 1.28 in 1990 to 2.30 in 2002. In 2006, it had dropped to 2.04. For further details, see The Ministry of Health, Labour and Welfare, “Heisei 18 nen, jinkō dōtai tōkei nenkan suikei (2006)” [“Annual Estimate of General Condition of Vital Statistics, 2006 edition”], from <http://www.mhlw.go.jp/toukei/saikin/hw/jinkou/suikei06/index.html> (accessed May 5, 2008).

18. Ikuko Sugiura, Aki Nomiya, and Chizuka Ōe, eds., *Pātonāshipu/seikatsu to seido [Partnership & Life and the Legal System]* (Tokyo: Ryokufū shuppan, 2007).

19. For instance, see Ministry of Health, Labour, and Welfare, “Heisei 10 nen ban kōsō hakusho” [“White Paper (of Health and Welfare) 1998 edition”], 1998, <http://www.hakusho.mhlw.go.jp/wpdocs/hpaz199801/b0023.html> (accessed June 1, 2008).

20. In 2008, an alteration to the “no-child” policy was made. The House of Councilors voted in favor of a bill that proposed permitting GID patients with children to change their gender in their family registries. However, this is conditional on their children being adults at the time of the change.

21. Though the exact date of the association’s founding is hard to estimate, the advertisements for the association itself appeared in the magazine *Fūzoku Kagaku* as early as 1954.

22. Fumiko Shiba, “Essei 1960 nendai rezubian būmu: anokoro rezu wa ossharē datta” [“Essay on 1960s Lesbian Boom: Lesbians Were Trendy back Then”], in *Tanbishōsetsu gei bungaku gaidobukku [A Guidebook to Aesthete Novel and Gay Literature]*, ed. Eiko Kakinuma and Chiyo Kurihara (Tokyo: Byakuya shobō, 1993), 290–91.

23. Yumi Hirosawa, “Wakakusa no kai sono 15 nen no rekishi to genzai” [“Wakakusa no kai: The Fifteen Years of History and the Present of Wakakusa no kai”], *Onnna o ai suru onnatachi no monogatari [Stories of Women Who Love Women]*, *Bessatsu takarajima* 64 (187): 111–19.

24. For an elaborated discussion of this issue, see Ikuko Sugiura, “Activities of Lesbian Feminism in Japan: In the Second Half of the 1970s,” *Gender Studies* 11 (2008): 143–70.

25. Research Group for Sexual Consciousness, *310 nin no seiishiki: iseiaisha dewa nai ‘onna’ tachi no ankēto [Sexual Consciousness of 310 People: A Survey of Non-heterosexual Women]* (Tokyo: Nanatsumori shokan, 1998), 211.

26. Yasuharu Hidaka, “Gei/baisekushuaru danseï no mentaruherusu ni kansuru ankēto” [“A Survey Concerning Gay and Bisexual Men’s Mental Health”], <http://www.joinac.com/tsukuba-survey/> (accessed December 5, 2007). Also see Hidaka, “Gei/baisekushuaru danseï no isei-ai-teki kattō to seishinteki kenkō ni kansuru kenkyū,” 270.

27. Kazuya Ogino, “Gei danseï no naimenka saretā homofobia no teigen” [“A Decrease in Gay Men’s Internalized Homophobia”], *Nihon shinri gakkai dai 56kai taikai happyō ronbunshū [The Japanese Psychological Association 56th Annual Meeting’s Proceedings]* (2001): 644.

28. Hiroshi Hasegawa, Seiichi Ichikawa, Yuzuru Ikushima, and Noriaki Fushimi, “Nihon no gei komyunitī to HIV/Eizu” [“On HIV/AIDS and the Japanese Gay Community”], *Queer Japan returns* vol. 2 (Tokyo: Potto shuppan, 2006), 102–16.

29. Ministry of Law, “Heisei 19 nen ban hanzai hakusho no aramashi” [“Crime White Paper Outline, 2007 Edition”], 2007, <http://www.moj.go.jp/HOUSO/2007/index.html> (accessed May 5, 2008).

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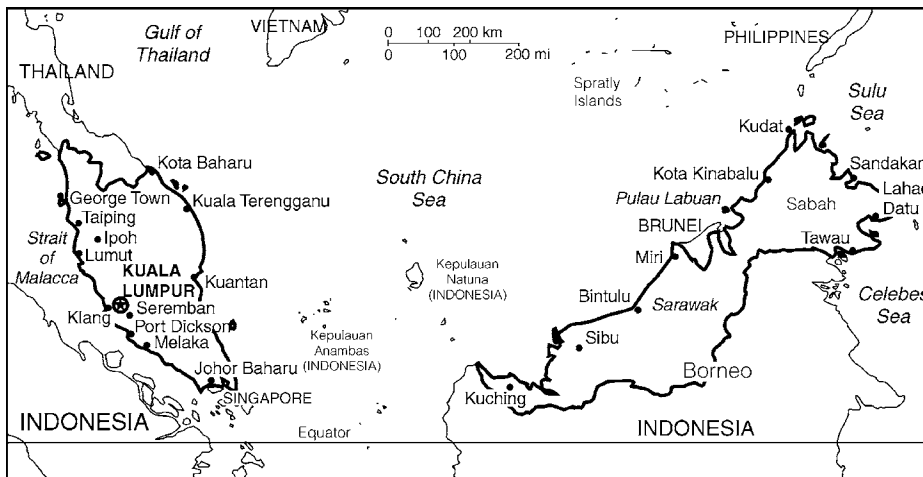
MALAYSIA

Beng Chang and Jesse Field

OVERVIEW

Malaysia, which is in Southeast Asia, occupies two landmasses on the South China Sea. To the west, there is peninsular Malaysia bordering Thailand and Singapore, and to the east, there is Malaysian Borneo bordering Indonesia, Brunei, and the Philippines. Malaysia is classified as a newly industrialized country. It has a strong economy based on manufacturing and international trade, bolstered by bountiful natural resources. The government of Malaysia is a constitutional monarchy, with a similar structure to the government of Great Britain. The population, as of 2007, was some 26.6 million people.

Sixty-two percent of the population is Malay, an ethnic group long settled on the island of Borneo and speaking Malay, an Austronesian language of ancient origin. The next largest ethnic communities are Malaysians of Chinese descent, making up 24 percent of the population, and Malaysians of Indian descent, at 8 percent. There are also many non-Malay indigenous groups (*orang asli*), mostly in the states of Sabah and Sarawak in Malaysian Borneo. Malaysians of European, Middle Eastern, and Eurasian descent also exist in still smaller numbers. Ethnic tension has been a factor in Malaysian politics throughout the 20th century and continues to the present day.



Malaysia is a former colony of the British Empire. British Malaya, carved out from separate Malay fiefdoms, was established over the course of the 18th and 19th centuries and was subjected to Japanese occupation from 1942 to 1945. After the conclusion of World War II, a Federation of Malaya was established with British protection. Almost immediately, the federation became the target of a communist insurgency that lasted from 1948 to 1960. The insurgency was put down, allowing for the formation of an independent Malaysia, including all of the former colonies of British Malaya, such as Singapore. The 1960s saw Malaysia participating in regional conflicts with Indonesia, ideological fissures with Singapore leading to an independent republic in 1965, and, in 1969, the eruption of race riots. In the years since, Malaysia's goal has been to develop stable relations with neighboring countries and to keep a delicate balance of power between all the country's major ethnic groups. LGBT Malaysians have tended to advocate for increased rights using the tactics established by other oppressed communities in Southeast Asia. The LGBT community strives to have equal participation of ethnic groups in much the same way that the Malaysian government does.

The spread of the AIDS epidemic into Southeast Asia has encouraged the formation of nonprofit organizations to raise awareness of prevention and treatment of the disease and to build LGBT communities along the way. Pink Triangle, founded in 1987, was the first of these organizations in Malaysia.

OVERVIEW OF LGBT ISSUES

In modern Malaysia, LGBT discourse is dominated by debates on social acceptance for the male-to-female transsexual community, on laws regulating sexual behavior, and on the treatment and prevention of HIV/AIDS. LGBT issues are effectively a microcosm of the broader discussions that Malaysians engage in every day: discussions on gender, ethnicity, the position of the country at home and abroad, the individual in society, and the rights of the media. The concerns of lesbians and LGBT couples are not as prominently featured as they are in the West.

Historical accounts verify that transsexual men (called *mak nyahs* in Malay) and effeminate men (*pondans*) were once accepted into mainstream Malay society, and even took up important community roles. The emergence of AIDS as a public health crisis in the 1980s caused a major shift in attitudes. AIDS was popularly linked to drugs and deviant sexual behavior, and the terms "homosexual" and "gay" entered public discourse as threats to the well-being of Malaysia.

Mahathir bin Mohamad, prime minister of Malaysia from 1981 to 2003, took advantage of the changing social climate and used charges of sodomy as part of a character assassination designed to remove from power the former finance minister and deputy prime minister, Anwar Ibrahim, in 1998. Although the charges against Anwar Ibrahim were widely thought to have been false, the forthrightness of the prime minister's accusations—he even appeared on television to declare Anwar guilty of sodomy while Anwar's trial was still pending—garnered him the support of the segment of the population that shared his opposition to Western values such as acceptance of homosexual behavior. In 1999–2000, Anwar Ibrahim was convicted of charges of corruption and sodomy and sentenced to 15 years imprisonment. Although the sentence was overturned in 2004 in the federal courts—mere months after Mahathir Mohamad left office, justices commented that they considered the charge of homosexual behavior to be valid.

AIDS/HIV statistics began to emerge in the late 1980s, as health professionals were required by law to report cases of infectious diseases. There were panicked reactions to the crisis, including vitriolic speeches and homosexual witch hunts by Muslim imams in some states. Awareness of the issue was by contrast quite different in the more cosmopolitan capital city of Kuala Lumpur, where a group of “concerned gays and lesbians” began a very public effort to care of the sick and to promote awareness of how HIV/AIDS is actually transmitted.¹ This first non-governmental organization (NGO) in Malaysia devoted to AIDS treatment and awareness, known as Pink Triangle, managed to obtain tentative approval from the Ministry of Public Health. Pink Triangle became a venue for many gays and lesbians to come together and talk about their marginalization, in large part because of the association of AIDS with LGBT Malaysians.

By the 1990s, reports in the media about enforcement of the Penal Code 377, deeming sodomy an illegal act, made their way to the international media, giving an otherwise ignorable country—known mostly as a third-world country—prominence for hewing closely to Islamic orthodoxy and being intolerant. Refugee review boards in Western nations saw an increase of homosexual Malaysians seeking asylum under the UN Human Rights charter.²

Meanwhile, the continued development of Pink Triangle in Kuala Lumpur fostered derivative organizations, including new performance and creative artists. Press coverage of LGBT issues softened somewhat, especially with a public call against discrimination from Marina Mahathir, the activist daughter of Prime Minister Mahathir Mohamad. Other media figures followed, creating ever-larger rifts between the media and the government stance. A slow movement toward less morality-based government is being emboldened by similar developments in Singapore.

EDUCATION

The Malaysian Ministry of Education subsidizes and administers both K–12 and postsecondary education. While language and ethnicity remain major issues for education, LGBT communities are not.

EMPLOYMENT AND ECONOMICS

Malaysia is a newly industrialized country, with the 29th largest economy in the world, based primarily in international trade, manufacturing, and tourism. Malaysia has been a founding member of the Association of Asian Nations (ASEAN) Free Trade Network.

Social/Government Programs since 1992

Since the 1997 Asian Financial Crisis, Malaysia has maintained a strongly controlled banking system and keeps its currency, the Ringgit, tied to the U.S. dollar.

Between 1970 and 1990, Malaysia applied a relatively unique affirmative action program as part of the New Economic Policy (NEP). This policy was designed to relieve racial tension between ethnic Malays, ethnic Chinese, and other minorities, but was popularly judged to have privileged Malays and reduced members of other ethnicities to the rank of second-class citizens. Debate over the NEP and affirmative action still play a part in contemporary Malaysian economic and social policy.

SOCIAL/GOVERNMENT PROGRAMS

Malaysia does not have government-sponsored programs to promote LGBT communities.

SEXUALITY/SEXUAL PRACTICES

Safe sex gradually became a publicly discussed issue as HIV/AIDS infection rates grew in Malaysia in the 1980s and early 1990s. In 1992, the Malaysian Government formed the Malaysian AIDS Council (MAC) to coordinate the efforts all NGOs working on AIDS in Malaysia.

COMMUNITY

Transsexual men (*mak nyahs*) and effeminate men (*pondans*) were a historical part of Malay society before the large influx of migrants from China and India in the 19th and 20th centuries. The extent to which communities have learned to live with *mak nyahs* and *pondans* varies: from the acceptance of the few *mak nyahs* who have ceremonial roles in weddings for instance, to social isolation for the others. Some *mak nyahs* took on traditional household chores done by women, whereas *pondans*, if they can pass muster as masculine enough, have many more employment opportunities. Female-to-male transsexuals have had a much more difficult time carving out a niche for themselves, as women in general have limited autonomy.

The social climate for LGBT entertainers and performers in clubs and burlesque acts improved somewhat during the British tenure, in part to supply the colonialists' demand for night life. An uneasy coexistence for LGBT people followed the establishment of the independent Malay states in 1957. At the time, the logistics of nation-building preoccupied the public.

A conscious move towards eschewing imports in favor of cultivating local talent in the nascent broadcasting industry opened the gates for entertainers—who are excused from upholding societal norms because they are on the radio and television to put on a show. While some LGBT individuals found safe havens in the film and radio business, others continued to face community and familial pressures to conform and set up traditional opposite-sex households.

Burgeoning industrial demands in cities such as Kuala Lumpur, Penang, and Ipoh in the 1970s and 1980s drew on rural labor. Likewise, LGBT villagers migrated to the metropolis to seek out new jobs, forming communities along the way. The one *pondan* or *mak nyah* make-up artist/hairstylist in a hamlet could now be with others. Some of the *pondans* and *mak nyahs* entered the underground sex-industry.³ Documentation on lesbians and bisexual women is scarce, but available anecdotal commentary suggests that women's groups do not have much to do with the *pondans* or *mak nyahs*.

HEALTH

More open hostility toward gender- and sexually variant individuals gathered steam in the 1980s when reports that the main vectors of transmission for HIV were homosexual/bisexual men, prostitutes, and abusers of intravenous drugs.

Foreign corruption and leftover colonial sensibilities were already being blamed as the main culprits for widespread recreational drug use as well as for prostitution, and the spread of HIV in Malaysia was soon appended to this list.

Politicians and government ministers were quick to denounce the immorality of intravenous drug users and men who had sex with other men. The Malaysian leadership had been sanguine in reassuring the Malaysian populace that the spread of HIV was confined to drug addicts and homosexual/bisexual men. However, concerned citizens in the capital city of Kuala Lumpur were worried about the lack of care and support given to people with AIDS. In 1987, a coalition of individuals, initially called the Pink Triangle, became the first registered NGO to launch educational campaigns in the Kuala Lumpur metropolitan region on HIV/AIDS.

Although Pink Triangle was not officially formed to support LGBT individuals, it was widely known that Pink Triangle comprised mainly LGBT people. Even so, the Malaysian AIDS Council and the Ministry of Health chose to ignore the gayness of the group when they gave Pink Triangle—now artfully concealed under its nom de guerre as PT Foundation—public funds for HIV-prevention work and counseling for AIDS patients. This ambiguous attitude continues to the present day, as shown in the case of official pronouncements on condom use and safe sex. Although condoms are known to be effective in HIV prevention, Malaysian officials vigorously denounce their use, citing the Qur'an and the so-called laws of nature. Meanwhile, government aid is being channeled to organizations such as PT Foundation to disseminate information on safe sex practices.

Such double-speak is also evident in the business community. A growing demand for rubber prophylactics has caused a boom in the Malaysian latex industry, especially those manufacturing condoms and single-use medical gloves. As Malaysia is one of the largest producers of rubber, local latex manufacturers emerged as powerful players in the global marketplace. However, the local condom industry claims that their products are for export while underplaying their role in supplying condoms and money to PT and other organizations for education on safer-sex practices. Monetary backing from both the government and private sectors has helped PT in its work of dispelling myths about HIV and homosexuals.

Around the nation, LGBT people primarily heard the thunder of opprobrium: moralistic rants of religious and civic leaders, who in some extreme cases have proposed leprosy-type colonies and confinement for high-risk individuals such as homosexual, bisexual, and transsexual men and intravenous drug users. Official literature from MAC, which was distributed nationwide, focused on educating drug users not to share needles and exhorting Malaysians not to engage in “homosexual sex.” PT Foundation was able to get Malaysian AIDS Council to amend the literature to say “avoid unsafe sex” instead.⁴

POLITICS AND LAW

In a climate of increasing prejudice toward LGBT people in, former Prime Minister, Mahathir Mohamad summarily dismissed then-rival Deputy Prime Minister Anwar Ibrahim, on purported sodomy charges. Mahathir Mohamad seized on the increasing homophobic sentiment to gain support for throwing a political adversary in jail, while effectively deflecting criticisms that this was a political sabotage of Anwar Ibrahim.

Like many countries that inherited British statutes upon emancipation from the empire, Malaysia retained its Victorian legal sanctions against sodomy in the law books. Penal Code 377, also known by the same name in many other British Commonwealth nations, prohibits sexual relations between men. Although there have been no official statistics on the enforcement of code 377, there is widespread belief that it was only invoked sporadically. Human rights groups such as Amnesty International and government tribunals in Australia and Canada have made contradictory inferences about the frequency and severity with which code 377 has been officially used to intimidate, blackmail, or punish suspected persons.

But the invocation of code 377 by a sitting prime minister has encouraged greater institutional vigilance by the police and magnified the fear, anxiety, and unease among LGBT people in Malaysia. After years of sensational courtroom exposés, and legal reversals, Anwar Ibrahim was released after Mahathir Mohamad stepped down as prime minister in 2003. The frenzy and rhetoric of outrage over so-called deviant sexual behaviors has abated somewhat in the post-Mahathir administrations, but the psychosocial damage wrecked on the citizenry remains. Policing of LGBT groups and gatherings seems to have stabilized: there is now a continual dance of inaction followed by periodic raids of LGBT clubs and venues by the vice squad.

RELIGION AND SPIRITUALITY

The four major religions of Malaysia are Islam, Buddhism, Hinduism, and Christianity. The official religion of Malaysia is Islam. The Malaysian constitution grants religious freedom but also provides for Sharia courts with independent jurisdiction of the civil courts, to oversee such matters as marriage and apostasy among Muslims. Homosexual acts are illegal in the eyes of both civil courts and Sharia courts, but punishments are harsher under the Sharia code. The potential for prosecution makes it difficult for LGBT Malaysians to live openly and to form communities, but efforts at keeping the peace between Malay, Chinese, and Indian communities have created broad-based respect for privacy. Homosexuality has become more widely represented in the last 20 years in film, television, theater, and the mainstream press. However, the Malaysian government has politicized morality by accusing public figures of illicit behavior, including homosexuality.

VIOLENCE

Violence against LGBT people does not seem to be a major issue in Malaysia at this time.

OUTLOOK FOR THE 21ST CENTURY

LGBT individuals have come together to form groups, whether in person or through the Web, to plan social events and to offer help and support to community members. LGBT Malaysians may also be encouraged that their neighbor across the bridge, Singapore, has begun to adopt more progressive social agendas. High-ranking Singapore ministers are stating in public that LGBT people should be left

to live their own lives. There is hope yet for LGBT people, as Malaysia often looks across to Singapore to emulate its economic and social successes.

RESOURCE GUIDE

Suggested Reading

- Hamidah Atan, "United Nations Ill-Advised on Homosexual Laws," *New Straits Times* [Kuala Lumpur], February 8, 2004, <http://www.sodomylaws.org/world/malaysia/mynews035.htm>.
- Stephen O. Murray and Eric Allyn. "Two Islamic AIDS Education Organizations," in *Islamic Homosexualities: Culture, History, and Literature*, ed. Stephen O. Murray and W. Roscoe (New York: New York University Press, 1997).
- "Muslim Homosexuals: Thailand 'Easier Than Malaysia,'" *The Nation* [Bangkok], June 19, 2003.
- Shyamala Nagaraj and Siti Rohani Yahya, *The Sex Sector: An Unenumerated Economy* (Serdang, Malaysia: Penerbit Universiti Pertanian Malaysia, 1995).
- Olivia Su Lin Khoo, "Sexing the City: Malaysia's New Cyberlaws and Cyberjaya's Queer Success," in *Mobile Cultures: New Media in Queer Asia*, ed. Chris Berry, Fran Martin, and Audrey Yue (Durham, NC: Duke University Press, 2003).
- Yik Koon Teh, *The Mak Nyahs: Malaysian Male to Female Transsexuals* (Singapore: Eastern Universities Press, 2002).
- Women's Aid Organization (WAO). "Memorandum to SUHAKAM (Malaysian Human Rights Commission)," August 28, 2003, <http://www.wao.org.my/news/20030108ltesexuality.htm>.

Videos/Films

- Bukak Api* (80 min.) 2000. Directed by Osman Ali. Played at five film festivals, 2000–2004, but no commercial release. Sponsored by the PT Foundation to raise awareness of HIV in the transsexual community of Kuala Lumpur, Malaysia. <http://moojik.wordpress.com/2006/05/18/bukak-api-a-hiv-awareness-movie/>.
- '3R' (Respect, Relax and Respond) 1998–present. Red Communications Sdn Bhd. A progressive television show dedicated to issues relevant to women, including issues of women's health, sexuality and sexual rights. A taped episode with the theme of lesbianism was banned by the Film Censorship Board. http://www.3r.com.my/the_show.htm

Web Sites

- Fridae, <http://www.fridae.com/>.
Singapore-based resource for culture, information, and politics affecting LGBT people all over Asia, but with special focus on Southeast Asia and Australia.
- Malaysian TS Issues, <http://ai.eecs.umich.edu/people/conway/TS/MalaysianTS.html>.
A compilation of news articles, 1995–2001, with an introduction to the major issues facing transsexuals in Malaysia, by Lynn Conway.
- Utopia: Asian Gay and Lesbian Resources, www.utopia-asia.com/tipsmala.htm.
Introduction to LGBT life in Malaysia for travelers, with constant updates.

Organizations

- Human Rights Commission of Malaysia (SUHAKAM), www.suhakam.org.my/en/index.asp.
Formed in 1999, after Malaysia's election to the United Nations Commission on Human Rights (UNCHR) in 1993 heightened interest on human rights.

The Malaysian AIDS Council (MAC), www.mac.org.my.

Created by the Ministry of Health in 1992 as an umbrella organization overseeing all HIV/AIDS-related NGOs in Malaysia, the MAC offers a resource center, coordinates World AIDS Day, and provides direct assistance to people living with HIV/AIDS (PLWHAs).

The Pink News, www.pinknews.co.uk.

Europe's largest gay news service, with coverage extending to Southeast Asia.

PT Foundation (Pink Triangle), www.ptfinalaysia.org.

Formed in 1987, Pink Triangle provides information on AIDS that focuses on five vulnerable communities: drug users, sex workers, transsexuals, men who have sex with men (MSM), and people living with HIV/AIDS (PLWHA).

NOTES

1. Ismail Baba, "Gay and Lesbian Couples in Malaysia," *Journal of Homosexuality* 30 (2001): 147.

2. Research Directorate, Immigration and Refugee Board of Canada, 2004, "Responses to Information Request MYS42857.E," *Malaysia: The situation of Sexual Minorities* (January 2002–August 2004) retrieved from <http://www.irb-cisr.gc.ca/en/research/rir/?action=record.viewrec&gotorec=433731>.

3. Teh Yik Koon, *The Male to Female Transsexuals in Malaysia*, paper presented at the 4th International Malaysian Studies Conference, Universiti Kebangsaan Malaysia, August 3–5, 2004, http://pssmalaysia.tripod.com/msc/msc4_archive.htm (accessed July 14, 2009).

4. Stephen O. Murray and Eric Allyn, "Two Islamic AIDS Education Organizations," in *Islamic Homosexualities: Culture, History, and Literature*, ed. Stephen O. Murray and W. Roscoe (New York: New York University Press, 1997), 297–301.

MONGOLIA

Sukhragchaa Mijidsuren

OVERVIEW

Mongolia is located in Central Asia, and lies between China and Russia. It is a vast land and one of the last few places on the planet where nomadic life is still a living tradition.

The country is more than twice the size of Texas and even bigger than Alaska. It covers 618,000 square miles, which is four times the size of Japan, three times that of the Philippines, and almost the size of all Eastern Europe. This makes Mongolia the sixth-largest country in Asia and 18th-largest in the world, however its population is only 2.7 million people, thus making Mongolia one of the least dense areas in Asia. Forty percent of the population lives in the capital city, Ulaanbaatar. The Gobi desert region is even less densely populated.¹

Almost 40 percent of the population is scattered across Mongolia with their 30-plus million head of sheep, goats, cattle, horses, and camels. There are 21 *aimag* (provinces) and each has a central city or town; there are 15–22 subprovinces, called *soum*.

Seventy percent of Mongolia's population is under the age of 35. The gender ratio is close even. Ethnicity breaks down to 84 percent Khalkha Mongols, 6 percent Kazakhs, and 10 percent other groups.



More than half of Mongolia's people are Buddhists with a mix of Shamanism. Close to 10 percent are Christians, and 4 percent follow Islam. The rest identify themselves as atheists.

The official Mongolian language is Khalkha Mongol, and many people can understand both English and Russian although they are rarely spoken. Mongolians appreciate it when foreigners attempt to speak a few words in Khalkha.

Mongolia's geography is varied, with the Gobi desert in the south and cold, mountainous regions in the north and west. Mongolia consists of relatively flat steppes. The highest point in Mongolia is the KhA1/4iten Peak in the Tavan Bogd massif in the far west, with a height of 4,374 meters (14,350 feet). The basin of the lake Uvs Nuur, shared with the Tuva Republic in Russia, is a natural World Heritage Site.

The country is hot during summer and extremely cold during winter. January temperatures drop as low as -22 degrees Fahrenheit. It is also subject to occasional harsh climatic conditions, known as *zud*. A *zud* is a Mongolian term for a heavy snowy winter during which livestock face challenges to find fodder and grass through the snow cover, and huge numbers of animals die as a result of starvation and the cold. The average temperature in Ulaanbaatar is lower than any other capital in the world. In short, Mongolia is high, cold, and windy. It has an extreme continental climate with long, cold winters and short summers, during which most of the country's annual precipitation falls. There are approximately 257 cloudless days per year, and it is usually at the center of a region of high atmospheric pressure. Precipitation is highest in the north (with an average of eight to 14 inches per year) and lowest in the south, which receives four to eight inches annually. The extreme south is dominated by the Gobi desert, some areas of which receive no precipitation at all in most years.

OVERVIEW OF LGBT ISSUES

There are no special rights for LGBT people in modern Mongolia.

Mongolian society was traditionally a shamanic society until the late 17th century. Homosexuality was historically recognized and accepted as normal, even praised, according to ethnographic studies made in the late 19th and early 20th century by Russian and French ethnographers. This idea was supported by the revered status that shamans occupied in society, thanks to their spiritual importance in the lives of the local people. They connected the natural and spirit worlds to the human world. According to these ethnographic documents, the gender roles of shamans were often reversed: female shamans often married other women and lived the lifestyle of a man—dressing in male clothing, hunting, and drinking alcohol with other men—while male shamans were often married to men and lived a woman's lifestyle—dressing in female clothing, doing female chores together with other women, repairing and making clothing, and so on. Only the shamans, who had been able to rise above their birth gender due to the tradition of the shaman, were recognized to have achieved the true distinguished status of a shaman.

With the introduction of Buddhism in the late 17th century, the traditional acceptance of homosexuality did not appear to lessen, but was instead even further supported through the Buddhist doctrine of karma.²

According to the law of karma, a soul must journey through many earthly states from lifetime to lifetime, from incarnation to reincarnation, including a different

gender every time it is reincarnated, in order to achieve spiritual enlightenment. If the soul was supposed to be born into this world as a woman according to its karma, but ends up in a man's body, the soul will still retain its karma, that is, it will still have the life experiences of a woman. For a soul that was supposed to be reincarnated as a man according to its karma but is born as a woman, the soul will still go through the life experiences of a man. Furthermore, Tantric Buddhism preaches that homosexual activities are one of the ways to raise one's creative energy (*kundalini*) and gain enlightenment. One of the most amazing examples of the Buddhist normalization of homosexuality in Mongolia is a Mongolian religious sculpture of two clean shaven-headed male monks embracing in a sexual position. It is located in the Choijin Lama's Museum in Ulaanbaatar.

During socialist times, the government did not outlaw LGBT identities per se, but rather outlawed the immoral gratification of one's carnal needs via Section 113 of the Criminal Code of Mongolia. This section was modified after similar sections of criminal codes had been deleted from laws of the former Soviet republics. Historically, discussions about LGBT people were based on the socialist ideology, which was both good and bad. Since the government chose not to propagate extreme intolerance regarding the LGBT population, there was no public rhetoric on LGBT issues, and very little social awareness that LGBT people existed. On the other hand, being LGBT was made much more dangerous than before, since, if one was found to be homosexual, he or she could face years of imprisonment or incarceration in reform institutions, along with other human rights violations and social isolation.

However, the socialist system also discouraged "un-socialist immoral behavior," which gave rise to extreme fear and silence of LGBT people on concerning homosexuality-related issues and made it difficult for the LGBT community to discuss their problems openly before the democratization process began in the early 1990s.

The new constitution of 1992 recognizes fundamental human rights as well as civil liberties and political freedoms. However, it does not include nondiscrimination against the LGBT community. From early 1991 and 1992, with the introduction of cable television in Mongolia and the introduction of foreign movies and music channels, and the like, social attitudes began to change as people saw more examples of homosexuality in the foreign media. This made it possible for the LGBT community to make its issues public for the first time. The new freedom of the press also helped gay issues to reach the media. For example, two openly gay men, Gambuush and Naraa, were interviewed by the press in 2000.³ However, the mass media's ignorance of LGBT issues also led to poor reporting or sensationalizing LGBT people as being un-Mongolian. Also, due to the increased visibility of gay people, the risks for LGBT also increased in that they faced stigma and discrimination from society. Social attitudes toward LGBT became more intolerant than before and discrimination (even in art and television) and violence against homosexuals increased.⁴ Increased visibility always brings more risks to the marginalized communities; since there was more awareness in the straight community of the LGBT community that existed in their midst, the social attitudes toward LGBT persons became markedly intolerant when compared with those of socialist times. This gave rise to systemic discrimination, homophobic violence, and an incitement of violence against LGBT people through various homophobic television talk shows and popular art.

Now that the LGBT community is more aware of their rights, there have been more efforts made to desensationalize and improve the LGBT community's image through advocacy and community mobilization. However, one of the most troubling issues in regard to LGBT rights in Mongolia since democratization is the fact that the government began calling homosexuals a "threat to the national security" in early 2004 as a result of the HIV/AIDS panic in the country.

EDUCATION

The Mongolian education system was largely developed during the socialist period. As a result, illiteracy was virtually eliminated, in part through the use of seasonal boarding schools for the children of nomadic families. Funding for these boarding schools was cut in the 1990s, resulting in slightly increased illiteracy rate in recent years.

Primary and secondary formal education has recently been expanded to 11 years and is set to be expanded further, to 12 years, in the near future. Mongolian national universities are all subsidiaries of the National University of Mongolia and the Mongolian University of Science and Technology.

The broad liberalization of the 1990s led to a boom in private institutions of higher education, although many of these establishments have difficulty living up to their name of "college" or "university."

Sex education in schools does not exist. Many Mongolian parents, school teachers, and decision makers are too preoccupied with basic and more important subjects, including mathematics, chemistry, and Mongolian language to think about including sex education in their curricula. Education is regarded as the most important way to get ahead in social life, and therefore many Mongolians do not see any point in a sex education system.

One will find no information on homosexuality in public libraries in Ulaanbaatar. Instead, Mongolians learn the basics of sex education from their parents, who explain simple things about sexual organs and their functions through a well-established set of concepts or phrases. Generally, Mongolians do not openly and directly discuss sexuality concepts such as masturbation.

The Mongolian educational system is designed in such a way that it provides technical knowledge and skills for job performance, as in the Russian model. The social aspect is disregarded nowadays because there are no resources for sex education and people assume the society (traditions, family, or other groups) takes care of such things. Homosexuality is not mentioned in schools, and many people have no idea of its existence outside prisons and except for a few "mad," outspoken transvestites.

EMPLOYMENT AND ECONOMIC

The Mongolian economy is based on agriculture and mining. Mongolia has rich mineral resources, including copper, coal, molybdenum, tin, tungsten, and gold, which account for a large part of its industrial production.

There are over 30,000 independent businesses in Mongolia, mainly in Ulaanbaatar. The majority of Mongolians who live in rural areas participate in subsistence herding. Livestock typically consists of sheep, goats, cattle, horses, and Bactrian camels. Agricultural crops include wheat, barley, vegetables, tomatoes,

watermelon, sea-buckthorn, and fodder crops. The per capita Gross Domestic Product (GDP) in 2006 was \$2,100. Although the GDP has risen steadily since 2002, at the annual rate of 7.5 percent in an official 2006 estimate,⁵ the state is still working to overcome a sizable trade deficit. A massive (\$11 billion) foreign debt to Russia was settled by the Mongolian government in 2004 with a \$250 million payment. Despite growth, the proportion of the population living below the poverty line was estimated to be 35.6 percent in 1998, 36.1 percent in 2002–2003, and 32.2 percent in 2006; both the unemployment and inflation rates in 2006 were relatively high, at 3.2 percent and 6.0 percent, respectively.⁶ In 1991, the Mongolian Stock Exchange was established in Ulaanbaatar; it is the world's smallest stock exchange.

The government of Mongolia does not officially recognize the existence of LGBT persons within its territory. There is an overwhelming legal silence regarding the LGBT community, and no protection for homosexuals in the workplace. The words homosexual, lesbian, gay, transgendered, and transsexual do not appear in any of the country's laws or regulations. The only specific reference to gays or lesbians in Mongolian law is to identify homosexual men as a high-risk group for HIV/AIDS. Similar to other Asian countries, most transgendered Mongolians engage in sex work, since it is one of their only choices for employment. There is still considerable stigma and discrimination against homosexual people in the workplace, especially in the public sector. Heteronormativity is institutionalized in both social and legal spheres as a result of the state's silence and disregard of such issues as harassment against LGBT people, especially those who are transgendered.

Mongolia, a country of 2.7 million people, theoretically has nearly 300,000 LGBT citizens, though these numbers are unverified due to the complex problems of structural adjustment from a centrally planned economy to a market economy and the building of a democratic and open society have relegated basic human rights to the periphery. The government of Mongolia claims that only the development of the country is of the highest priority. In its efforts to alleviate increasing poverty and endemic social inequalities, the government is choosing the "Asian Way," a model of economic development that considers human rights to be incompatible with the overall goal of development. However, development that brings with it a more or less modified, but essentially the same old socialist/dictatorial regime of limited civil and political liberties is not development, but rather a reversal and regression to older, totalitarian conditions.

SOCIAL/GOVERNMENT PROGRAMS, SEXUALITY/SEXUAL PRACTICES

One of the changes in recent years has been a dramatic increase in sexual activity among adolescents, which has led to increased numbers of sexually transmitted infections and unwanted pregnancies and a heightened risk of HIV. When the Ministry of Health became aware of the health problems facing Mongolia's youth, it stepped forward to respond to the problem by proposing that sex education be made a mandatory component of health education in the school setting.⁷

International experience shows that early knowledge of HIV infection is necessary for stopping the spread of HIV infection. Fourteen years ago, Mongolia had only one gay man registered as HIV-positive. However, the situation has changed. As of July 2009 Mongolia has 56 cases of HIV infection and is considered at high

risk of an epidemic. All 56 cases were transmitted through unprotected sex.⁸ Of these cases, more than half were reported among the gay community. Stigma and discrimination and limited access to health, social, and legal services forces gays and bisexuals underground. This increases the chance that depressed individuals will engage in high risk behaviors, such as alcohol abuse, secret sex, and sex in situations where the use of condoms is unlikely. Unsafe sexual practices between men who have sex with men (MSM) are common, despite the implementation of a number of HIV preventive programs. The newspapers and media report that being gay is not normal and that HIV/AIDS seems a disease only for MSM (called *gomo* in the Mongolian language, which carries a negative connotation). On the other hand, this is the expression of knowledge and awareness of the Mongolian people about sexuality and HIV/AIDS.

FAMILY

Mongolians have never valued complex, extended families. During the 1980s, most lived in nuclear families composed of a married couple, their children, and perhaps a widowed parent. Families in urban area are larger than families in rural areas. It is thought that rural people tend to marry earlier and to set up new households at younger ages. The average size of families of rural areas also may reflect the high rates of migration to cities.

The tradition of herders calls for each married couple to have their own tent. At the time of their marriage, sons receive their share of the family herd. Usually one son, but not necessarily the oldest one, inherits the headship of the parental herd and tent. Other sons form new families with equivalent shares of the family herd. Daughters marry and follow their partners and do not receive a share of the natal family's herd. Adult sons and brothers often continue their close association as members of the same herding camp, but they may leave to join other herding camps whenever they wish. During the 1980s, herders were likely to continue to work closely with patrimony kinds, as *suuri*, a subdivision of the *negdel*, herding camps, consisted of fathers and sons or groups of elder brothers and their families. Herders no longer inherited livestock from their parents, but instead inherited membership in a herding cooperation. If cooperative officials granted custody of collectively owned animals and permission to hold privately owned stock on a family basis, which was how private plots were allotted in Soviet collective farms in the 1980s, then it would be to the advantage of newly married sons to declare themselves new families.

An important component of social status in Mongolia is one's family background, and social stratification has a certain implicit hereditary element. The shortage of skilled labor and the great expansion of white-collar occupations in the 1970s and the 1980s meant that families belonging to the administrative and professional elite were able to pass their status on to their many children, who acquired educational qualifications and professional jobs. At the other end of the social scale, only children of herders became herders. Some herders' children, perhaps as many as half, moved into skilled trades or administrative positions, while the rest remained with the flocks.

The modern family lifestyle is different from 1950s because most of the time herders' children live far from their families for almost the entire year. Children between the ages of seven and 15 live in boarding houses of the center of *soum*.⁹

Most Mongolian women are now in the paid work force, and many infants and young children are looked after on a daily or weekly basis in day-care centers or in all-day or boarding kindergartens. The efforts to bring women into the formal work force and to educate the dispersed herders have resulted in the separation of parents and children. There is some historical precedent for this in the practice of sending young boys to monasteries as apprentice lamas, which had previously been the only way to obtain a formal education for them.

As for acceptance of homosexuality in Mongolian families, this depends greatly on geography. Urban parents will not likely be too shocked to learn that their son is having sex with a girl, and rural Mongolians may actually have been more relaxed about these things in past years and they see sex as a part of natural, everyday routine. Homosexuality is a completely different story; all parents are likely to be shocked and initial reactions will be that of anger, desperation, and incomprehension. Fathers are often especially upset because boys are regarded in Mongolian families as the ones who continue the family's traditions and bloodline.

COMMUNITY

There are a few local LGBT community-based organizations (CBO) initiatives and one run by the United States Embassy in Mongolia.

Tavilan (Destiny), a nongovernmental organization (NGO), was founded in March 1999 by several Mongolian gay men and expatriate gay men then living in Mongolia. It was officially active between early 1999 and 2000. Since March 2000, after the NGO's registration license expired, it has continued its activities informally. The group's areas of concern and engagement within the LGBT community were in the gay male community of Ulaanbaatar, covering health, human rights, and advocacy. Tavilan provided safe-sex counseling to gay males, conducted small-scale advocacy among gay men aimed at empowering the community, and provided a psychological counseling hotline for all LGBT people in Ulaanbaatar from late 2000 through early 2001. The major achievement of the organization was that it established recognition of the idea that gay people exist in Mongolia.

The Mongolian Lesbian Community Information Centre (MILC) was founded in January 2004 as a project unit of the Mongolian Women's Fund, with funding provided by the Astraea Lesbian Foundation for Justice. It operated from January through October 2004. Since October 2004, it has operated as an online community center through its Web site for LGBT people of and in Mongolia—the first of its kind to be established in Mongolia. Since the initial Astraea funding concluded, the Web site's hosting funding has been provided through the personal donations of two lesbian women. The site's main areas of concern within the LGBT community are rooted in the lesbian and bisexual female community of Ulaanbaatar, as well as overall support and information provision for LGBT people throughout the country.

The organization has faced many problems, including a lack of human resources, harassment by national security agents calling the hotline and saying that the organization was guilty of propagating obscenity, and a loss of the host agency (Mongolian Women's Fund) support due to the potential loss of donors who may not want to support lesbian activities. The Mongolian Women's Fund did not list the project's name, the Mongolian Lesbian Information and Community Center, in their annual report, but instead called it a "Feminist Studies Centre."

However, its achievements included connecting, both online and in person, many younger lesbians and gays and helping them to feel confident enough to come out to their families and friends.

In May 2005, the U.S. Embassy in Ulaanbaatar asked for an official report on the status of LGBT people and dangers of living as an LGBT person in Mongolia in response to the many asylum applications that the U.S. State Department processes every year from Mongolian gays and lesbians. The U.S. Ambassador to Mongolia commented that it was time that the U.S. government taught the Mongolian government about human rights. However, this was difficult, as the Mongolian government continued with its public rhetoric of claiming gays were a threat to national security. Where internal security is concerned, the government of Mongolia has taken every chance to ignore the U.S. Embassy and the Department of State recommendations about the LGBT human rights citing governmental sovereignty in justification for its actions.

The NGO the “Youth for Health” Centre, was founded with the initiative of the gay community in Mongolia and was officially recognized by the government. The center obtained legal registration in 2003 from the Ministry of Justice and Home Affairs. Initial support was provided from the Mongolian National AIDS Foundation.

The Youth for Health NGO provides information and safe sex and STI/HIV prevention education not only in Ulaanbaatar, but also in two other major cities of Mongolia, Erdenet and Darkhan, through occasional visits there.

Many Red Cross Youth Peer Education activities are targeted at mainstream youth. Increasingly, the Red Cross is recognizing that the most vulnerable in a society often miss out on these educational opportunities and are at far greater risk of HIV/AIDS and other sexually transmitted infections. MSM are one group that may not always define themselves as distinct or separate from heterosexuals. Some men may only have sex with another man once, others only occasionally, and still others engage in sex with other men regularly. Some may identify as homosexual, but most will not. Designing specific activities for MSM is possible, for example, if the gay groups outreach projects targets cruising areas and gay nightclubs, but many MSM (especially young men) are more likely to attend mainstream projects for information without disclosing their sexual practice.

The We are Family NGO has as its mission to provide information about how MSM can stay healthy and helps them to learn how to protect themselves and their partners from HIV/AIDS and change the social understanding of sexuality. The group also works to prevent sexual violence against the LGBT community. It provides peer educators for the MSM program, condom promotions are organized in MSM cruising areas once per month, and they provide LGBT consultancy, hotline consultancy, and HIV/AIDS prevention education. The LGBT community of Mongolia is involved in the organization’s activities for capacity building and the student volunteer program.

We are Family cooperates with journalists and health workers to give the right message to the general public about sexuality. Surprisingly, correct information and articles on LGBT sexuality does appear in the daily newspapers. We are Family also sponsors group discussions. The group discussions by MSM peer educators among the heterosexual community and with MSM groups gives more information about sexuality and HIV/AIDS, including: reproductive health education development, sexuality and gender, myths and word of mouth, sexual behaviors, sexual relations,

sexually transmitted infections, HIV/AIDS, sexual harassment, drug and alcohol abuse, assertiveness training (how to say no), and how to use a condom.

HEALTH

Health care in Mongolia is rapidly improving, leading to a longer life expectancy and a drop in infant and child mortality. The average fertility rate is around 2.25–1.87 per woman (2007) and average life expectancy is 67–68 years. Infant mortality is at 1.9–4 percent, and the child mortality rate is at 4.3 percent.

There are 27.7 physicians and 75.7 hospital beds per 10,000 inhabitants. There are very few LGBT health workers in Mongolia, and these are found only in Ulaanbaatar.

POLITICS AND LAW

Mongolia is a parliamentary republic. The people elect the Parliament and it, in turn, elects the government. Members of Parliament are usually elected every four years. Mongolia's constitution guarantees full freedoms of expression, religion, and others. There are many political parties in Mongolia; the largest among them are the Mongolian People's Revolutionary Party (MPRP) and the Democratic Party (DP).

The MPRP formed the government of the country from 1921 to 1996 (until 1990 in a one-party system) and again from 2000 to 2004. From 2004 to 2006, it was the part of a coalition with the DP and two other parties. Since 2006, it has been the dominant party in two other coalitions. These government changes were initiated by the MPRP in 2004. The DP was the dominant force in the ruling coalition between 1996 and 2000, and also an approximately equal partner with the MPRP in the 2004–2006 coalition.

Mongolian law does not specifically proscribe homosexuality, however Amnesty International and the International Lesbian and Gay Association have criticized a section of its penal code that refers to "immoral gratification of sexual desires," arguing that this phrasing could be used against homosexuals. Homosexuals have reported harassment by police, but remain divided over the overall level of societal discrimination. There is no official discrimination against those with HIV/AIDS; however, some societal discrimination exists.

RELIGION AND SPIRITUALITY

Various forms of tengrism and shamanism have been widely practiced throughout the history of what is now Mongolia, as such beliefs were common among the nomadic people of Asia. Such beliefs gradually gave way to Tibetan Buddhism, but shamanism has left a mark on Mongolia's religious culture. Indeed, some shamanistic practices and traditions, such as the use of *ovoo* as religious sites, are still practiced.¹⁰

The communist government ensured that the religious practices of the Mongolian people were largely repressed. Khorloogiin Choibalsan complied with the orders of Joseph Stalin, destroying almost all of Mongolia's approximate 700 Buddhist monasteries and killing thousands of monks. In 1991, the public religious practices restored the legality of Tibetan Buddhism, which had been the

predominant religion in the region before the rise of communism; it has again risen to become the most widely practiced religion in Mongolia. The end of religious repression during 1990s also allowed for other religions, such as Islam and Christianity, to spread in the country. According to the Barnabas Fund, the number of Christians grew from just 4 in 1989 to around 40,000 as of 2008.¹¹

VIOLENCE

It is estimated that 80 percent of LGBT people in Mongolia have experienced some form of gay bashing or discrimination.¹² Heteronormativity is institutionalized in both the social and legal environment. Since there is no concept of hate crimes in the country, there is no legal protection that requires the police to accept and follow through with formal complaints regarding antigay attacks.

Suicides, attempted suicides, and chronic depression among LGBT people are another form of antigay violence. Despite the lack of firm statistics on LGBT suicide, it is likely that, as a result of societal oppression and widespread homophobia, LGBT people suffer from mental health and well-being problems.

Gays and lesbians also experience legal and social invisibility and subsequent marginalization, a denial of their fundamental human rights, a lack of recognition and acceptance of their LGBT identities, noncitizen/secondary citizen status, secondary victimization by various state agencies, and a lack of understanding of same-sex domestic violence.

The government has even referred to gays as “a threat to national security” since early 2006, when the 15th case of HIV was diagnosed in the country.¹³ The fact that the government can say that national security is being compromised by the gay minority raises concerns about human rights not only of LGBT people in Mongolia, but also those of other social minorities, such as sex workers.

OUTLOOK FOR THE 21ST CENTURY

Despite the Mongolian government’s recognition of the importance of human rights domestically and internationally, it still does not include homosexual rights in its human rights discussions. It seems that the government is only pro-human rights in its rhetoric, given that human rights, basic freedoms, and liberties for LGBT persons have been repeatedly ignored by the state under the pretext of “public safety and social stability.”

MSM and LGBT-based NGOs are working to create and expand the public’s awareness of LGBT human rights. These groups’ key areas of concern are education for the police and national security agents, workshops and human rights trainings on hate crimes, the victimization of the LGBT by the police, and on the nature of HIV/AIDS being a nondiscriminatory disease, public campaigns, securing cooperation with local and international human rights organizations in Mongolia, media campaigns aimed at de-sensationalizing LGBT identities and stopping the “un-Mongolian”-ness of LGBT identities, holding an international LGBT human rights forum/conference in Ulaanbaatar to discuss the foundation of LGBT rights, establishing cooperation with the National Human Rights Commission and other human rights bodies regarding pertinent and pressing human rights violations, and organizing public events such as an LGBT movie festival. The groups also aim to gain recognition of the widespread existence of hate crimes against LGBT people

and are asking for a constitutional amendment to include “non-discrimination based on sexual orientation.”

Mongolia faces the problems of changing from a centrally planned economy to a market economy and building a democratic and open society. These forces have forced LGBT issues to the side, as the government claims that the economic development of the country is its highest priority. In its efforts to end poverty and social inequality, the government may continue to marginalize and discriminate against LGBT citizens, as it has with the HIV/AIDS issue. The progress of LGBT rights in Mongolia will be a test for the success of Mongolia’s future democracy.

RESOURCE GUIDE

Suggested Reading

- Valerie Jenness and Kendall Broad, “Anti-violence Activism and the (In)Visibility of Gender in the Gay/Lesbian and Women’s Movement,” *Gender and Society* 8 (1994): 3.
- Derek McGhee, “Hidden Targets, Hidden Harms: Community Safety and Sexual Minority Communities,” *Crime Prevention and Community Safety: An International Journal* 5 (2005): 4.
- Douglas Sanders, “Human Rights and Sexual Orientation in International Law,” *ILGA World News* http://ilga.org/news_results.asp?LanguageID=1&FileCategoryID=44&FileID=577&ZoneID=7.
- U.S. Department of State, “Mongolia Country Report of 2003,” *Country Reports on Human Rights Practices*, <http://www.state.gov/g/drl/rls/hrrpt/2003/27781.htm>.

Organizations

- Aid Coordination Programme in Mongolia, <http://unctdatabase.undg.org/index.cfm?module=AnnualReport&page=Workplan&Count>.
- “Youth for Health,” <http://www.gay.mn>.
A nongovernmental organization.

NOTES

1. See http://www.e-mongol.com/mongolia_population.htm. Established in Ulaan Baatar in 2000, e-Mongol is a tour operator as well as Mongolia’s first online shop. Recent information on population, geography, and politics is included.
2. *Karma* means “action” or “doing”; whatever one does, says, or thinks is a karma. In Buddhism, the term karma is used specifically for those actions that spring from mental intent and mental afflictions. See The Skeptic’s Dictionary at <http://skepdic.com/karma.html>.
3. Daily newspapers in Mongolian in 1995–2000, especially yellow news.
4. The first such open television talk show was produced by Ulaanbaatar Broadcasting Television on July 17, 2005, and called *Yah-uu Talk Show*. For more information regarding the content of the show, see “Yah-uu Talk Show,” http://www.mongoldyke.org.mn/up_around_eng.htm. Created by Anar Nyamdorj, Mongolian LGBTIQI activist, 2004, “Stripper Boys and the Grey Street Review,” http://www.mongoldyke.org.mn/up_around_eng.htm.
5. Global Event of Landlocked Developing Countries and Transit Countries on Trade and Trade Facilitation, August 28–31, 2007, Ulaanbaatar, MONGOLIA. (Jointly organized by UNOHRLLS, UNCTAD, UNECA, UNECLAC, UNESCAP, UNECE, UNDP and the Government of Mongolia.)

6. Ibid.

7. *Communication and Advocacy Strategies: Adolescent Reproductive and Sexual Health; Series: Case Study by Enkhbtsetseg Byamba*, published by the UNESCO Principal Regional Office for Asia and the Pacific, <http://unesdoc.unesco.org/images/0012/001200/120039E.pdf>.

8. Country Report on HIV/AIDS by Joint United Nations Programme on HIV/AIDS, Ulaanbaatar, Mongolia. The representatives of the government, nongovernmental, and international organizations working on HIV/AIDS were involved in the preparation of the country report of Mongolia on UNGASS indicators. Consensus meetings are conducted twice in order to produce national composite policy index and other indicators. Experts from Ministry of Health, National Centre of Infectious Diseases, the HIV/AIDS/TB projects supported by the Global Fund, the representatives from GTZ, UNFPA, UNICEF, World Vision, and National AIDS Foundation actively participated and incorporated their views and comments. See http://data.unaids.org/pub/Report/2006/2006_country_progress_report_mongolia_en.pdf.

9. The provinces of Mongolia are subdivided into *soums*, which can be translated as subdistricts or villages. *Soum* is the lower level of provincial administration.

10. *Ovoo* is a type of shamanistic cairn found in Mongolia, commonly made by rocks or by wood. These are often located at the top of mountains and in high places such as hills. *Ovoos* serve mainly as religious sites, are used in the worship of mountains and the sky, and are also used in Buddhist ceremonies.

11. "Mongolia," *New World Encyclopedia*, <http://www.newworldencyclopedia.org/entry/Mongolia>.

12. A survey was taken with the support of the United Kingdom's Embassy in Ulaanbaatar, 2007.

13. New Eurasia—Citizen Media, "Mongolia," mongolia.neweurasia.net/?cat=5&paged=2.

NEW ZEALAND

Christopher Burke

OVERVIEW

New Zealand lies in the southwestern Pacific Ocean, 1,600 kilometers southeast of Australia, and is also known by its Māori (indigenous) name, Aotearoa (“the land of the long white cloud”). Measuring 268,680 square kilometers in total land size, New Zealand is a relatively small and geographically isolated island state. The country is comprised of two main islands, the North and South Islands (Te-Ika-a-Maui and Te Pounamu), as well as a number of lesser ones, most notably Stewart Island (Rakiura), a small island 30 kilometers south of the mainland, and the Chatham Islands (Wharekauri), an archipelago of 10 islands situated 800 kilometers east of Christchurch, the South Island’s largest urban center. New Zealand features a range of diverse ecosystems and, due to its long isolation from the rest of the world, is characterized by unique flora and fauna.

Beginning with the arrival of explorers from East Polynesia in the 13th century, human settlement in New Zealand has been a relatively recent phenomenon. Known today as the Māori, these tribes were not known by a collective name until the arrival of European settlers. Dutch explorer Abel Tasman made the first confirmed European discovery of New Zealand in 1642. European settlement was initially sporadic, with the population remaining predominantly Māori—both ethnically and culturally—well into the 19th century. British colonization followed the signing of the Treaty of Waitangi in 1840, a document signed by representatives of the British Crown and Māori chiefs. While the Treaty remained largely neglected until the 1970s



and has been a source of contention historically, it is often cited today as New Zealand's founding document and is the basis for the nation's purported bicultural principles.

New Zealand was made a member of the Dominion of Great Britain in 1907 and gained complete independence from Britain in 1947. It remains a member of the British Commonwealth. As a former British colony, much of the legal and cultural discourse is of a European and British derivation. However, New Zealand is increasingly ethnically and culturally diverse. As of June 30, 2007, New Zealand has a resident population of 4.3 million people, with a population density of 14.9 people per square kilometer. In 2001, New Zealanders of European descent (known in New Zealand as Pākehā) made up the majority of the population (around 70%), with Māori (15%), Asian (7%), and Pacific Islanders (7%) accounting for the remainder.¹ While these communities do not always have equal access to governance or decision-making processes, large differentiations exist in outlooks pertaining to sexuality and LGBT issues in New Zealand. This is particularly the case for Māori and Pacific Islander communities where a number of indigenous and non-Western paradigms (such as Māori concepts of *takataapui/takatāpui* and Samoan notions of *fā'afāfine*) are increasingly significant.²

OVERVIEW OF LGBT ISSUES

New Zealand has undergone a number of major legislative reforms in recent years. Although New Zealand led the way when it gave women the vote in 1893 (the first country in the world to do so), decriminalization of male-to-male sex occurred only in 1986. Subsequent reform has been relatively swift with antidiscrimination legislation passed in 1990 and 1993, equal property rights in 2000, and, more recently, the right for homosexuals to enter into civil partnerships (though not marriage) in 2004.

The country continues to experience a number of other challenges. The incidence of HIV/AIDS among homosexual men and men who have sex with men (MSM) has steadily increased in recent years. LGBT families continue to experience poor access to adoption and reproductive technology, while LGBT children are themselves subject to increased rates of bullying and depressive illness. LGBT individuals continue to face a number of social inequalities not experienced by their heterosexual counterparts.

EDUCATION

New Zealand enjoys a high rate of adult literacy (99%), with Māori language (or *te reo*) increasingly taught in schools. Education is mostly state-funded and is compulsory from the ages of six to 16 years. State and state-integrated schools receive all (100%) of their funding from the government. Private schools are partially (25%) state and independently funded. Most children are therefore directly subject to state education policies, and schools operate under the central authority of the government.³

Students are protected by antidiscrimination laws. The New Zealand Bill of Rights Act 1990 was created to enshrine certain rights considered central to New Zealand's status as a democratic and multicultural society. While it defends the individual's democratic and civil rights, it also reinforces everyone's right to freedom

from discrimination on the grounds set out under the Human Rights Act (HRA) 1993. The HRA lists 13 grounds upon which discrimination is prohibited; this includes gender and sexual orientation. A school is at risk of breaching the Act if it allows a learning environment to become hostile to LGBT youth. Section 57 of the Act also makes it unlawful for an education provider to refuse or fail to admit a person as a pupil or to exclude them as a student or subject him or her to “any other detriment” on account of sexual preference.

Despite these provisions, education policies are varied, with no single national driver or set of guidelines specific to LGBT students. The Ministry of Education describes its overall mission as one that is to “raise educational achievement and remove disparity.” Its “overarching outcome” is to equip “all New Zealanders with the knowledge, skills, and values to be successful citizens in the 21st century.”⁴ Similar rhetoric is enshrined in the government’s National Education Goals (1990), which seek to “enable all students to realize their full potential as individuals” and to provide “educational opportunit[ies] for all New Zealanders.” The guidelines include the requirement that schools provide safe physical and emotional environments.⁵ The Professional Standards for Teachers (1998) also requires the implementation of strategies to develop and maintain learning environments conducive to the learning needs of a “diversity” of students.⁶

Explicit references to the LGBT community appear in only a handful of educational programs. *Youth Health: A Guide to Action* (2002) identifies at-risk young people deemed vulnerable to “mental and physical health problems” and includes LGBT students in this definition.⁷ The Ministry of Youth Development initiative *Youth Development Strategy Aotearoa* (2002) similarly encourages the establishment of “positive connections” for LGBT students with their primary “social environments” and calls for increased access to support groups and programs.⁸ It is not apparent how many schools are, in fact, enacting these changes.

LGBT students continue to experience high degrees of verbal and physical harassment in many schools. Research indicates high rates of depressive illness among New Zealand LGBT young people as well as increased levels of bullying and intimidation. An increased propensity for suicide is also seen as a significant factor for many LGBT youth.⁹ Such factors appear to be connected to heterosexist norms and presumptions that presuppose—whether stated or implied—that heterosexuality is superior (morally or otherwise) to non-normative sexual and gender identities.¹⁰

EMPLOYMENT AND ECONOMICS

As of 2006, New Zealand had a national gross domestic product (GDP) of US\$106 billion. It enjoys a high standard of living, with GDP measured at US\$24,943 per capita.¹¹ Most New Zealanders are engaged in some form of paid employment, and the unemployment rate was measured at 3.6 percent of the national population in the June quarter of 2007.¹² New Zealand is a growing economy with a high dependence on agriculture and tourism, as well as international trade with Australia, Japan, and the United Kingdom, among other countries.

New Zealand LGBT workers are protected by a number of legislative provisions. While discrimination on the grounds of sexuality remains an offense, the extent to which this protection extends is unclear. The BOR applies only to acts committed by the three branches of government or anyone in the “performance of

any public function, power, or duty” created by law (Section 3). Further, Section 4 of the BOR specifically denies the Act supremacy over other statutory provisions, while Section 5 asserts that rights are subject to “reasonable limits.” The HRA is itself governed by the Human Rights Commission, an agency funded by the Ministry of Justice and charged with an advocacy and mediation role. The Commission functions under a conciliation and disputes resolution-based mandate, stressing “fair and effective” resolutions and “informal intervention,” rather than civil (or criminal) prosecution.¹³

Section 104 of the Employment Relations Act (ERA) 2000 does specify that direct and indirect discrimination against employees on the 13 grounds set out in section 21(1) of the HRA is unlawful. Sexual orientation is set out explicitly in the ERA. Section 108 of the Act also makes explicit protection from sexual harassment that is “detrimental” to an employee’s work, job performance, or job satisfaction. This includes harassment by co-workers or customers. The Equal Pay Act 1972 made it illegal to offer different pay rates for men and women doing the same job. Job marketing and promotion is therefore gender neutral and usually geared towards skill-based descriptions.

The Human Rights Amendment Act 2001 established the role of an Equal Employment Opportunities (EEO) Commissioner. The Human Rights Commission operates New Zealand’s EEO Program. The agency affirms access to “decent and productive work” for all and promotes antidiscrimination and diverse workplaces. Those workplaces that are members of the EEO Employers Group are obliged to meet EEO principles, including “all aspects of recruitment.”¹⁴ A number of organizations, particularly government departments, are members, and most run informal gay and lesbian mentoring and support networks. Others, such as the New Zealand Police Force and New Zealand Armed Forces, actively recruit LGBT members and liaise with gay communities.

SOCIAL/GOVERNMENT PROGRAMS

No gay-specific government initiatives or government agencies exist in New Zealand. There are, however, a number of health and youth services that assist LGBT communities and many exist with state or community funding.

SEXUALITY/SEXUAL PRACTICES

New Zealand experienced its first AIDS-related death in 1983. Since then, HIV and AIDS have shaped the formation and experiences of most gay communities. Community support and mobilization have been key to both the effective treatment of those with the illness and for combating its spread amongst at-risk groups.¹⁵ Groups such as the National Gay Rights Coalition were active in providing educational and support programs, as well as in combating the confusion and cultural stigma that quickly generated around the illness.¹⁶

New Zealand has largely continued to experience increasing rates of HIV infection. The New Zealand epidemic is comprised of two distinct “subgroups.” The first and largest is infection among MSM and is largely “locally acquired,” while the second and more recent is confined to heterosexual immigrants for whom the infection was “acquired overseas.”¹⁷ The number of new infections amongst MSM has increased rapidly in the last half-decade: from 38 in 2001 to 88 in 2005.¹⁸

These increases are attributed to a number of factors, ranging from increased rates of casual sex made possible through Internet dating sites, increased and deliberately unprotected anal intercourse (“barebacking”), and the perception that condom use is no longer vital.

The New Zealand AIDS Foundation (NZAF) has played an integral part in maintaining and promoting safe-sex messages in New Zealand. The Foundation provides information, counseling, and research on HIV and AIDS in all of the major New Zealand urban centers (Auckland, Hamilton, Wellington, and Christchurch), while The Hau Ora Takatāpui program provides Māori-specific initiatives. The NZAF’s Wellness Fund provides further peer support and grants for the care and support of those within the HIV-positive community. The Foundation is also active in local pride events and often provides political comment on key policy and law reform matters likely to affect its constituent members. Unlike its Australian counterpart, which, in 1996, adopted the “Talk Test Test Trust” campaign (which advocated testing and trust as the central means for combating sexually transmitted HIV and AIDS infections), the New Zealand Foundation has continued to stress condom use as the standard and central means for preventing transmission of the disease.

FAMILY

Public discourse continues to promote the nuclear and child-focused family as the central mode of familial life for most New Zealanders. Legislation and social policy also continue to make these connections. The Labour government’s Working for Families program, for example, offers tax credits, housing relief, and childcare assistance to “almost all families with children, earning under \$70,000 a year.”¹⁹ The forthcoming Employment Relations (Flexible Working Arrangements) Amendment Bill will also give employees with young and dependent children the additional statutory right to request part-time and flexible hours, and a framework in which they can negotiate reduced working hours.

LGBT families are not excluded from such provisions. In the recent Lavender Islands survey—New Zealand’s largest national study of lesbian, gay and bisexual New Zealanders—researchers found that 25 percent of LGBT respondents had “borne or parented children in a constellation of different ways.” This included those with children from previous (or ongoing) heterosexual relationships, co-parents to a long-term, same-sex partner’s children, parties to fostering arrangements, and long-term partnerships where children are biologically produced through donor involvement.²⁰

An increasing majority of New Zealanders are themselves creating and maintaining families in relational modes outside the traditional nuclear and procreative model. In 2006, couples with children made up 42.0 percent of all families in New Zealand, while couples without children made up 39.9 percent of all families. Single parent families made up 18.1 percent of families in New Zealand. A further 17.4 percent of all persons were separated, divorced, or widowed, while 27.2 percent of people aged 15 years and over had never been married and live with a partner in *de facto* arrangements.²¹

Māori conceptions of family offer further modes of familial life outside of the Eurocentric nuclear model. Many Māori families observe *tikanga* (Māori customs and beliefs) that include notions of *whānau*, a familial grouping that is tribally

based and includes both extended family and non-blood-related kin, and *wbhangai*, an informal fostering arrangement made between extended family for the care of (often) nonbiological offspring.

Current legal provisions provide only single LGBT persons with the ability to formally adopt. De facto and gay couples are excluded because they are unmarried. A Private Member's Bill, the Adoption (Equity) Bill, proposes to confer on same-sex partners the right to adopt, however it has yet to be selected from the Parliamentary ballot.

COMMUNITY

New Zealand is, in general, a highly urbanized society. Over half of all New Zealanders (53.1%) live in the country's four main urban areas, and approximately 1.3 million people live in Auckland alone (New Zealand's largest city).²² The public imagination also locates New Zealand's largest LGBT communities here. The city's central and eastern suburbs contain possibly the most visible LGBT presence in New Zealand, with a notable LGBT presence in the suburbs of Ponsonby and Grey Lynn. Karangahape Road, located in the city's central business district, also has a well-known LGBT scene with a number of bars, cafes, nightclubs, saunas, and sex-on-site establishments.

The LGBT community, which is diverse and embraces a number of ethnic and cultural subgroupings, is supported by a range of urban and regional events. The largest, Auckland's Hero Parade, attracted as many as 200,000 spectators at its peak and functioned as both a festive and political outlet.²³ It has since been replaced by a range of smaller events designed to cater to the fullest extent of New Zealand's diverse LGBT community. The Big Gay Out, a "family friendly" fair day, held annually at Coyle Park in Point Chevalier, is perhaps the largest event and, in addition to many LGBT attendees, attracts a range of nongay community leaders and other personalities. Most urban centers run some form of pride celebration, and there has been considerable regional renewal in the last few years.

Political activism has largely followed North American trajectories. This saw the establishment of The Dorian Society, a homophile society, in 1962, its legal subcommittee, the Homosexual Law Reform Society (HLRS), in 1963, and the Gay Liberation Front in 1972. The NZAF is actively involved in a wide range of contemporary issues facing LGBT people and makes frequent submissions to parliamentary select committees. Further community groups, such as Rainbow Youth, OUT THERE, and Gayline (also known as Gay and Lesbian Line), offer significant support and outreach programs to New Zealand's young people. Most function as voluntary organizations with significant and ongoing involvement from the communities they serve.

HEALTH

New Zealand operates a universal health care program. Health care is administered through the Ministry of Health, whose central role is to provide "policy advice on improving health outcomes, reducing inequalities and increasing participation."²⁴ Although some New Zealanders utilize privately funded services, primary health care for most New Zealanders is handled through national and state-funded services.

Health and ideas surrounding the construction of homosexual identities have been closely connected matters throughout New Zealand's history. Until the mid-1970s, homosexuality was often understood as a "psychological" illness, and parliamentary debates often mobilized against LGBT law reform using discourses that positioned homosexual bodies as diseased or socially harmful.²⁵ While this has changed in subsequent decades, many transsexual New Zealanders continue to experience a degree of marginalization and often struggle to communicate their needs to the medical profession. This may include negotiating perceptions that transsexuality is a gender disorder (or dysphoria), or addressing deeper "inner ambiguities" of identity and expression.²⁶

Along with increasing rates of HIV and AIDS among gay males and MSM, New Zealand is also experiencing higher levels of syphilis and gonorrhea, both of which can be transmitted through (unprotected) oral intercourse. In the recent Gay Auckland Periodic Sex Survey (2006), gonorrhea and chlamydia were found to be the most common STDs reported in the previous 12 months. Gonorrhea remains the most common STD reported over the lifetime of respondents (17.3%), while one in eight respondents reported a lifetime history of chlamydia, nonspecific urethritis (NSU), or genital warts. Drug use is also high among this sample group, with 56.9 percent reporting "any" recreational drug use in the last six months and 27.8 percent noting a "high frequency" of consumption.²⁷

The New Zealand Blood Service (NZBS) does not permit MSM or any male who has had anal sex in the previous 10 years to donate blood to the national blood bank. Although all blood samples are screened for HIV and other infectious diseases the Health Amendment Act 1998 and subsequent New Zealand Health and Disability Act 2000 requires that NZBS take "all reasonable precautions" in ensuring that blood is safe for use. MSM, as well as gay and bisexual men, are similarly excluded from providing sperm samples to New Zealand fertility clinics for the purposes of assisted reproduction. Attempts to reverse these policies are ongoing but have so far not been successful.²⁸

POLITICS AND LAW

New Zealand's legislative body is unicameral and typically consists of 120 Members of Parliament (MPs). New Zealand adopted the Mixed Member Proportional (MMP) electoral system in 1996. Representation is based on the principle that "that the number of seats a party receives should be directly proportional to the number of votes it wins."²⁹ The voter has two votes: one for a constituency candidate (a member representing his local electorate) and a second for a preferred political party (known as a party list vote). The number of list seats, aggregated against the number of electorate seats won, determines the extent of a party's influence and its ability to govern.

A party may govern as a majority coalition, a single party minority, or a minority coalition.³⁰ The opportunities for minorities to wield significant legislative power are therefore relatively high and has allowed for an increasingly pluralistic representation of people. In the 2005 general election, the already incumbent Chris Carter, Georgina Beyer, and Tim Barnett, all MPs with publicly LGBT identities, were joined by a Labour colleague, Maryan Street, New Zealand's first self-identified lesbian politician, and Chris Finlayson, a self-identified gay man and member of the National Party. Finlayson's inclusion is significant, given "queers'" historical

opposition to conservative political structures. Labour list candidate Charles Chauvel, a self-identified gay man, was also admitted to the House in 2006, followed by Louisa Wall, a self-identified lesbian, in 2008. These additions brought the body of gay politicians in Parliament to five percent of the total House, with members aligned across a spectrum of both sexual identities (gay, lesbian, and transgendered) and political views.

Advancement of LGBT legislation has been largely successful under successive Labour governments. While there has been support for these initiatives from a multitude of MPs, most are from center-left affiliations (the New Zealand Labour Party, Green Party, Progressive Party, and Māori Party). Center-right and right-leaning political parties remain largely antagonistic (United Future, New Zealand National Party, New Zealand First) or apathetic (ACT) to LGBT aspirations. Reform efforts have been also met by a vocal and often militant opposition from Christian organizations. With the exception of the Catholic Church, which has, for the most part, remained steadfastly opposed to LGBT reform, most of these institutions are evangelical or fundamentalist in their views of Christian doctrine.

Sodomy remained a criminal offense between men until the passing of the Homosexual Law Reform Act in 1986. This gave men the right to engage in anal intercourse and provided a universal age of consent of 16. Legal provisions that criminalized homosexual sex previous to 1986 were modeled on British principles and, from 1867, all “erotic acts,” not just anal penetration, constituted assault and grounds for divorce.³¹ Life imprisonment remained a legal recourse for lawmakers until 1961, though a conviction of sodomy typically “attracted the minimum ten-year sentence” and only a small number of men were convicted annually.³²

The Property (Relationships) Amendment Act 2001 renamed and amended the Matrimonial Property Act 1976 and conferred on LGBT partners (along with heterosexual de facto couples) the same property rights as married spouses. This includes certain testamentary powers, as well as property protection and division when relationships end acrimoniously. The Act provides an assumption of equal asset division unless “extraordinary circumstances” can be proven (Sections 11 and 13).

Heteronormative presumptions and protections surrounding marriage were challenged in the New Zealand courts from the mid-1990s. The unanimous Court of Appeal decision in *Quilter v AG*³³ found that, under the then-contemporary legislation, Parliament had “intended” that marriage be confined to heterosexual relationships. Such views, they felt, were enshrined under the Marriage Act 1955, and, while minority communities were deserving of “equal treatment under the law,” any discrimination against same-sex couples had been clearly sanctioned by Parliament. While LGBT couples have yet to be granted access to marriage, the Civil Union Act 2004 now provides same-sex couples with the ability to register civil partnerships, amending the 1955 Act. In addition, the Relationships (Statutory References) Act 2004 removed statutory bases for the discrimination of peoples on the basis of marital status.

While the Human Rights Amendment Act 2001 required that all government provisions comply with the antidiscrimination regulations established under the BOR, a modicum of uncertainty exists as to whether transgendered (and, indeed, intersexed) persons are captured within the ambit of “sexual orientation” and “sex discrimination.” The proposed Human Rights (Gender Identity) Amendment Bill 2004 sought to make this protection explicit. However, a subsequent finding by

the Solicitor-General argued that “there is currently no reason to suppose that ‘sex discrimination’ would be construed narrowly to deprive transgender people of protection under the Human Rights Act.”³⁴ This has yet to be tested in a New Zealand court.

RELIGION AND SPIRITUALITY

Over half of New Zealand’s general population adheres to a Christian belief system, of which Anglican (17%), Catholic (14%), and Presbyterian (11%) are the largest religious groupings.³⁵ Since 1901, New Zealand has experienced a steady decline in Christian religious observance. While this has generated an increasingly diverse secular minority, immigration and perceived dissatisfaction with conventional religious systems have also generated increased participation in non-Christian religious affiliations. Of these, Buddhist, Hindu, Muslim, and New Age groupings have significant minority representations.³⁶

LGBT peoples in New Zealand belong to a number of faith systems. As with the main population, a significant number of LGBT people affirm Christian modes of faith. Despite this, the Lavender Islands survey found that LGBT Christians were “disaffiliating” from Christianity at 2.37 times the rate than the general population and that gay-identifying individuals reported that “their religious tradition was more difficulty than a support.”³⁷ Increasing numbers of LGBT New Zealanders belong to religious groups outside of traditional Christian denominations or profess no religious affiliation.³⁸

Christianity’s stance on homosexuality has remained mostly prohibitive during much of New Zealand’s history. However, certain denominations have remained active supporters of LGBT law reform and LGBT peoples more generally. The Methodist Church became the first Christian denomination in New Zealand to support the decriminalization of homosexuality in 1961. New Zealand clergy also ranked among some of the earliest members of the New Zealand Homosexual Law Reform Society (NZHLRS).³⁹ A number of Christian groups continue to be active in the gay community, with many running Christian outreach programs specifically for LGBT congregations. Many are LGBT-led or operate with significant LGBT input, despite formal or informal embargos on LGBT (and sometimes de facto) leadership by their host organizations.⁴⁰

Opposition by Christian Pentecostal and fundamentalist organizations has been sustained since the mid-1980s. Evangelical protests have been highly politicized, vocal, and, at times, militant. During the run up to the (successful) Civil Unions Act 2004, several evangelical groups, led by Brian Tamaki and the Destiny Church movement, marched on Parliament with 5,000 supporters. They demanded that the institution of marriage be protected from a perceived climate of moral (and sexual) permissiveness and condemned what they called the radical homosexual agenda in New Zealand. LGBT reform, they argue, constitutes examples of “secular humanism, liberalism, relativism, [and] pluralism” by a “Government gone evil.”⁴¹

Under Richard Lewis, Tamaki formed a political party, Destiny New Zealand, in 2003. Destiny failed to win a seat during the 2005 general election and the party has since been deregistered. Following an underage sex scandal involving former leader David Capill in 2005, the Christian Heritage Party, and older grouping, was also disbanded.

The evangelical ex-gay movement has not been active in New Zealand. Although some organizations, such as Exodus New Zealand, offer conversion therapy, the prevailing medical opinion is one that substantially rejects the notion of reparative treatments. Such groups are now in cessation due to insufficient support.⁴²

VIOLENCE

New Zealand has seen a small increase in violent crime between 1996 and 2005. In 2005, this accounted for 12 percent of all recorded crime (or 48,377 offenses), the most common being serious assaults, minor assaults, intimidation, and threats.⁴³ While the New Zealand government does not record the statistical incidence of assaults committed against sexual minorities, there have been a number of high profile attacks, and, in some cases, homicides committed against LGBT people in recent times.

Section 9(1)(h) of the Sentencing Act 2002 makes hate crime an “aggravating factor” for consideration when sentencing violent offenders. Sexual orientation is one of several possible grounds for construing the incidence of hate crime. The Act asserts that hostility towards a victim must be because of a “common characteristic shared with others” and the offender must have “believed that the victim has that characteristic.” Its status as an aggravating factor means that offenders cannot be tried on the *basis* of hate crime, merely that the attack will be one of a number of contributory factors to be taken into account when prescribing punishment.⁴⁴

Under Section 169 the Crimes Act 1961, offenders may also argue the “Homosexual Panic Defense” (HPD) as grounds for provocation. To do so, a defendant must prove that he or she was the object of unwanted sexual advances by the alleged victim. This must be sufficient to “deprive the offender of the power of self control” and influence the offender to be “induced” to commit an act of murder. Where grounds are proven, a homicide that might otherwise be deemed murder can be reduced to the less severe grounds of manslaughter. The New Zealand Law Commission recommended the repeal of the HPD as early as 2001. In 2007, the Commission issued a paper again arguing for its immediate repeal, stating that “intentional killing in anger in any circumstances is inexcusable.”⁴⁵

OUTLOOK FOR THE 21ST CENTURY

New Zealand has made significant steps toward LGBT integration since 1986. However, while New Zealanders are now free to solemnize their relationships in civil unions, LGBT persons continue to be excluded from the institution of marriage. This is a major inequality that is likely to be addressed in the future.

Subsequent and more general LGBT advances are also likely with increasing LGBT representation within the House of Representatives and, with this, the ability to keep LGBT issues live in the public consciousness. Debates surrounding adoption and reproductive rights are perhaps most pressing, with debate likely to fuel further dissension between progressive and conservative political groupings.

LGBT groups are increasingly seeking to safeguard the interests of LGBT youth and young people. The protection of LGBT youth will ensure the long term well-being of the LGBT community and assist in fostering a community spirit that

acknowledges sexual and cultural diversity from an early age. While this is also likely to face significant opposition from conservative groups, such policies will signal New Zealand's growing national maturity and its valuing in real terms of an increasingly pluralistic and tolerant society.

RESOURCE GUIDE

Suggested Reading

- Lynne Alice and Lynne Star, eds., *Queer in Aotearoa New Zealand* (Palmerston North, NZ: Dunmore, 2004).
- Chris Brickell, *Mates and Lovers: A History of Gay New Zealand* (Auckland: Random House/Godwit, 2008).
- Caroline Daley and Deborah Montgomerie, eds., *The Gendered Kiwi* (Auckland: Auckland University Press, 1999).
- Bronwyn Dalley and Gavin McLean, eds., *Frontier of Dreams: The Story of New Zealand* (Auckland: Hodder Moa Beckett, 2005).
- Stevan Eldred-Grigg, *Pleasures of the Flesh: Sex and Drugs in Colonial New Zealand, 1840–1915* (Wellington: Reed, 1984).
- Nigel Gearing, *Emerging Tribe: Gay Culture in New Zealand in the 1990s* (Auckland: Penguin, 1997).
- Laurie Guy, *Worlds in Collision: The Gay Debate in New Zealand, 1960–1986* (Wellington: Victoria University Press, 2002).
- Lynda Johnston, *Queer Tourism: Paradoxical Performances at Gay Pride Events* (New York: Routledge, 2005).
- Sue Kedgley, *The Sexual Wilderness: Men and Women in New Zealand* (Auckland: Reed, 1985).
- Allison Kirkman and Pat Moloney, eds., *Sexuality Down Under: Social and Historical Perspectives* (Dunedin, NZ: University of Otago Press, 2005).
- Allison J. Laurie and Linda Evans, eds., *Outlines: Lesbian and Gay Histories of Aotearoa* (Wellington: Lesbian and Gay Archives of New Zealand, 2003).
- Peter Wells and Rex Pilgrim, eds., *Best Mates: Gay Writing in Aotearoa New Zealand* (Auckland: Reed, 1997).
- Heather Worth, *Gay Men, Sex and HIV in New Zealand* (Palmerston North, NZ: Dunmore, 2003).

Videos/Films

- 50 Ways of Saying Fabulous*, DVD, directed by Stewart Main (2005; Olive Films, 2005). Feature film based on the novel by New Zealand novelist Graeme Aitken. It follows the story of a young boy, Billy, a farmer's son, living in provincial New Zealand in the 1950s.
- Desperate Remedies*, DVD, directed by Stewart Main (1995; Avalon/NFU Studios, James Wallace Productions, New Zealand Film Commission, New Zealand On Air, 1995). An art house film that parodies historical romances and melodrama. The film features several homoerotic and lesbian scenes and engages in sophisticated political and cultural satire.
- Haunting Douglas*, DVD, directed by Leanne Pooley (2003; Specific Films, 2003). Documentary that explores the life and work of gay dance choreographer, author and artist Douglas Wright.
- The People Next Door*, DVD, directed by Ray Waru (1994; Television New Zealand, 1994). A made-for-television documentary that explores the lives of several gay New Zealanders from a variety of backgrounds and cultural affiliations.

Antigay Video

A Nation under Siege: A Social Disaster Has Hit Our Nation, DVD, directed by J. Cardno. (2005; Destiny Church, 2005). A documentary funded and created by the evangelical Christian church, Destiny Church. It suggests that New Zealand is experiencing a “state of emergency” that is attributed to a government “gone evil.” Brian Tamaki attacks homosexuality and homosexuals as evil and calls for New Zealanders to reject the “radical homosexual agenda.”

Web Sites

Agender, <http://www.agender.org.nz/>.

Offers support for transgendered people and their families.

Bibliography on Homosexuality in New Zealand, <http://www.waikato.ac.nz/library/resources/localdatabases.shtml>.

Features an extensive compilation of LGBT materials hosted by the University of Waikato.

Gay Auckland Business Association, <http://www.gaba.org.nz/>.

Online networking and resources for Auckland’s gay and lesbian business community.

Gayline Wellington, <http://www.gayline.gen.nz/>.

Offers online resources and support.

GayNZ.com, <http://www.gaynz.com>.

New Zealand’s leading Internet resource for LGBT news, events, and community support.

Lesbians.net, <http://www.lesbian.net.nz>.

Promotes lesbian visibility online.

Lesbian and Gay Archives of New Zealand, <http://www.laganz.org.nz/>.

Pink Pages New Zealand, <http://www.pinkpagesnet.com/newzealand>.

Online resource directory for the New Zealand LGBT community.

UniQ National, <http://www.uniq.org.nz>.

Online home for New Zealand Queer Students’ group at universities, polytechs, and colleges of education.

Organizations

Body Positive New Zealand, <http://www.bodypositive.org.nz/>.

Offers community support for those living with HIV/AIDS.

Lesbian and Gay Archives of New Zealand (LAGANZ), <http://www.laganz.org.nz/>.

New Zealand AIDS Foundation, <http://www.nzaf.org.nz>.

Rainbow Youth, <http://www.rainbowyouth.org.nz/>.

Auckland-based organization providing support, contact, information, advocacy, and education for LGBT peoples and their families.

NOTES

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2. J. Hutchings and C. Aspin, eds., *Sexuality and the Stories of Indigenous People* (Wellington, NZ: Huia, 2007); T. Suaalii, “Samoans and Gender: Some Reflections on Male, Female and Affine Gender Identities,” in *Tangata o te Moana Nui: The Evolving Identities of Pacific Peoples in Aotearoa New Zealand*, ed. C. Macpherson (Palmerston North, NZ: Dunmore, 2001).

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11. International Monetary Fund, "Report for Selected Countries and Subjects," <http://imf.org/external/pubs/ft/weo/2007/01/data/index.aspx> (accessed October 1, 2007).
12. Statistics New Zealand, "Unemployment," 2007, <http://www.stats.govt.nz/people/work-income/unemployment.htm> (accessed October 1, 2007).
13. Human Rights Commission, "Discrimination and Complaints Guide," 2007, <http://www.hrc.co.nz/home/hrc/unlawfuldiscriminationcomplaints/unlawfuldiscriminationcomplaints.php> (accessed October 1, 2007).
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SINGAPORE

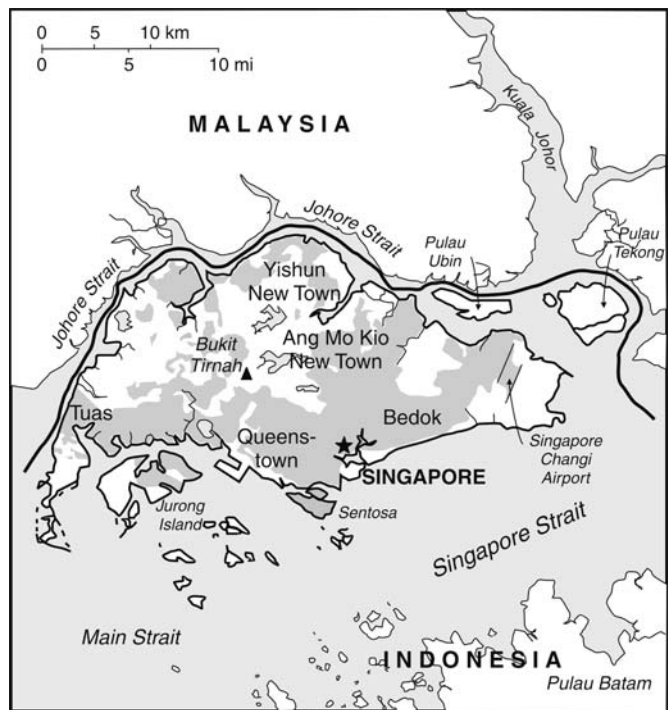
Laurence Wai-Teng Leong

OVERVIEW

This tropical island is located in Southeast Asia, near Malaysia and Indonesia. Its small size of 270 square miles and 4.6 million residents makes it a densely populated country. Colonized by England, Singapore emerged as a trading post relying on Malaysia as a hinterland that was once rich in rubber, tin, and spices. After Singapore became independent in 1965, it became evident that the colonial experience had left its mark on Singapore's demography, polity, and sexuality laws.

Beginning in the 1850s, the British encouraged immigration from China and India to ensure a supply of labor for the growth of mercantile capitalism in the Straits Settlement (comprising Singapore, Penang, and Malacca). Today, Singapore's population can be broken down into four officially recognized ethnic groups: 76 percent Chinese, 13.4 percent Malays, 8.2 percent Indians, and 2.4 percent other ethnicities. In practice, ethnic diversity is far more complex because of internal variations within each group, and because of a liberal immigration policy that accepts mostly professionals and skilled workers from other nations to work and reside in Singapore.

Given that the Chinese are the demographic majority, about half of the Singaporean population affiliates themselves with Buddhism and Taoism. Fifteen percent are Muslims, while four percent are Hindus. The latter two religions are roughly correlated with Malays and Indians, and their numbers have remained stable over the years. The Chinese, on the other hand, are increasingly moving



away from their traditional religions to embrace the postcolonial mantle of Christianity. The proportion of Christians has risen from 10 percent in 1980 to 14 percent in 1990, and 16.5 percent in 2000.¹ As of October 2007, the fastest-growing religious organizations by congregation size and wealth were the City Harvest Church, Campus Crusade Asia, Faith Community Baptist Church, New Creation Church, and Trinity Christian Center.² These represent fundamentalist and charismatic denominations, and they have a major impact on shaping the country's sexuality policies.

Singapore's political system follows the Westminster parliamentary model, but a single dominant political party (the People's Action Party, or PAP) has been running the state for nearly half a century. This monopoly of power means that the judiciary, the legislature, and the executive arms of government are not distinct from one another. Indeed, the hegemony of PAP's rule has led residents to conflate the state with the political party.

The PAP's style of governance is authoritarian; the freedoms of speech, association, and assembly are severely constrained, and police powers are swiftly exercised against protest and dissent. This political milieu makes the struggle for LGBT rights a painful and arduous one. Human rights in Singapore are, in fact, a generic issue, and not confined to sexual minorities. The civil liberties of all residents are downplayed in favor of economic growth. Singaporeans are socially engineered to be laboring subjects, bent on making a living rather than given autonomy as individual citizens with rights and privileges. They are driven to be productive units or factors of production in a fast-paced global economy. Not surprisingly, Singapore has experienced high economic growth rates, and has a per capita gross domestic product of \$30,000.

OVERVIEW OF LGBT ISSUES

Singapore is a first world nation in its economic achievements, but a third world nation in terms of its treatment of sexual minorities. As a city-state, it has all the trappings of a global commercial center, yet its sexuality laws originated more than 150 years ago when the British colonial administration instituted the Penal Code that outlawed "unnatural sex" (including oral and anal sex committed by heterosexuals) and "gross indecency" between men.

The criminalization of homosexual acts is the clearest indication of official opprobrium toward men who are attracted to other men. For many gay men in Singapore, Section 377 of the Penal Code is the legal instrument that poses the gravest threat to their existence and identity. In the 1980s and 1990s, men caught engaging in homosexual acts in public settings were sentenced to prison, fined, and subject to caning. Raids on gay bars and discos were periodic and common enough to cause establishments to shut down.

Appalled by state harassment, some gays with the requisite capital and resources became "sexual exiles," immigrating to places like Australia, England, the United States, Canada, and even China, where the climate is less hostile towards gays. Lesbians have not been subject to criminal penalties because, under the Victorian legal philosophy, women were not conceptualized as capable of physical intimacy among themselves.

In October 2007, after much heated debate to revise the Penal Code, the state decided to lift the ban on oral and anal sex engaged in by heterosexuals, but to

retain the criminal code against the same acts committed by two men. Thus, the state has officially articulated its antipathy toward gays and its view of them as lesser beings.

Criminal law is the primary and fundamental source of disadvantage for gay men because no civil law can advance ahead of something that is defined legally as criminal. As long as homosexual acts are punishable under the Penal Code, there can be no fairness in gay employment, no provisions for civil unions, no adoption rights for gay couples, and none of the other privileges enjoyed by other citizens.

The Penal Code against gays also trumps other ostensibly favorable policies. In July 2003, the Prime Minister announced a welcome policy designed to draw gays to work in Singapore. This was in line with the need to attract foreign professionals and to retain talented locals, but the boundary was drawn against civil rights; thus gay parades would be prohibited. Once again, gays were regarded as production units based on what they could contribute to the economy, and not as living breathing subjects with identities, relationships, and social needs.

In spite of the touted welcome policy towards gays in public employment, media expressions of gays were frowned upon. The popular Taiwanese film "Formula 17," about happy gay teens, was banned, a television station was fined for airing a talk show about American comedian Ellen DeGeneres's relationship with actress Anne Heche, a gay magazine had its circulation reduced for featuring raunchy male models, and a gay Web site portal was ordered to tone down its contents.

The ban against gay expression has been exacerbated by the blame-game of AIDS. In 2005, the health minister attributed a rise in AIDS cases to gay circuit parties. Singapore once hosted popular rave parties attended by gays from across Asia and the Pacific region. Henceforth, such parties have been banned and the sociability of gays thus restricted by what the international community calls the "nanny state."

EDUCATION

The reach of the state in Singapore is so tenacious that all schools come under the jurisdiction of the Ministry of Education. Except for expatriate populations who can send their children to American, Canadian, Australian, Japanese, or other nationality-based franchised schools in Singapore, all Singaporean citizens go through the national education system. Under the economic imperative that imbues the whole society, schools prepare students to be competent in subjects for future employment prospects. Teachers are therefore trained to teach math and science, rather than sexuality and rights.

Singapore is a signatory to the Convention on the Rights of the Child, yet students are not taught about basic rights, and most are not even aware that their country has ratified the United Nations treaty. Next to rights education, quality sex education is lacking in national schools. Because classroom teachers are not competent to teach sexuality, the job is often outsourced to external organizations. These organizations may have secular and innocuous names like the Liberty League or the Family Life Society, but they tend to be faith-based.

In January 2006, Anderson Junior College students exposed the religious underpinnings of the Family Life Society. The sex instruction there was revealed to be a particular type of moral education that called for the rejection of contraception, abortion, masturbation, in vitro fertilization, and homosexuality. The messages of

virginity and abstinence found in American Christian groups' literature were also reproduced by this organization.

Given that homosexual acts are still criminal in Singapore, it would be extremely challenging to educate youth about equality, discrimination, and fairness. It is unclear how one would discourage students from practicing homophobia or discrimination against LGBT people when the law still officially prohibits gay male activities. If teachers were themselves subjects of discrimination, it would be difficult for them to impart that knowledge. Accordingly, most LGBT teachers stay in the closet in order to keep their jobs.

In September 2007, Otto Fong, a gay teacher from a prestigious and elite school in Singapore came out on his blog. He aired his grievances and misgivings about being a gay teacher in a stifling environment. His story was taken up in the news, and the education authorities pressed him to delete his coming out story.

In May 2007, another out gay man, Alfian Sa'at, was teaching temporarily in a school. A month later, he was dismissed not by the school principal, but by the Ministry of Education, in spite of his being an accomplished and award-winning poet and playwright. Although no explicit reasons were given for his dismissal, his poems were known to be critical of the government and his plays centered on gay themes.

These two examples of gay teachers illustrate that Singaporean authorities are not yet ready to acknowledge and accept the role of LGBT teachers in education. If the state does not lead in sexuality education and does not want gay teachers to come out, then one can expect bullying, antigay slurs, and homophobic taunts to persist in schools. Transgendered students face the harshest of verbal assaults because of their visibility and nonconformity to conventional gender roles, and the lack of rights education does not equip students with resources to arm themselves against such negative threats.

EMPLOYMENT AND ECONOMICS

As Singapore's society is driven by the relentless pursuit of economic growth, state policies have always been pro-employer rather than pro-employee. Employment laws favor managers who can hire and fire without any explanation for their decisions. Many workers are not unionized, and those who do belong to unions are incapacitated by the fact that all unions are co-opted by the state and lack autonomous powers.

When the state takes the side of employers, there is very little incentive for private sector employers to offer partnership benefits to their LGBT employees. Companies such as American Express, IBM, Starbucks, Prudential, and Reebok have branch offices in Singapore, but while they are reputed to have a policy of inclusion in America, the privilege is not extended to their LGBT workers in Singapore. Presumably, the logic of cost-savings, which motivates many of these global corporations to set bases overseas, overrides the principle of inclusion. If same-gender domestic partner benefits are not forthcoming, gays find little strategic advantage in declaring their sexual orientation in the workplace.

In the workplace, LGBT people often have to sacrifice their vacation time to make way for married colleagues to go first. Heterosexual coworkers with children usually take first choice of vacation periods under the rubric of quality family time. LGBT people are defined as single (that is, not heterosexually married, and

without a family), even if they have same-gender partners; they are thus consigned to less popular times for their vacation leave. This problem is critical in settings that require shift work and when there is a shortage of staff.

In July 2003, Prime Minister Goh Chok Tong announced in *TIME* magazine that gays were allowed to work in “certain positions in government.”³ Pitched to an international audience, he was explicitly courting foreign talent to work and live in Singapore. This policy shift was heavily influenced by Richard Florida’s idea that gays have critical roles to play in the global economy. Using bohemian, diversity, and gay indices, Florida demonstrated that all cities caught in the global circuit of competitive business thrive on a creative class of gays, geeks, and bohemians.⁴ In the drive to attract foreign professionals and to retain talented citizens, Singapore needs to relax its stance towards gays.

Goh’s welcoming of gays for employment appeared to be a positive step toward official acknowledgement of LGBT people, but it was a rhetorical pronouncement not translated into concrete changes in policy. There are no antidiscrimination statutes, partnership benefits, or lists of gay-friendly companies noted anywhere either in the laws or official charters of the country. In fact, Goh’s acceptance was conditional: gay sex would remain in the criminal statutes (even if not enforced), and there would be no flaunting of sexuality. Hence, gay parades, for example, are taboo.

Whereas the presence of gays in the military is a contentious issue in many countries, all able-bodied Singaporean males at the age of 18 are conscripted into the armed forces. Because conscription is compulsory and labeled as national service, gays who disclose their sexual orientation are not exempted from serving the military. They are first subject to a medical board and their parents are then interviewed to determine if the subject has cross-dressed or if he played with dolls during childhood. Here, gays are assumed to be the same as transgendered people, and are placed into a special category, “302,” where they are deemed as less than fit for combat duties and consigned to non-officer ranks and clerical vocations, often sent to camps that have no barracks (in which case they return home to live instead of residing in the camps).

SOCIAL/GOVERNMENT PROGRAMS

In October 2005, *Time* magazine journalist Jake Smith asked the new prime minister Lee Hsien Loong if his government was homophobic, given that it had banned gay parties in August of that year. Lee denied the allegation that he had an irrational fear of gays, and insisted that he was merely sensitive to those segments of the population that were uncomfortable with gays.

Whether Singapore’s government is in reality homophobic can be ascertained by deeds rather than words. How enlightened a government is can be measured by the way it treats minorities—in this case, sexual minorities. Under Lee Hsien Loong’s rule, gay parties were banned and blamed for a rise in AIDS cases, and restrictions on gay media and mainstream cinema were increased.

The ban and restriction regime is at odds with any social programs for LGBT people. Such programs would be construed as “promoting a gay lifestyle,” which the PAP has consciously tried to avoid. The government has not provided any funding for LGBT counseling, for LGBT suicide prevention, or for LGBT communities in general. Even community efforts to fill the void by creating their own programs have not been approved by authorities. A concert by musicians Jason and

deMarco, organized by Safehaven, a gay Christian group, to raise funds for HIV/AIDS causes, was banned in 2005 because it was thought that “their performance will promote a gay lifestyle which would be against the public interest.”⁵

SEXUALITY/SEXUAL PRACTICES

HIV cases in Singapore have been rising steadily since 1985. Although the Ministry of Health officially runs an HIV awareness programs, restrictions placed on communicative channels undermine their effectiveness. Safe sex messages cannot be aired on television, even if this is the most popular medium. If they appear on billboards or in print media, the imagery is subdued with a “G” (general audience) rating because the common denominator includes children.

Condoms seldom appear in health promotional campaigns, and sex is mentioned only in surreptitious ways. The multiethnic composition of the population is often used by the state to craft conservative approaches to sexuality campaigns. For example, Malays are assumed to be religiously prohibitive against sex, and so no overt messages are addressed to this ethnic group.

The absence of sexuality awareness programs is mostly filled in by the nongovernmental organization Action For AIDS (AFA). Founded by doctors, lawyers, and volunteers in 1988, AFA is gay supportive, but also takes a broader approach to educating the public on sexual health. It offers counseling and outreach programs in various languages for different ethnic constituencies, publishes a free journal called *The Act*, and conducts awareness campaigns in schools.

FAMILY

Because the Singaporean state does not recognize civil unions or gay marriage, LGBT people are likely to be counted by the census as single in terms of marital status and “no family nucleus” in household structure. “Family nucleus” is defined in terms of blood relations or marriage ties. Overall trends indicate a rise in single status and in “no family nucleus.” The marriage rate in Singapore is low, at 6 per 1,000 residents. About 15 percent of the population constitutes people who are likely to remain unmarried permanently. In 2001, out of those between 30 and 34 years of age, about 35 percent of males and 20 percent of females were unmarried.⁶

In terms of household structure, nuclear families have declined somewhat, from 84.6 percent of total households in 1990, to 82 percent in 2000, while “no family nucleus” increased from 8.7 percent in 1990 to 12.3 percent in 2000.⁷ Because land is scarce in Singapore and property prices soar progressively, young, unmarried working and middle class people tend to reside with their parents. Many LGBT people are therefore subsumed into “one-family nuclear” households.

The fertility rate in Singapore is one of the lowest in the world, at 1.24 children per woman in 2004.⁸ For nearly three decades, the birth rate fell below the replacement rate required to maintain the population. Declining birth rates, the rise in single status, and “no family nucleus” units are facts that are slowly recasting the traditional definition of family in the country. Marriage, sex, and procreation are neither coterminous with each nor necessarily tied to the concept of a family.

These trends have led conservative constituencies to condemn LGBT people as threats to the family institution. Those who oppose the decriminalization of gay

sex laws have resorted to arguments such as claiming that the repeal of such laws would dilute the significance of the family. As in the United States, “the family” has become a rhetorical device for right-wing resistance to social change.

COMMUNITY

LGBT communities in Singapore are forged out of contexts of oppression. In the 1970s and 1980s, LGBT networks were focused around bars, discos, and informal gatherings. The arrest and punishment of men cruising for sex in public places in the 1980s angered many gay men who then banded together to form a group, People Like Us (PLU). Tasked with the goals of decriminalizing gay sex and petitioning for equality, this movement began in 1993 and grew to a point where its members soon sought legal status. However, its application was rejected twice by the Registrar of Societies. PLU then turned to cyberspace by setting up a web discussion group called “Signal,” and its membership increased because of the benefits of anonymity and freedom of expression.

Given the authoritarian state that suppresses civil liberties, PLU has not managed to reverse state policies that disfavor LGBT people. Nevertheless, PLU’s success at the forefront of the LGBT movement can be seen in three examples. First, the term “PLU” has become a part of the popular vocabulary to refer to gays and lesbians in Singapore and its neighbor state, Malaysia.⁹ Just as “friends of Dorothy” was a code used by Americans in the 1970s to refer to gays and lesbians, PLU is now an identity badge for gays and lesbians.

Second, one of the founding members of PLU, Alex Au, has created a weblog called “Yawning Bread” that is read and cited by many. The blog serves as a LGBT resource because all LGBT matters in Singapore are meticulously documented and archived within it. Since the news media has no power in an authoritarian state, Au’s “Yawning Bread” plays the role of a watchdog that reports and monitors not just acts of injustice against gays, but also issues of public concern such as elections and government policies.

Third, PLU’s success is evident in the way it has spawned or inspired new groups that cover the wide spectrum of LGBT issues. Red Queen and Sayoni are for lesbian and bisexual women, SgButterfly is for transgendered people, PLUME advocates for young LGBT people under 24 years of age, PLU.EDU. SG is for gay teachers, SAFE is for parents and friends of LGBT people, ADLUS appeals to sports-oriented LGBT people, Heartland.Sg represents LGBT Buddhists, Safehaven does the same for LGBT Christians, and Oogachaga is for those seeking counseling. Cyberspace has paved the way for the formation of these groups that otherwise would face great obstacles operating in a state-controlled environment. Gays also take advantage of chat rooms for socializing. As a consequence, many gays and lesbians in Singapore are tech-savvy and adept in digital media.¹⁰

The diverse gay groups come together annually in August under the banner of IndigNation, which is a subdued version of the gay pride events found in other countries. IndigNation consists of a series of art displays, literary readings, film screenings, talks, and events organized by PLU over two weeks that coincide with National Day celebrations in Singapore. The term “IndigNation” signals the disenchantment with the new Prime Minister who banned the “Nation” circuit parties that were held during the National Day holidays. Both the Nation party and

IndigNation events challenge the meaning of sexual citizenship in Singapore; as the country is swept up in the fervor of nationalism on National Day, LGBT people feel they have been excluded and marginalized by the state and so seek to reaffirm themselves through LGBT communities.

HEALTH

In 1985, when the HIV virus surfaced in Singapore, there were two cases. As of June 2007, there were a total of 3,244 people with HIV, out of which 1,092 had died from AIDS-related illnesses.¹¹ The most common mode via which HIV cases are transmitted is through sexual intercourse. Sixty-eight percent (2,223) of all HIV cases in Singapore come from heterosexual sex. Gays constituted 16 percent (554), while bisexuals accounted for seven percent (227) of all reported HIV-positive people.¹²

When the health minister blamed gay parties for causing a rise in HIV transmissions in 2005, this attribution did not help AIDS education. Targeting a social group rather than social practices merely reinforces old prejudices that “only gays get AIDS.” On the other hand, heterosexual men who are sex tourists in neighboring islands of Bintang and Batam and countries like Thailand, Vietnam, and Cambodia have not been publicly identified as objects of health policy or moral opprobrium.

The category of men who have sex with men (MSM) has never been officially recognized in Singaporean health interventions, and so this contingent of sexual minorities is submerged in official statistics. Sometimes, they are classified as heterosexual, sometimes as bisexual, and sometimes as gay, or as a residual “unknown.” Health policies in this way symbolically annul their existence.

Because AIDS is seldom defined as a lesbian issue, and because lesbians have never been subject to criminal penalties for their sexual orientation, the health concerns of lesbians have not been elevated to the status of public interest. Lesbians are thus subsumed under general women’s health matters.

Transgendered people’s health issues have evolved over time. In the colonial past, Singapore had an international reputation for being a transgender capital in Asia. First, Bugis Street was an important tourist Mecca from the 1950s through the 1970s, and a favorite destination for ANZUK (Australian/New Zealand and United Kingdom) soldiers during their rest and recreation leaves. At night, Bugis Street was graced by transgendered entertainers from around the world, and regularly hosted beauty pageants. A feature film of the same name was made by a Hong Kong director in 1997 to recapture the street’s rich historical moments.

Second, Singapore was a capital for gender reassignment in the 1970s. S. S. Ratnam pioneered male-to-female surgical operations, and transgendered people from across the world traveled to Singapore for gender-reassignment surgery. Over 500 operations were performed over a span of three decades.¹³ In 1973, the state enabled those who went through such operations to change their identity cards.

However, urban renewal has turned Bugis Street into a shopping mall, and authorities have directed hospitals to cease gender-reassignment operations on foreigners based on the assumption that transgendered people were a high-risk AIDS group. Today, Thailand has taken over Singapore’s role as a tourist draw for transgendered performers and as a medical center for operations.

POLITICS AND LAW

The relationship between LGBT people and the state is mediated by legal statutes, which in turn were imposed by the British in 1871. Section 377 of the Penal Code decrees that “carnal intercourse against the order of nature with any man, woman or animal” is punishable with imprisonment for life, or with imprisonment for up to 10 years. Section 377A punishes men who commit “gross indecency,” even if these acts were conducted in private and between consenting adults.

While England decriminalized homosexual acts in 1967, Singapore continued to arrest men for homosexual encounters through 1990; these arrests peaked in the 1980s when police decoys were used to entrap men cruising for sex. The punishment included not just fines and caning, but also public shaming, as newspapers regularly featured such criminal trials.¹⁴

Because the Penal Code outlawed oral sex regardless of consent, age, and sexual orientation, the wider heterosexual population was drawn to a 2003 criminal case where a man who received oral sex from a consenting female was sentenced to two years in jail. Public outcry against the absurdity of the law exerted pressures to repeal such archaic Victorian codes.

In October 2007, after much debate over the Penal Code, and in spite of two petitions signed by thousands of people, the state decided to retain the gay sex ban, but to legalize oral and anal sex between heterosexuals. The Prime Minister repeatedly used the “Singapore is a conservative society” argument to emphasize its reluctance to accede to legal reforms for gays. Although there was a proviso that the law against gay sex would not be strictly enforced, the fact remains that the criminal statute sets double standards and symbolically marginalizes gay men.

As long as the criminal law against gay men stands, it would be irrelevant to consider antidiscrimination statutes for LGBT people. In fact, this failure to abrogate the criminal law is symptomatic of the curtailment of other rights in Singapore. During the third IndigNation celebration held in August 2007, authorities banned four events (an exhibition of photos of same-sex couples kissing, a gay literature reading session, an academic lecture on gay laws around the world, and an outing where gays were supposed to wear pink to the national park).

RELIGION AND SPIRITUALITY

Many LGBT people in Singapore think that, next to law, religion is the chief source of public intolerance towards them. Predictably, the pressure groups that most vociferously object to decriminalization of gay sex and to LGBT people in general are Christians. The Methodist Church of Singapore, Focus on the Family Singapore, and the National Council of Churches of Singapore have all urged the state to refuse any concessions to LGBT people. These Christian denominations are all Western imports to Asia. In the immigrant history of Singapore, the predominantly Chinese majority were Buddhists and Taoists; these traditional Asian religions did not condemn homosexuality as sin, sickness, or an “order against nature,” but instead preached compassion towards all.

The ex-gay movements founded in America have arrived in Singapore. In November 2000, the Church of Our Savior (COOS) ran the “Choices” ministry, which sought to change gays. Law professor Thio-Li Ann, who became a public

icon for the retention of the gay sex law, has adopted the same rhetoric of the ex-gay and fundamentalist movements. In this sense, conservative branches of Christianity have played a critical role in policies related to sexuality.

In spite of a checkered relationship with religion, gays who feel the need to bond spiritually are served by two major groups: Heartland, a Buddhist group, and Safehaven, a Christian group that gathers for prayer, Bible study, and fellowship.

VIOLENCE

The environment for LGBT people in Singapore is one marked by political conservatism but somewhat greater social tolerance in the sense that society has moved far ahead of the state. State authorities have insistently harped on the idea that Singapore is an “Asian society” with a “conservative majority,” and that sexual policies must reflect rather than transcend this conservative Asian majority. In reality, Singaporeans are not as insular or provincial as the authorities have made them out to be. In the age of transnational mobility and Internet connectivity, Singaporeans travel widely and are exposed to many cosmopolitan frameworks. Moreover, in a densely populated city-state, most people are personally acquainted with LGBT people in schools and work settings. There has been no record of any physical violence inflicted on LGBT people. Gays and lesbians in Singapore have to contend less with homophobia from ordinary people than with institutionalized bans and restrictions by the state on sexual expression.

OUTLOOK FOR THE 21ST CENTURY

Singapore is a schizophrenic society that takes one step forward and another one or two steps backwards. The economy moves head with high growth rates, but the polity lags behind as participation and expression are repressed; the skyscrapers seem modern, but the sexual laws are antiquated. Authorities claim that Singapore is Asian, and yet they are guided by Western legal and religious codes. Government ministers say they are not homophobic, but then ban gay parties and gay media; they also welcome gays to the workforce, but then offer no antidiscrimination legislation to protect gays. There are gay bars and saunas in the country, yet gay sex remains illegal.

Gays have to live within this milieu of contradictions and paradoxes. When there is a gap between rhetoric and reality, when nothing ever seems consistent, and when policies shift but remain essentially unchanged, gays learn to be deeply cynical or apathetic. As more and more countries acknowledge gay rights and make progress toward marriage, immigration, adoption, and so forth for their LGBT citizens, Singapore is frozen in a time warp, oblivious to such advancements. As Singapore is a small country dependent on links to the globalized world, resident gays who travel, read, and learn about developments in other countries are increasingly frustrated with the slow pace of reform at home. Cosmopolitanism implies that more and more gays and lesbians with connections to the global community will come out with confidence and greater articulation, but these same gays will also press for change in their home environment.

Given that the “nanny state” is the institution that prohibits, bans, and controls, the future for gays in Singapore hinges on changes in the state. Official recognition of LGBT people as sexual citizens with equal rights and entitlements will be

contingent on democratic reforms that honor greater freedoms of expression, assembly, and association.

RESOURCE GUIDE

Suggested Reading

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TAIWAN

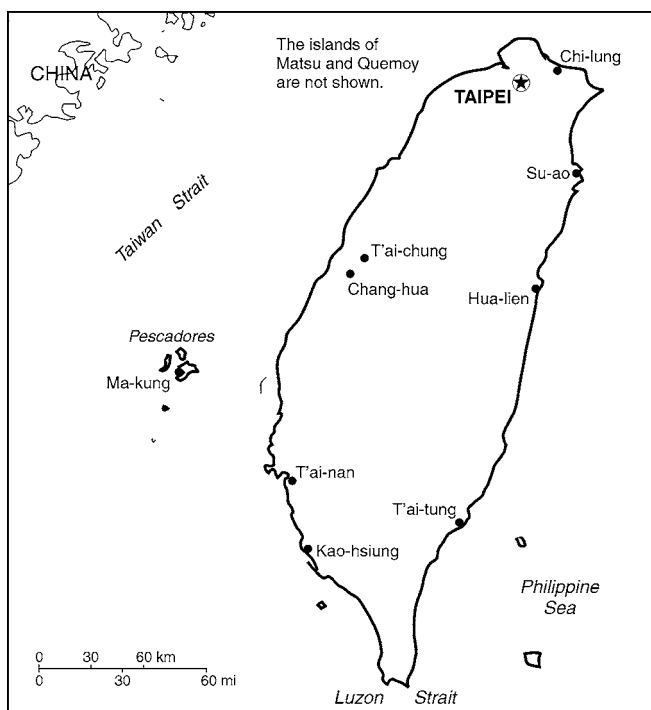
Dau-Chuan Chung

OVERVIEW

The formal name of Taiwan is the Republic of China (R.O.C.). It is an eastern Asian island nation located in the Western Pacific Ocean between Japan and the Philippines off the southeast coast of People's Republic of China. Taiwan has an area of 13,969 square miles, and a population of approximately 23 million with a density of 1,649 people per square mile.¹ In 2008, the annual birth rate was 8.6 per 1,000; the annual death rate was 6.3 per 1000, and the average life expectancy at birth is 78.4 years. Taiwan's literacy rate is 97.8 percent, and 67.8 percent of Taiwanese have earned a high school diploma.² In 2008, the per capita gross domestic product (GDP) was \$17,083, the growth rate was 0.1 percent, inflation was 3.52 percent, and the unemployment rate was 4.14 percent.³

In its 400-year history, Taiwan has been occupied by Portugal, Spain, the Netherlands, and Japan, and forcefully influenced by Chinese, Japanese, and American cultures.

The relationship between Taiwan and China is complicated. Many Chinese immigrated to Taiwan after the island was discovered in the late 16th century, but the Chinese government did not make territorial claim to Taiwan until 1885. Ten years later, Taiwan became a Japanese colony. In 1945, Taiwan was reunited with China. In 1949, the Kuomintang government was defeated in mainland China, moved to Taiwan, and then controlled Taiwanese society under strict martial law.⁴



Meanwhile, mainland China argued that Taiwan is a province under Chinese control, and prevented Taiwan from building official relationships with other countries or joining international organizations, such as the United Nations or the World Health Organization.⁵ At an international level, Taiwan is very isolated. Based on this perspective, the status of Taiwan in the world is similar to the status of homosexuals in some societies: it exists, but is neglected.

After the lifting of martial law in 1987, marginalized, underrepresented, and stigmatized groups of the past, such as women, aborigines, and homosexuals, aggressively demonstrated their existence and voiced their opinions. The liberal social conditions helped the emergence and visibility of the current gay and lesbian movement in Taiwan.

OVERVIEW OF LGBT ISSUES

Taiwan has gained a reputation for having a progressive attitude regarding LGBT issues. To some extent, it is well-deserved. The LGBT communities in Taiwan are vigorous, and LGBT organizations are active and positive. There are many LGBT social, cultural, and commercial materials, places, and activities. The quality of LGBT literature, art, and academic studies is impressive as well. The government of Taipei has also provided financial support for LGBT festivals, marches, and a free gay guide to the LGBT communities.⁶

At the same time, discrimination against LGBT people still exists in most areas of Taiwan, although there are two governmental acts declaring that discrimination based on sexual orientation in educational institutions and employment illegal.

The Taiwanese LGBT movement began in the 1990s, after the appearance of HIV/AIDS and the lifting of martial law. The major issue for Taiwanese gay men is to fight against the stigma related to HIV/AIDS. For lesbians, bisexuals, transgendered people, and other sexual minorities, the priority is to increase their visibility in Taiwanese society. The latest mission for the LGBT movement is to relieve LGBT people of the conservative control over their erotic activities.

EDUCATION

Taiwan's education system was under tight government control before 1996 and there were standardized curricula and textbooks for schools. After 1996, however, school principals and committees gradually acquired more power to manage their schools.⁷ The main concern for committees, especially at the junior and senior high levels, is to help students to obtain higher exam scores for different joint entrance examinations.⁸ Therefore, the curriculum in almost every junior and senior high school is exam-focused.

According to the Gender Equity Education Act, schools may not treat LGBT students and teachers differently from others, and the rights of every individual should be protected.⁹ However, Taiwanese schools are still far from LGBT-friendly. For example, some teachers unintentionally express LGBT-unfriendly remarks, while some institutions refuse to believe that students can be LGBT, or label LGBT students as pseudo-homosexuals. Some institutions still consider nonheterosexuality to be a mental illness and employ counseling or psychotherapy in hopes of changing the sexual orientation of students. Furthermore, textbooks in schools are heterosexist, and representation of LGBT issues in textbooks remains insufficient and inappropriate. Not only is information about LGBT lifestyles seldom found in

textbooks, whatever information is provided often promotes misunderstandings about LGBT people. For example, some textbooks for junior high school students still suggest that homosexuality is a psychological dysfunction.¹⁰ This condition, however, has improved slightly since the establishment of the Committee of Gender Equality Education in 1997. Many commissioners on that committee are LGBT-friendly scholars.¹¹

Many schools assume that every student is a heterosexual, or that students are too young to know whether they are LGBT. This provides temporarily safe situations for LGBT students so that they may hide their sexual orientation. This condition also prevents LGBT students from being known, meeting other LGBT students, or receiving support from their teachers and peers. Students or teachers who are easily recognized or misunderstood as LGBT, or those who behave in ways that do not conform to gender norms; for example, tomboyish females or effeminate males are much more likely to be victims of disciplining violence. For these LGBT students and teachers, “passing” becomes a necessary strategy to survive.

In contrast, however, some qualitative studies have found that, when LGBT students or teachers who behave in ways that conform to gender norms come out to their peers or classmates, they are likely to be accepted and supported.¹² Some students may have difficulty accepting their LGBT classmates; however, their attitudes can be changed after direct and open communication with LGBT-friendly teachers or their LGBT classmates.¹³

EMPLOYMENT AND ECONOMICS

Sexual orientation has been included in the Employment Services Act to ensure that employers make fair employment decisions. One of the major problems for LGBT personnel, however, is an unfriendly working environment, not unfair treatment. For example, LGBT persons who are single are often considered immature or unready to shoulder responsibility in the workplace. Women are expected to dress in suits with skirts, and men are expected to behave in masculine ways. These conditions form a glass ceiling in offices to prevent LGBT workers from being promoted to high-level positions.

Officially, the Employment Services Act protects any employee from discriminatory treatment based on his sexual orientation, and current numbers of reported cases of discrimination in the workplace based on sexual orientation are quite low. This does not suggest that discrimination against LGBT people has disappeared. Many persecuted LGBT people may not fight back for fear of outing themselves.

Economically, an unfriendly social environment also affects LGBT companies. Owners do not lease shops to LGBT business, a chain of leading bookstores does not sell books published by LGBT publishers, and police intentionally check and harass LGBT companies, shops, and pubs. Some companies that have targeted gay and lesbian consumers, such as the *Kaixin yangguang*¹⁴ publisher¹⁵ and *To Go* magazine,¹⁶ were forced to close due to financial losses. The *Reai (G&L)* magazine¹⁷ and the Gingin bookstore¹⁸ experienced some flat periods when revenues and expenditures were unbalanced.

SOCIAL/GOVERNMENT PROGRAMS

The Taiwanese government does not provide specific social programs for LGBT people. It argues that every Taiwanese citizen can equally access and obtain services

from the government, therefore it is unnecessary to provide specific services for LGBT people. This heterosexism, however, is fundamentally flawed. Heterosexual families are the basic unit for most social policies in Taiwan. When LGBT people do not choose to participate in heterosexual marriages or families, they are automatically excluded from some social programs and policies, even though they are Taiwanese citizens. The policies do not purposefully discriminate against LGBT people, but they affect and create disadvantages for many LGBT people nonetheless.

Some services provided by nongovernmental organizations (NGOs) also unintentionally harm LGBT people due to their inappropriate perspectives regarding LGBT issues or the pathologization of LGBT people. For example, when a lesbian was depressed due to a failed relationship with her girlfriend, a counselor suggested that she change her sexual orientation or to find a boyfriend to cure her broken heart.¹⁹ In addition, in 2007 a lesbian was not allowed to adopt her niece because an NGO suggested to a court that she, as a lesbian, might be an inappropriate mother and cause much trouble for the girl.²⁰

Because the government and some NGOs do not provide adequate services for LGBT people, some LGBT organizations have been established to provide related services. The most remarkable function these organizations provide is to help LGBT individuals connect socially with each other. For example, the first lesbian organization, Women zhijian (Between Us), was established in 1990 based on an acknowledgement of the importance of establishing a social network among lesbians. Kuifumu tongxin xiehui (PFLAG Taiwan) was founded in 2006 to provide a social network for families and friends of LGBT people. A second important mission for LGBT organizations is to advocate for LGBT rights and to deal with related torts. Tongzhi gongzuofang (the Tongzhi Workshop), founded in 1993, but no longer operational, Xingbie renquan xiehui (the Gender/Sexuality Rights Association), founded in 1999, and Tongzhi renquan xiehui (the *Tongzhi* Rights Association), founded in 2000, were established for fulfilling this mission. The provision of LGBT-friendly counseling has been suggested as another important issue, and Tongzhi zixun rexizn xiehui (the Tongzhi Hotline Association), founded in 1998 and Lalashou xiehui (the LesHand Association), founded in 2006, pay a great deal of attention to this underserved issue. These LGBT associations have close and strong relationships with each other and related LGBT and non-LGBT organizations. They form coalitions to respond to specific events and work collaboratively to handle critical activities, such as festivals or pride parades. After the establishment of LGBT organizations, some governmental bodies, such as the Taipei city government, have begun to provide funding for or work with the LGBT organizations, though sometimes the funding is limited.

Taiwanese LGBT organizations concentrate not only on LGBT issues, but also connect or collaborate with other oppressed groups, such as women, laborers, foreign wives, and people living with HIV/AIDS. A few international LGBT gatherings have also been held in the years since 1990, such as the Asian Lesbian Network meeting in 1995, and the Chinese *Tongzhi* Conference in 2001. Festivals (starting from 1995) or parades (starting from 2003) are other methods employed to publicize the existence of the LGBT communities and to challenge the biased images of LGBT people often put forth by the public media in Taiwan.

Some special issues, however, have not been carefully covered by the current services or programs provided by LGBT organizations, such as domestic violence

between same-sex partners, care for LGBT elderly, handicapped LGBT individuals, or the health needs of bisexuals, transsexuals, and intersexuals. To narrow the gap between what should be done and what has been done, and removing the exacting barriers so that LGBT people may obtain related social services, LGBT organizations must pay attention to communicating with, educating, and establishing working relationships with other organizations in different fields.

SEXUALITY/SEXUAL PRACTICES

Generally speaking, sex was considered a normal part of human life in traditional Chinese culture (like taking food), and male-male sex or love was not a concern in ancient Chinese society. Homosexual behavior between kings and their male partners, and *nan jiyuan* (brothels for male-male sex) can easily be found in historical records. Furthermore, *jijian* (anal sex) between men was not considered a crime, except in the cases of rape or forced sex.²¹ On the other hand, female-female sex or love was relatively difficult to identify in the traditional Chinese culture, although such stories may be found in ancient novels or plays.

Male-male sex or female-female sex is considered neither a crime nor sin in modern Taiwan. After the introduction of Western sexology and psychoanalysis, however, homosexuality was considered as an abnormal psychological condition. This concept is still held by some Taiwanese.

Chinese culture has a long history of cross-dressing. In some famous stories, such as *Mulan*²² or *Lian shanbo and Zhu yingtai*,²³ cross-dressing women are the main characters. In traditional Taiwanese operas, known as *koa-a-hi*, most male characters are played by actresses, and some cross-dressing actresses, usually in the leading male roles, are overwhelmingly loved by female Taiwanese fans.

Despite these characters' popularity in literature and on the stage, Taiwanese government treats ordinary cross-dressing individuals, whether they are transgendered people who like to cross-dress or butch lesbians, unfairly. They are considered mentally ill or criminals whose behaviors are against the social order. Negative terms such as *bu nan bu nu* (a gender-bender) and *weifan shehui zhixu* (contravening social law or order), are popularly used to taunt cross-dressing individuals in Taiwan.

Sex work is seriously stigmatized and is an illegal occupation in Taiwan. Therefore, male-to-male sex workers have to advertise themselves using a secret approach, such as providing male-to-male massage services. Female-to-female sex workers are invisible in Taiwan. Furthermore, the population that practices sado-masochism (S+M, or bondage) is also stigmatized and marginalized in Taiwan, and is misunderstood by most Taiwanese. In recent LGBT festivals and parades in Taiwan, however, a few S+M groups have appeared, thereby increasing the visibility of this population.

A total of 19,744 people in Taiwan were reported to be HIV positive as of the end of 2008. Intravenous drug users accounted for 30.54 percent of those diagnosed as infected with HIV, followed by men who have sex with men (26.5%), and heterosexual people (20.4%).²⁴ AIDS prevention work in Taiwan began in 1985, and includes safer-sex education, harm reduction programs, HIV testing, and free treatment for people living with HIV.²⁵ Although safer-sex education used to stigmatize sexual minorities, such as sex workers and gay men, the situation has gradually improved in recent years.²⁶

FAMILY

The family has traditionally been the basic unit in Chinese society, and the extended family was idealized in Chinese culture. In an idealized extended Chinese family, parents should supply basic needs, care, and instruction for their children; siblings should show brotherliness and respect for each other; children are expected to contribute their income to the family, and sons are strongly expected to take care of their parents in their old age.²⁷ Chinese immigrants originally brought this ideology to Taiwan. The number of extended families has decreased in modern Taiwan, but the notion of the idealized family persists. Divorced and single parents once were stereotyped, but they are now considered no more than different life-style options for contemporary Taiwanese.

Although Taiwanese society has gradually come to hold more liberal attitudes towards divorce, companionate marriage, or single-parent families, it is not so easy for Taiwanese LGBT persons to come out to their families. Homosexuality is stigmatized, so being a homosexual is considered shameful or disgraceful for other family members. This shame or disgrace sometimes results in domestic violence against LGBT persons. Furthermore, Taiwan is a collectivist country where the relationship with family is an individual's most important social resource, so some LGBT people are afraid to risk their relationships with family and choose not to come out.

When LGBT people decide not to come out to their families, they often encounter other difficulties, especially the stress of marriage. In Chinese culture, heterosexual marriages have been constructed as the better life choice, and unmarried individuals are usually thought of as immature or irresponsible. LGBT people, like unmarried heterosexuals, usually encounter numerous pressures to marry from family members, relatives, or even neighbors. In addition, males are expected to have a son to carry on the family name, so gay men typically feel more frustrated about the stress of marriage than their lesbian counterparts.

It is almost impossible for LGBT people to sever all emotional and physical ties with their families, especially their parents. It is traditionally expected that children, especially sons, will take care of their parents, regardless of what the parents may say or do. This traditional expectation indirectly produces other potential troubles for elderly LGBT people, because it suggests that they might not receive care due to the lack of offspring.

In Taiwan, some LGBT people decide to accept a heterosexual marriage, or to enter into a false marriage with an opposite-sex LGBT person. Being in a heterosexual marriage however, when their partners do not know the truth, can create the problem of the double closets. LGBT people in heterosexual marriages have to hide their LGBT identities from their husbands or wives while hiding their marriage status from their LGBT friends or potential same-sex partners. Being in an opposite-sex marriage with a LGBT person will lead to other problems, such as the continuing camouflage for the marriage, and the worry that the false marriage and true sexual orientations of the partners will be revealed.

Although there is no exact definition of marriage in the Taiwanese legal system that restricts the unions to one man with one woman, same-sex marriage is not allowed. Civil unions and domestic partnerships are not included in legal system, either. In 2000, the government announced that it intended to legalize same-sex marriage, and a few public hearings were held in the Legislation Yuan,²⁸ but no related bills have been passed.

Openly LGBT individuals or couples are not allowed to adopt children in Taiwan, as it is assumed that lesbians and gay men might make for inappropriate parents. However, a closeted LGBT person, or LGBT people who are in heterosexual marriages, is not prohibited from adopting children.

COMMUNITY

Beginning in the mid-20th century, some Taiwanese males started to use places such as gardens, parks, or public toilets to meet or to have sex with other males. Although the places are thought of as cruising grounds, there are some distinctions between the ones in Taiwan and those in the West. First, the places used in Taiwan are not only for quick and anonymous sex between men, but also places for meeting other gay males, or for friends to gather together. For this reason, it is not unusual for Taiwanese gay people in pairs or groups to talk, laugh, or play in these places. Second, almost all of these places in Taiwan are situated in or close to very busy locations, such as main train stations or bus stops, to make it easy for people to come and go. Third, specific subcultures have developed in these places, and they also have become critical community bases for Taiwanese gay men. Parks, especially the Peace Park (previously known as the New Park) in Taipei, have been nicknamed *gongsi* (offices) for gay men. Going to parks has been merrily called *qu gongsi shangban* (going to the office for work). A famous Taiwanese gay novel, *Crystal Boys*, was based on the New Park. Potential risks still exist in these places, though, such as being harassed by policemen or being threatened or extorted by gangsters.

After the 1970s, a few gay-owned cafes, restaurants, and bars opened in Taipei to provide other alternatives for gay men to meet friends or to pass their leisure time. Some Japanese-style tearooms hired cross-dressing male sex workers to solicit male customers. Gay men have also appeared at springs, baths, or saunas. In the mid-1980s, male-seeking-male advertisements secretly and indirectly emerged in the personals sections in magazines. The Internet has been a popular tool for gay men to connect with others, after its development in the 1990s.

Because of limited erotic resources for women in Taiwan, there were few places for lesbians to go and meet other lesbians in earlier times. Before the first T-bar (this term is used to refer to lesbian bars in Taiwan) opened in 1986, many lesbians went to hotel ballrooms or gay bars to socialize with other lesbians.²⁹ Once some lesbian-owned restaurants and T-bars opened, they provided private, safer places for lesbians to meet friends or to enjoy leisure time. The appearance of female support groups, feminist organizations, and the Internet have provided safer environments for lesbians to get to know one another.

Quznzi (a circle) is a term used by Taiwanese LGBT people to refer their communities. *Jin quznzi* (joining the circle) means becoming a member of the LGBT community, or physically going to places where LGBT people congregate. This also refers to a psychological process of leaving familiar heterosexual environments, and physically and psychologically going to a new and unfamiliar homosexual *quznzi*. Taiwan is a geographically small, culturally collectivist country, so for Taiwanese LGBT people, it is difficult and unusual to totally sever relationships with their families or heterosexual friends. Therefore, although they can physically and psychologically *jin quznzi*, they can only leave their heterosexual environments psychologically.

Broadly speaking, for gay men of the pre-Internet generation, entering the New Park was a symbol of *jin quznzi*, and, for lesbians of the same generation, going to T-bars was the symbol. For LGBT members of the post-Internet generation, *jin quznzi* means that they create accounts on LGBT social networking Web sites or join LGBT organizations.

Because the LGBT *quznzi*, an imaginable and invisible circle, is different from those of heterosexual communities, it is unavoidable for LGBT newcomers to encounter some culture shock when they *jin quznzi*. An important task for LGBT newcomers is to learn the culture of the LGBT *quznzi*. On account of the lack of established social institutions or mechanisms in the LGBT *quznzi*, such as families or schools, most LGBT newcomers must learn about the culture on their own, or by observing how other LGBT individuals behave. The formation of some LGBT districts in Taiwan makes the *quznzi* more visible.

A visible LGBT *quznzi* in Taiwan has gradually been forming, thanks to the establishment of LGBT and LGBT-friendly organizations, cafes, bookshops, and publishers. Examples include the Gongguan and Ximen areas in Taipei. In the Gongguan area, where traditionally marginalized voices or opinions can exist and be heard, many LGBT organizations and LGBT-owned cafes and shops are located, such as Taida nantongxinglian wenti yanjiushe (the Gay Chat) and Taida nutongxinglian wenhua yanjiushe (the Lambda), which were the first gay and lesbian student associations, the Gingin bookstore (the first LGBT bookstore), and Tongzhi zixun rexizn xiehui (the first registered LGBT organization). These shops and organizations, along with other LGBT-friendly stores in the Gongguan area, formed the first LGBT district in Taiwan. Many LGBT activities and festivals are held in this area. In the Ximen area, the Peace Park, Honglou Square (the Honglou was a cinema where gay men collected to have anonymous sex), and other LGBT-owned cafes, restaurants, and saunas form the second LGBT district in Taiwan.

In addition to these visible LGBT districts, the publication of some important novels and books, such as *Crystal Boys* (by Bai Xian-yong, and published in 1990), *Zhongguoren de tongxinglian (Chinese Homosexuality)* (edited by Zhuang Hui-qiu, and published in 1992), *Notes of a Desolate Man* (by Chu T'ien-wen, and published in 1997), has been another force to construct the imaginable LGBT communities and to push the broader Taiwanese society to consider LGBT issues from a more friendly perspective. The publication of these books also provided positive and empowering information for LGBT individuals who previously had only received biased or stereotyped messages about LGBT from public resources.

The formation of LGBT districts in Taiwan, on the one hand, provides LGBT individuals with visible places to go to socialize with other LGBT individuals and to construct their LGBT identity. On the other hand, the visibility of the LGBT *quznzi* increases the harassment by anti-LGBT individuals and organizations. For example, the gay-owned AG Gym in the Ximen area was only open for one year, after countless intentional checks and harassment by police officials and LGBT-unfriendly neighbors forced its closure.³⁰ The glass walls of the Gingin bookstore have also been smashed many times.

The terms top and bottom, or active and passive, commonly employed to describe male-male sex roles in Western gay communities, have been introduced and integrated into Taiwanese gay society, but Taiwanese gay men seem to prefer the local terms 1-0-6-9 to identify themselves in sex. The numbers 1-0-6-9 clearly, in

a pictographic way, represent the preferred sex roles for Taiwanese gay men. The number, 1, *yihao*, refers to being top; the number, 0, *linghao*, refers to being bottom; and the number, 10, *yiling shuangxiu*, refers to being versatile. The numbers 6 and 9 stand for an oral sex between two men.

The terms used in the Chinese family system, such as, *ge* (older brothers), *jie* (older sisters), *di* (younger brothers), and *mei* (younger sisters) are translated to describe the gender categories in the Taiwanese gay male population. *Ge* and *di* are used to name the gay men who are more masculine, meanwhile *jie* and *mei* are used to name the gay men who are more feminine. However, there are no clear distinctions between sex roles and gender roles, so the usage of *yihao jiejie* or *linghao gege* is not uncommon. In addition, two simplistic terms C (sissy) and M (masculine) are generally employed to describe the gender roles in the Taiwanese gay male population. However, there are still many arguments about what *ge/jie/di/mei* or C/M mean.

Unlike their gay male counterparts, gender roles, not sex roles, are more meaningful for lesbians, although specific gender roles suggest possible roles and behaviors in female-female sex. There are three basic gender roles in the Taiwanese lesbian community: *T*, *po*, and *bufen*. “T” is short for the Western term tomboy, and it implies that a T is probably a butch lesbian. *Po* originally referred to man’s wife in the Chinese family system, so the term was translated to describe a T’s female partner, a femme lesbian. *Bufen* means unclassified or undifferentiated. The creation of *bufen* was based on the deconstruction of the T-*po* relationship.

A T-*po* pair has been thought of as a typical lesbian relationship. Following the introduction of Western feminism, and the creation of *bufen*, the types of alternative relationships in the lesbian community, such as T-T pairs or *po-po* pairs, have gradually emerged and become visible. The ideas of T and *po* have also transformed to conceptual prototypes, and there are many subtypes under T and *po*, such as *shtoui* T (stone T), *rou T* (tender T), *han po* (intrepid *po*), or *mei po* (beautiful *po*). However, although the gender roles in the lesbian community are more flexible today, this does not suggest that the meaning of *bufen* is superior to the meaning of T or *po*, they are merely the three most common descriptors for gender roles or categories.

In addition to the terms used to name their sex or gender roles in the gay and lesbian communities, other terms have been produced or translated to differentiate homosexuals from heterosexuals, such as *quanneiren* (people in the same circle), *tongxinglian* (homosexuals), and *tongzhi*, *kuer*, or *kuaitai* (queer). Specific terms for gay men include *tongnan* or gay; while for lesbians the terms are *tongnu*, lesbians, *la*, or *lazi*. These terms imply variable meanings socially and politically, and are used in different conditions by LGBT persons.³¹

HEALTH

The Taiwanese government has been neglectful of the health of LGBT people. The only LGBT health issue to which the government has paid attention is HIV/AIDS. This disease was considered a gay disease even before any HIV/AIDS cases were reported in Taiwan, and it was stigmatized due to its close relationship with gay men. As early as was possible, the government provided resources to prevent the disease from entering Taiwan, but the stigmatized messages employed

in education and prevention programs ironically intensified Taiwanese's misunderstanding about HIV/AIDS. The first gay and lesbian march in Taiwan was put on to protest against a research report regarding the HIV/AIDS issue that seriously stigmatized gay men.³² Meanwhile, adequate resources for gay men in need were not delivered. The government's neglect of the HIV/AIDS issues pushed gay men to devote themselves to HIV/AIDS education. It also resulted in the emergence of the modern gay movement in Taiwan. For example, in the late 1980s a gay man came out as an HIV/AIDS volunteer and performed significant HIV/AIDS education and prevention work. Gay-friendly booklets were produced, and HIV/AIDS units were established in registered LGBT organizations.

In addition, in 2007, Nutongzhi jiankang fuli lianmeng (the Coalition of Advocating Lesbians' Health Welfare) was founded to investigate the health conditions and health needs of Taiwanese lesbians.³³ The findings revealed that only 6.4 percent of 1,523 respondents disclosed their sexuality to medical service providers, and only 28.8 percent of them were content with the service they received after such disclosure. Due to their lesbian identity, 13.9 percent of respondents felt harassed or embarrassed when they received medical services; and 59 percent of them were T. In addition, only 8.7 percent of the lesbian sample received tests for cervical cancer or breast cancer. The study, therefore, concluded that Taiwanese medical services did not pay sufficient attention to lesbians, and were not lesbian-friendly; it also revealed that the lesbian population was not aware of their medical rights.³⁴

In addition to the HIV/AIDS issues and the investigation made by LGBT NGOs, the understanding about other health needs and issues of concern to LGBT people is minimal. For instance, some health care workers still consider homosexuality a sin or abnormal behavior, and regard the desires of transgendered people as funny and ridiculous. The health needs and issues of bisexuals, transsexuals, and intersexed people are totally ignored and unknown, owing to their invisibility and stigmatization in Taiwanese society.

POLITICS AND LAW

Only two acts in the Taiwanese legal code mention sexual orientation. One is the Gender Equality Education Act, and the other is the Employment Services Act. These two acts formally declare that discrimination against people based on their sexual orientation in educational institutions and employment, or treating them differently because of their sexual orientation, is not allowed. There is no specific antidiscrimination act in the current Taiwanese legal system to protect LGBT people from discrimination across the board, however there are no sodomy laws to criminalize homosexual sex, either. One legislator, in late 2006, proposed a bill to legalize same-sex marriage, but the bill was rejected.

Weifan shehui shanliang fengsu (breaching socially virtuous manners) and *fanghai fenghua* (behaving indecently) are two broad and ambiguous terms employed to criminalize any behavior that is against mainstream social norms. The possible behaviors that could be against social norms include gambling, pornography, nudity, cross-dressing, participating in orgies, and homosexual sex. For example, the owner of the Gingin bookstore was accused of *fanghai fenghua* because man-to-man erotic magazines were sold, although all erotic magazines were carefully wrapped and labeled as X-rated books. A respected feminist scholar was accused

because on her university homepage there were links to other Web sites that contained information about bestiality. In other words, although there are two acts that formally declare that people with different sexual orientations should be protected from discrimination, LGBT people and sexual minorities are strictly monitored and controlled because their behaviors are against mainstream ideas of socially virtuous manners.

A few Taiwanese politicians have publicly expressed their support for the LGBT population. In 1993, there was a public hearing, *guanhuai tongxinglian* (cares for homosexuals), to discuss the possibility of including homosexuals in the draft of an antidiscrimination bill before the Legislation Yuan., and in 2000 the President of Taiwan granted an interview with LGBT activists and announced that “homosexuality is not a mental illness” and that he “totally supports LGBT movement.”³⁵ These examples seem to demonstrate that a few Taiwanese politicians are more LGBT-friendly than some politicians who oppose the LGBT populations in other countries, because, at least, they openly express their support for LGBT individuals and communities. Substantial measures for protecting LGBT individuals from prejudice and discrimination, however, are still lacking in Taiwan, in spite of the vocal support of some politicians.

Four gay men campaigned for positions in local and national parliaments in the recent Taiwanese elections in the hope of reducing the marginalization of LGBT issues in policy making. Although all of them were defeated, the *xuanju guanchatuan* (the committee of observers to elections) established for evaluating candidates’ LGBT policies in national and municipal elections provides an appropriate model for LGBT involvement in political issues. Under the influence of the *xuanju guanchatuan*, a pair of candidates for the presidential election in 2000 provided a LGBT-friendly policy in their campaign, and some candidates for national parliaments also campaigned specifically for the political support of the LGBT community.

In the 1980s, some LGBT individuals tried to challenge the heterosexist-oriented policies and systems in Taiwan. For example, in 1986, a gay couple submitted an application for marriage.³⁶ Although the application was rejected, the event created much discussion about the definition of marriage in general and LGBT marriage in particular.

In the 1990s, an organizational and systematic LGBT movement appeared. The first lesbian organization, Women zhijian (Between Us), was established in 1990. In 1993, the first gay student association, Taida nantongxinglian wenti yanjiushe (the Gay Chat) was founded at the National Taiwan University. In 1995, a coalition, Tongzhen, formed to respond the Taipei City Government’s unconsidered redevelopment plan of the New Park (currently known as the Peace Park). Tongzhi zixun rexizn xiehui (the Tongzhi Hotline Association) was founded in 1998 to provide LGBT-friendly counseling and support services, and became the nation’s first registered LGBT organization in 2000. Meanwhile, Tongzhi renquan xiehui (the Tongzhi Rights Association) was established in Kaohsiung.

Due to severe pressure against coming out as individuals, a strategy called *jiti xianshen* (collective coming out) is often employed in Taiwan. This strategy emphasizes the representation of the existence of the collective communities, not individuals. The specific method is for those LGBT people who are afraid of the potential risks of coming out associated with attending LGBT activities, festivals, or marches, to wear masks to cover their faces. On the one hand, for individuals,

this reduces the potential risk of coming out in person, yet on the other hand, it powerfully demonstrates the existence of the LGBT communities.

RELIGION AND SPIRITUALITY

The main religions in Taiwan are Taoism, Buddhism, and Christianity; each of these holds a different perspective on homosexuality based on its religious principles. Buddhism and Taoism consider that, like other love relationships, homosexuality is just one of the earthly obstacles that prevents people from attaining nirvana. Christianity seems to promote the concept that homosexuality is an abnormal and an unnatural behavior.

In the past, Taiwanese Christian leaders, however, did not openly declare homosexuality to be an abnormal and unnatural behavior in the mass media, or even in religious magazines. The possible reasons for this situation were that the images of homosexuality and homosexuals in Taiwanese mass media remained negative, and that there were no openly LGBT people, therefore it may have seemed unnecessary for Taiwanese Christian leaders and groups to publicly express their beliefs on homosexuality.

The first material in Taiwan discussing homosexuality from theological perspective was the book *Tongzhi shenxue* (*Theology of Gay and Lesbians*, 1994) by an LGBT-friendly sociologist. It explained the theology based on LGBT perspectives. Then, some LGBT-friendly or LGBT communions and churches were established in Taiwan, such as Yuenadan tuanqi (Jonathan Fellowship) in 1995, Tongguang tongzhi zhanglao jiaohui (Tongkuang Light House Presbyterian Church) in 1996, and Tongxin jiaohui (Unity Church) in 2002. Furthermore, almost all scholarly journal papers and theses regarding homosexuality and religion were LGBT-friendly and supported the rights of LGBT individuals.³⁷

Following the establishment of LGBT communions and churches, and the publication of LGBT-friendly journal papers and theses, anti-LGBT comments expressed by the religious right publicly emerged in the mass media, in sermons, and in other church publications. For example one scholar of theology in Hong Kong, in 2004, wrote an essay in a Taiwanese religious magazine arguing that every Chinese church should face the challenges of homosexuals, fight the possible marginalization of Christianity and Catholicism in broader Chinese society, and avoid the long-term risks resulting from homosexuality.³⁸ He also argued that homosexuals should not have “special rights,” and that people of every faith should be protected from the pollution of LGBT people. After the Taipei City Government financially subsidized LGBT festivals or parades, the religious right aggressively argued for the inappropriateness of financial support for LGBT organizations, and strategically excluded LGBT organizations from attending public festivals and events. For example, in 2006, a bookstore festival was held in the Gongguan area of Taipei, but a few LGBT and LGBT-friendly bookstores were quietly excluded because the festival was located on church premises.³⁹

The political actions of the religious right forced LGBT organizations to respond discretely. For example, they had to open active lines of communication with religious groups, supply LGBT-friendly information to schools, argue against reparative therapy, and maintain good relationships with politicians. These are all preventative measures designed to eliminate possible political exclusion by the religious right.

VIOLENCE

In Taiwan, incidents of physical violence against LGBT persons were not considered crimes or heard of or reported until the early 2000s. Besides physical assault, there are many types of violence, such as verbal abuse, bullying, harassment, threats, gossip, or psychological abuse. A recent qualitative study reveals that Taiwanese LGBT individuals experience more verbal abuse than physical violence.⁴⁰ Being harassed or overlooked by policemen and threatened or extorted by gangsters are other examples of serious incidents of violence against LGBT persons.

Besides anti-LGBT violence committed by strangers, the reported incidents of violence related to LGBT individuals include domestic violence between same-sex partners, murders of partners, suicide attempts, and domestic violence committed by family members against LGBT children or siblings. Forms of domestic violence committed by family members against LGBT people include oral condemnation, assaults, beatings, house confinement, the cutting off of financial support, and discontinuing family relationships.

It is unclear how serious these problems of violence are and how much violence is experienced by LGBT people in Taiwan. It is also hard to tell whether the suicide rate among LGBT Taiwanese is higher than in the heterosexual Taiwanese population, since it is unknown how many LGBT youth or adults in Taiwan commit suicide due to their sexual orientation unless they leave suicide notes.

OUTLOOK FOR THE 21ST CENTURY

Taiwan seems quite LGBT-friendly because Taiwanese LGBT organizations are active, there are many LGBT activities and businesses, and some politicians show their support for LGBT issues, however there is much to improve. Only two legislative acts formally declare that people with different sexual orientations should be protected, and the general antidiscrimination bill has not been passed in the Legislation Yuan. This leaves LGBT people in Taiwan in an uncertain, unprotected position.

Furthermore, the heterosexual family remains the basic unit for most social policies and programs in Taiwan. This automatically excludes LGBT persons who are not in heterosexual marriages from enjoying their basic rights, so it is critical for LGBT activists to challenge this social logic and to provide an appropriate approach to displace it.

Following the emergence and visibility of individual and collective LGBT movements in Taiwan, anti-LGBT backlash and measures have gradually appeared, and a few hate crimes occurred. Therefore, it is important for LGBT activists to work carefully to design a method to protect LGBT people from avoidable harms and risks.

Geming shangwei chenggong, tongzhi rengxu nuli (The revolution has not succeeded yet, comrades must continue the struggle).⁴¹

RESOURCE GUIDE

Suggested Reading

In English

Hsiao-Hung Chang, "Taiwan Queer Valentines," in *Trajectories: Inter-Asia Cultural Studies*, ed. K.-H. Chen (New York: Routledge, 1998), 183–298.

- Y. Antonia Chao, "Drink, Stories, Penis, and Breast: Lesbian Tomboys in Taiwan from the 1960s to the 1990s," *Journal of Homosexuality* 40, no. 3/4 (2001): 185–209.
- Jens Damm, "Same Sex Desire and Society in Taiwan, 1970–1987," *The China Quarterly* 181 (2005): 67–81.
- Fran Martin, *Situating Sexualities: Queer Representation in Taiwanese Fiction, Film and Public Culture* (Hong Kong: Hong Kong University Press, 2003).
- Ping Wang, "Why Inter-Asia? The *Tongzhi* Movement," *Inter-Asia Cultural Studies* 2, no. 1 (2001): 127–31.

In Chinese

- Yengning Antonia Chao, *Daizhao caomao daochu lvxing: Xing/bie, quanli, guojia* [Traveling everywhere with a Boater: Sexuality, Gender, Power, and Nations] (Taipei: Yuanliu, 2001).
- Ta-wei Chi, ed., *Kuer qishilu: Taiwan dangdai QUEER lunshu duben* [Queer Archipelago: A Reader of the Queer Discourses in Taiwan] (Taipei: Yuanzun wenhua, 1997).
- Chunrui Ho, ed., *Xing/bie yanjiu de xinshiyue* [A New Horizon in Sexuality and Gender Studies] (Taipei: Yuanliu, 1997).
- Feng Mao, *Tongxinglian wenxueshi* [The History of Homosexual Literature] (Taipei: Hanzhong wenhua, 1996).
- Taida nutongxinglian wenhua yanjiushe, *Women shi nu tongxinglian* [We Are Lesbians] (Taipei: Shuoren, 1995).
- Juan-fen Zhang, *Ai de ziyoushi: Nutongzhi gushishu* [Free-style Love: Lesbian Stories] (Taipei: Shibao, 2001).
- Hui-qiu Zhuang, *Zhongguoren de tongxinglian* [Chinese Homosexuality] (Taipei: Zhanglaoshi, 1996).

Fiction

In English

- Xian-yong Bai, *Crystal Boys* (San Francisco: Gay Sunshine, 1990).
- T'ien-wen Chu, *Notes of a Desolate Man* (New York: Columbia University Press, 1999).
- Fran Martin, trans., *Angel Wings: Contemporary Queer Fiction from Taiwan* (Honolulu: University of Hawai'i Press, 2003).

In Chinese

- T'ien-xin Chu, *Jirang ge* [Singing and Drumming on the Ground] (Taipei: Changhe, 1977).
- Xiu-lan Du, *Ni nu* [Rebel Daughter] (Taipei: Huangguan, 1996).
- Miao-jin Qiu, *Eyu shouji* [The Crocodile's Journal] (Taipei: Shibao, 1994).
- Miao-jin Qiu, *Mengmate yishu* [Last Letters from Montmartre] (Taipei: Lianhe wenxue chubanshe, 1996).

Videos/Films

- The Wedding Banquet*, DVD, directed by Ang Lee (1993; Los Angeles: Samuel Goldwyn Company, 1993).
- Not Simply a Wedding Banquet*, DVD, directed by Mickey Jun Zhi Chen and Ming-Hsiu Chen (1997; Taipei: Third World Newsreel, 1997). In Chinese.

Web Sites

In English

- Utopia, <http://www.utopia-asia.com/tipstaiw.htm>.

In Chinese

Club 1069/Topfong, <http://club1069.topfong.com/>.

A major portal for the gay communities in Taiwan.

Taiwan Les Cyber Pub, <http://www.to-get-her.org/index.shtml>.

A list of major portal for the lesbian community.

Organizations

Gender/sexuality Rights Association, <http://gsrat.net/>.

Leshand Association, <http://www.leshand.org/>.

Persons with HIV/AIDS Rights Advocacy Association of Taiwan, <http://www.praatw.org/>.

Taiwan Gender Equality Education Association, <http://www.tgeea.org.tw/>.

Tong-Kwang Light House Presbyterian Church, <http://www.tkchurch.org/xoops/index.php>.

Tongzhi Rights Association, <http://tw.club.yahoo.com/clubs/TaiwanGayandLesbianAssociation/>.

NOTES

1. The Government Information Office, Taiwan, *The Republic of China Yearbook 2008* (Taipei: Government Information Office, 2008).

2. The Council for Economic Planning and Development, Taiwan, *Taiwan Statistical Data Book 2009* (Taipei: Council for Economic Planning and Development, 2009).

3. Ibid.

4. D. Roy, *Taiwan: A Political History* (New York: Cornell University Press, 2003).

5. Currently, Taiwan only has 23 diplomatic allies. The Government Information Office, Taiwan, *The Republic of China Yearbook 2008*.

6. H. Q. Zhuang, *Yangqi caihongqi: Wode tongzhi yundong jingyan [When the Rainbow Raises: My Experiences of Tongzhi Movement]* (Taipei: Xinling gongfang, 2002).

7. The Government Information Office, Taiwan, *The Republic of China Yearbook 2008*.

8. In Taiwan, junior high schools and senior high schools are two different educational institutions. If junior high school graduates want to be enrolled in more reputable senior high schools, they have to earn higher exam scores on joint senior high school entrance examinations. Similarly, senior high school graduates' admission to good universities and colleges are also based on exam results. Therefore, helping students to earn good exam results is the priority for school principals and committees.

9. The Ministry of Justice, Taiwan, *Gender Equality Education Act*, <http://law.moj.gov.tw/Eng/Fnews/FnewsContent.asp?msgid=2178&msgType=en&keyword=Gender+equality> (accessed May 20, 2008).

10. See S. Z. Wu, "Xingbie jiaoyu wai yizhang: Sange guozhong nutongxinglian de gushi" ["The Study of Experiences of Three Junior High School Lesbian Students"], Master's thesis, National Taiwan Normal University, 2003.

11. The Gender Equality Education Committee, Taiwan, *List of Commissioners on the Gender Equality Education Committee*, 2008, http://www.gender.edu.tw/committee/index_intro.asp (accessed May 20, 2008).

12. See P. H. Chen, "Jian yu bujian: Tongzhi xianshen jingyan de yanjiu" ["Coming out or not Coming Out: The Study of *Tongzhi's* Experiences of Coming Out"], Master's thesis, National Donghua University, 2005; S. M. Chiang, "Women shi tongxinglian jiaoshi" ["We are Homosexual Teachers"], Master's thesis, National Taidong Normal College, 1999; S. Q. Kong, "Shuoni, shouwo, shouwomen tongxinglian de gushi: Yige tongzhi xianghu xushou tuanti de changshi" ["Self-narrating our Homosexual Experiences: A Study of a *Tongzhi* Narrative Group"], Master's thesis, Fu Jen Catholic University, 2000; Y. Y. Wang, "Zai xuexiao tizhi zhong nutongzhi zuqun yu fei tongzhi zuqun guanxi

zhi yanjiu” [“The Study of the Relationship between Lesbian Groups and Heterosexual Groups”], Master’s thesis, Municipal Taipei Normal College, 2004; or Wu, “Xingbie jiaoyu wai yizhang,” 2003.

13. See Kong, “Shuoni, shouwo, shouwomen tongxinglian de gushi,” 2000; Wang, “Zai xuexiao tizhi zhong nutongzhi zuqun yu fei tongzhi zuqun guanxi zhi yanjiu,” 2004; or Wu, “Xingbie jiaoyu wai yizhang,” 2003.

14. This entry uses the Hanyu Pinyin system of Romanization for Mandarin Chinese words, names, and phrases, except in cases where a different conventional or preferred spelling exists, as is often the case in Taiwan with personal names and place names.

15. This was the first LGBT publisher in the Greater Chinese world, but has since closed.

16. This was second publicly published commercial LGBT magazine, but it stopped production after four issues.

17. The first publicly published commercial LGBT magazine produced since 1996.

18. The Gingin bookstore was the first LGBT bookstore in the Greater Chinese world since 1999.

19. See J. F. Zhang, *Jiemei ‘xi’ qiang [Sisters “Trespassing” the Wall]* (Taipei: Lianhe wenxue, 1998).

20. K. R. Lu and D. Y. Yong, “Nutongzhi shouyang xiaohai, fayuan buzhun” [“A Court Did Not Allow a Lesbian to Adopt a Girl”], *United Daily News*, September 7, 2007, 5.

21. See Robert H. van Gulik, *Sexual Life in Ancient China* (Leiden, Netherlands: Brill, 1961). However, it is necessary to note that there might be differences regarding social attitudes towards sex, homosexuals, and homosexuality among dynasties. Also see Vivien W. Ng, Vivien “Ideology and Sexuality: Rape Laws in Qing China,” *Journal of Asian Studies* 46, no. 1 (1987): 57–70.

22. The story describes a girl, Mulan, who cross-dresses to enlist in military service to replace her sick father. She gains distinction due to her bravery and skillful fighting.

23. This is the story of a girl, Zhu yingtai, who cross-dressed and ran away from her eminent parental family to avoid an arranged marriage. When she went to a home school with private tutor while posing as a male student, she fell in love with another male student, Lian shanbo. However, because Lian did not know that Zhu was a girl, he felt bewildered about this relationship and repeatedly denied Zhu’s affection. Before Lian finally made the decision to follow his heart and accept Zhu, she had left.

24. The Center for Disease Control, Taiwan, *HIV and AIDS Statistics by Risk Factors over the Year, 2009*, <http://www.cdc.gov.tw/ct.asp?xItem=11234&CtNode=1095&mp=220> (accessed July 9, 2009).

25. Twu, et al., “Update and Projection on HIV/AIDS in Taiwan,” *AIDS Education and Prevention*, 16, supplement A (2004): 53–63.

26. C. M. Tsai, “Yiwei weisheng jiaoyu gongzuozhe de shijian zhishi yu fanxing: Yong ai zirun wode shengming” [“The Practical Knowledge of a Health Educator in HIV/AIDS Education”], PhD diss., National Taiwan Normal University, 2005.

27. A. Thornton and H. S. Lin, *Social Change and the Family in Taiwan* (Chicago: University of Chicago Press, 1994).

28. The Legislative Yuan is the national legislative body of Taiwan.

29. Y.A.N. Chao, *Daizhao caomao dao chu lvxing: Xing/bie, quanli, guojia [Traveling everywhere with a Boater: Sexuality, Gender, Power, and Nations]* (Taipei: Yuanliu, 2001).

30. Zhuang, *Yangqi caihongqi*.

31. For more discussion of the difference among the terms, please see C. K. Tan, “Transcending Sexual Nationalism and Colonialism: Cultural Hybridization as Process of Sexual Politics in ’90s Taiwan,” in *Postcolonial, Queer*, ed. J. C. Hawley (New York: State University of New York, 2001), 123–38; or P. C. Chen, “Taiwan tongzhi lunshu zhong de wenhua fanyi yu kuer shengcheng” [“Cultural Translation and Queer Formations of Homosexual Discourses in Taiwan”], Master’s thesis, National Chyaotung University, 2006.

32. Zhuang, *Yangqi caihongqi*.

33. The Coalition of Advocating Lesbians' Health Welfare, Taiwan, *Record of Forum on Lesbian Health*, 2007, <http://www.wretch.cc/blog/tapwr/8662911> (accessed May 13, 2008).

34. The Taipei Association for the Promotion of Women's Rights, Taiwan, *Dispatch of the Investigation of Lesbians' Health*, 2007, <http://tapwer.womenweb.org.tw/activity/move2.asp?artid=89> (accessed May 13, 2008).

35. Zhuang, *Yangqi caihongqi*.

36. M. L. Ye and P. L. Yang, "Tongxinglian zhe zhengqu 'jiehunquan'" ["A Gay Couple Argued for the Rights of Same-sex Marriage"], *United Daily News*, July 15, 1994, 5.

37. For example, N. Z. Chen, "Jidu jiaohui dui tongxinglian de taidu zhi yanjiu" ["The Study of the Attitudes of Christian Communion towards Homosexuality"], *Theology and Communion* 22, no. 2 (1997): 82–98; P. H. Chen, "Jian yu bujian"; Z. M. Ke, "Shengjing' dui tongxinglian de shuangmian lunliguan" ["The Double-faced Ethics towards Homosexuality in the Bible"], *Theology and Communion* 26, no. 1 (2001): 67–95; and S. X. Yan, "Xingqingxiang, zongjiao xinyang, shehui yundong: Yi Tongguang jiaohui wei yanjiu shili" ["Sexual Orientation, Religious Beliefs, and Social Movement: A Case Study of *Tongguang jiaohui*"]. Master's thesis, National Hsinchu University, 2004.

38. Q. W. Guan, "Kebu ronghuan: Tongxing hunyin he tongzhi yundong dui huaren jiaohua de tiaozhan" ["Urgency: The Challenge Same-sex Marriage and *Tongzhi* Movement Bring for Chinese Communion"], *Xiaoyuan* 46, no. 2 (2004): 12–22.

39. Y. X. Liu, "Wenluoding yu duanbeishan" ["*Wenluoding* and the Brokeback Mountain"], *China Times Daily*, January 27, 2006, a15.

40. K. J. Wong, "You chouhen fanzui gainian lun tongxinglian wuminghua xingcheng ji yingxiang" ["Research on the Stigmatizing Process against Homosexuals from the Perspective of Hate Crime"], Master's thesis, National Taipei University, 2007.

41. This phrase was Dr. Sun Yat-sen's dying wish (the Founding Father of Republic of China), and has been borrowed by the modern Hong Kong and Taiwanese LGBT movement to spur themselves on. This phrase is a popular slogan that is used in many LGBT articles and books. More discussion can be found in Chou, *Tongzhi*, 2000.

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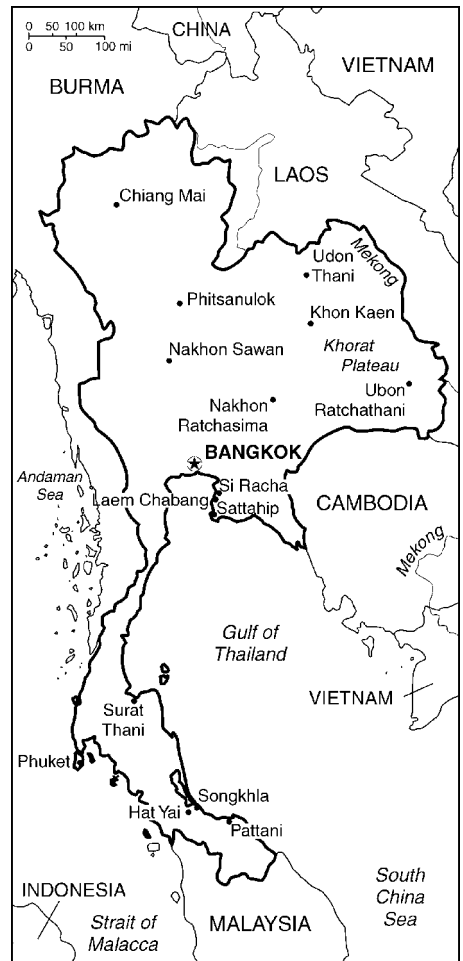
THAILAND

Walter L. Williams

OVERVIEW

Thailand is one of the most welcoming countries in the world for gay, lesbian, bisexual, and especially transgendered people. This is due to Thailand's distinctive history and lack of condemnation of homosexual behavior as a sin in the Thai Buddhist religion. Buddhism promotes an attitude of compassion and kindness for everyone.

Southeast Asia is the setting of the country, which boasts one of the world's most ancient civilizations. Archaeological findings at Ban Chiang and other sites suggest that agriculture may have originated in Thailand earlier than in any other area of the world. Beginning about 6,000 years ago, the world's first Bronze Age civilization lived in this area. The earliest peoples in the area were the Khmer and the Mon, and the Thai migrated from China sometime before the beginning of the Common Era. As in other areas of the world, the earliest religion in Southeast Asia was animism. This religion, rather than focusing on the idea of an all-powerful god, emphasized the spirituality of all things that exist. According to this religious worldview, everything has a spirit, and the spirits are responsible for protecting humans and other beings when certain rites and ceremonies are conducted. A shaman, who could be either a man or a woman, was a person with spiritual inclinations who could assist other people in their spiritual needs. In animist religions, transgendered people were often considered spiritually blessed, with both the spirit of a man and the spirit of a woman united in one body. Such persons were called *kathoy* in the Thai language, which translates variously as "ladyboy, transgender, androgynous, feminine male, or hermaphrodite" in English; in the medical field, the term *kathoy thae* is used to describe intersexed persons. The *kathoy* were considered twice as spiritual as the average person, and were highly respected by their families and society in



general. It is likely this ancient animist heritage is responsible for the continued respect that transgendered people have among traditionalist Southeast Asians up to this day.

Beginning about 2,000 years ago, however, the Khmer absorbed major cultural influences from trade with South Asian seafarers, and they gradually adopted Indian writing and number systems, and the Hindu religion. Major kingdoms emerged. In the year 802 C.E., a military leader, Jayavarman, successfully united all the competing warring Khmer kingdoms and established the Kambuja or Khmer Empire. King Jayavarman declared himself a god, and founded a form of Hinduism that emphasized penis worship. Khmer Hindu temples were constructed throughout the empire with linga representations of erect penises as major motifs in the temples. Eventually, the Khmer Empire encompassed all of present-day Cambodia, Thailand, Laos, the southern half of Vietnam, and parts of Myanmar (formerly known as Burma). It was one of the world's largest empires at the time, and its capital at Angkor surpassed the grandeur of anything built in Europe during that era. Khmer King Jayavarman VII converted to Buddhism and built the magnificent capital at Angkor Thom in the early 1200s. However, after his death a subsequent king tried to convert the empire back to Hinduism, and many Buddhists were angered. The Thai people, who had adopted Theravada Buddhism from Sri Lankan missionaries in the 700s, were especially fervent Buddhists. They began a strong resistance movement, based initially in the Sukothai kingdom of north Thailand, about 700 years ago. Eventually, the Thai rebels wrested their independence away from the Khmer Empire, in 1351, and established the Kingdom of Siam with its capital at Ayutthaya. Within a few years, a Thai army invaded the Khmer capital at Angkor and forced the Khmer to cede several Khmer-speaking provinces that today remain part of eastern Thailand. Over the following centuries there were several wars between Siam and the Khmer Empire. In 1431, after a seven-month siege at Angkor, Khmer King Ponhea Yat escaped and reestablished the Khmer capital in Phnom Penh, where he hoped it would be less vulnerable to Thai attack. The King of Siam captured the entire Khmer royal court and ordered all of the court artists, musicians, dancers, and intellectuals to be brought *en masse* to Ayutthaya. In response to this heavy Khmer cultural influence, much of Thai classical culture was adopted directly from Khmer styles. In subsequent centuries, Ayutthaya became the predominant city of Southeast Asia, and Angkor lapsed into decline. The Khmer Empire never regained its former glory, and Siam gradually took more and more territory from the Khmer. At this point, Siam exerted its cultural influence on the Khmer people, who eventually abandoned Hinduism and converted to the Thai form of Theravada Buddhism.

Once Thai-speaking areas became independent, Buddhism flourished. However, though the Thai people absorbed Buddhism, they retained many of their animist beliefs. Buddhist monks continued many of the same spiritual functions as the animist shamans, and even today they may perform healings and hold ceremonies that show a strong animist heritage. They also absorbed much of Khmer Hindu penis worship, and penises hold special religious significance in Thai Buddhism. The Thai religion today is thus an amalgamation of animist, Hindu, and Buddhist ideas. Though *kathoey*, transgender people lost the special spiritual role that they had in the animist religion, nevertheless the continuation of animist traditions has included continued respect for transgender people.

From the 14th to the 18th centuries, Siam developed a prosperous and extensive trade network with China, Japan, India, and Arabia. When early Portuguese

and Dutch traders first arrived in Ayutthaya, they reported amazement at the well-planned, beautiful city. In many aspects, the Thai culture was more advanced than the European cultures of the time. Though Ayutthaya was protected by a huge moat that surrounded the entire city, in 1767 the army of Burma invaded and destroyed the city. Its extensive ruins are still impressive and give an indication of the kingdom's grandeur.

After the fall of Ayutthaya, new Thai leaders emerged in the south, which was less damaged by Burmese invasion. They reestablished the Kingdom of Siam with a new capital at Krung Thep (Bangkok), and in 1782 King Rama I began the progressive Chakri Dynasty, which has ruled ever since. King Chulalongkorn, who reigned from 1869 to 1910 as Rama V, was responsible for brilliant diplomacy that skillfully played the European powers against each other, and he managed to save Siam from being subjected to foreign colonial domination. Ironically, he established his credibility as a king by adopting European clothing and the trappings of royalty, and by instituting measures to show the Europeans that Siam was a kingdom like their own. The Thai people are proud of their long history of freedom, and Thailand is known as "the land of the free." Even today Thai people venerate King Rama V above all other Thai kings, and Thai households often have a picture of him displayed in their living room. Chulalongkorn University, among Thailand's most prominent academic institutions, is named for him.

Siam's borders changed as King Chulalongkorn had to give up slices of territory to keep the French and the English at bay, but Siam managed to retain about half of the area of Lao-speaking people (referred to as Isan in Thai), even as Laos became part of French Indochina. Many Lao people escaped to independent Siam to get away from the French, and during the recent decades of turmoil as a communist government was established in independent Laos, even more Laotian people came to Thailand. Today, the northeastern section of Thailand is the Lao-speaking Isan culture area. There are also Khmer areas along the border with Cambodia, and Mon areas along the border of Myanmar, which have increased in size due to actions by the governments in those nations. Thailand today continues its history of welcoming people of other ethnicities who have suffered persecution in their home countries. Some have suggested that the long-suffering, impoverished peoples of Laos, Cambodia, and Myanmar would have been better off in recent decades if Thailand had incorporated those territories into its multiethnic nation.¹

King Chulalongkorn had a very accepting attitude toward transgendered people, and sponsored *kathoey* dancers in his court.² His son, King Rama VI, who reigned from 1910 to 1925, was reputed to have had male lovers. He brought in the pro-gay French attorney and writer René Guyon (1876–1963), who is best known for his publications on sexual ethics. While living in Siam as a personal friend of the king, and as an affiliate of his court, Guyon drafted a modern legal code for Siam. The king eventually appointed him as the chief justice of Siam's Supreme Court, on which he served for three decades. Significantly, Guyon advocated the decriminalization of all sexual acts engaged in by willing participants without fraud. Because of this Frenchman's influence with the king, homosexual behavior was not criminalized.³ Ever since then, Thai law has not considered homosexuality or transgenderism to be a matter for persecution.

Socially accepted transgender traditions existed in many other areas of Asia, and transgendered people often enjoyed high status, but when the European colonialists came into power, they suppressed transgendered people and criminalized

homosexual behaviors. Even countries with nominal independence, like Ming Dynasty China, were influenced by European prejudices and took a condemnatory attitude toward their bisexual past. Asia became homophobic. One of the great ironies of modern history is that many Asian people today do not realize that their cultures originally accepted same-sex attraction and transgenderism, and they now incorrectly see gay liberation as a foreign import from the West. In reality, the most prominent foreign import from the West has been sexual repression and homophobia.

In sharp contrast to colonized Asia, the Kingdom of Siam, which became a constitutional monarchy in 1932 and changed its name to Thailand, has proudly held onto its independence and indigenous cultural traditions. Even today, Thais refuse to adopt the Roman alphabet and continue to use their own Indian-based alphabet and use the Buddhist calendar rather than the European calendar. Thus, Thai calendars for the year 2008 C.E. are labeled with the year 2551, dated from the enlightenment of the Buddha. Thai traditions of accepting LGBT people are part of this larger cultural pattern. Thailand, with its legal and social acceptance of transgenderism and same-sex attraction, is what most of Asia probably would have looked like if European imperialism had not been able to establish itself and export homophobia to this area of the world.

Thailand's current King, Bhumibol Adulyadej (Rama IX) is, like his predecessors, strongly committed to the welfare of his people. He is venerated by the Thai people for his programs to help the poor and is admired globally for his progressive environmentalist stance. In his youth he was a Buddhist monk, and he exhibits a Buddhist ethic of compassion for everyone, including LGBT people. Now in his eighties, King Rama IX is the longest reigning king in the nation's history, and his picture is displayed prominently in almost every Thai household. Although the king has recently become more controversial because of his opposition to certain politicians, many in Thailand believe that the current king is the best leader the country has had since Chulalongkorn.⁴

OVERVIEW OF LGBT ISSUES

The acceptance of sexual and gender variance is a product of Thailand's long Buddhist heritage combined with a probable prominent religious role for transgendered people in the animist religions that predated the arrival of Buddhism. Thai culture has strong values of respect for individual freedom and also for a whimsical enjoyment of life. The combination of religious, social, and family influences from ancient times, notions that were not interfered with by European colonialism, means that Thailand is likely representative of what Southeast Asian cultures would have looked like if the European colonialists had not expanded into other areas of Asia.

EDUCATION

Though Thailand holds onto its traditions, it also selectively adopts elements of Western influence as a means of improving the nation. This is especially true in education. Since the time of Chulalongkorn, Thai kings have been sent to Europe and America to receive higher education, thus they are thoroughly familiar with Western customs. Thailand has emphasized establishing first-rate universities, and

there are a number of prominent institutions of higher learning with international faculties. Young people entering the medical field are especially encouraged to pursue their degrees at Western universities. As a direct result, Thailand today has an excellent medical system, with sophisticated hospitals that can perform complex surgeries.

Thailand requires all children to attend primary school, but many students (especially in the rural areas) drop out before graduating from high school. High schools charge fees for textbooks, school uniforms (with different outfits for different days of the week), and lunch, making it onerous for poor parents to send their children to high school. In addition, teenagers are often needed by the family to help out on the farm or to generate income. Besides this limitation, Thailand's public education system is not as good as its universities. English instruction, for example, is not as effective as foreign language learning programs in other Southeast Asian countries. This may be partly a result of Thai peoples' lack of familiarity with European languages to which other areas of Asia were exposed during the age of imperialism. Thai is a tonal language, extremely different in its spoken and written forms from English, and English has many sounds that Thai does not contain. Consequently, it is not easy for Thai people to pronounce English words. Because Thais have fiercely retained their unique alphabet, their lack of familiarity with the internationally standard Roman alphabet makes it all the more difficult for them to learn to write English. Thais' low level of English proficiency is also due to outmoded methods of language instruction in government schools. English classes, which typically last no more than two or three hours per week, focus on training students to pass a grammar exam, rather than teaching students correct pronunciation and comprehension of what they might read or hear in a real-world setting. In many private international schools, by contrast, English language programs are much more effective. These effective private school programs are not available to students from poor families. Because of a lack of overt discrimination against LGBT students in Thai schools, there seem to be few LGBT issues applicable to education in Thailand.⁵

EMPLOYMENT AND ECONOMICS

Though Thailand has had its share of political instability during the constitutional era, due to several coups by ambitious military leaders, it has had much more economic stability than its neighbors. The other countries of Southeast Asia have gone through extreme turmoil as they wrestled independence from their European colonial masters and revolutionary leaders who had little experience with self-government attempted to establish new independent governments. Compared to them, Thailand has been able to provide a more stable economic setting. Though many rural Thai farmers continue to live in poverty, Thailand has made good economic progress in recent decades. Many urban Thais live a comfortable, middle-class existence, and a wealthy upper class is also prominent. Thailand has a mixed economy, with multiple sources of trade and wealth. Bangkok is one of the major cities of the world, bustling with trade and other economic activities. With a relatively unencumbered business climate, Thailand is a center of capitalist activism. By the 1990s, Thailand had become known as one of the emerging "Asian Economic Tigers."⁶

While this freewheeling capitalist system has brought prosperity to Thailand, it has also brought chaos. Particularly in 1997, when a boom period suddenly

crashed, the collapse of the Thai economy caused economic chaos throughout Southeast Asia. Rural farmers in Thailand, who had little opportunity to profit from the booming urban economy, were caught in an economic bind. To a visitor from a developed country, Thailand seems incredibly inexpensive. However, for a Thai farmer with a small income, the prices of everyday necessities can be burdensome.

Many Thai villages are able to survive economically only because so many of their young adults leave home to take jobs in Bangkok or other cities around the world. Emigration is a huge factor in Thailand, as people send money back to support their families in the village. Nowhere is this trend more widespread than in the impoverished northeast Isan area. Isan people are among the most traditional of Thailand's people, with an image among urban Thais as uncouth "country bumpkins." However, they are also more familiar with the outside world because so many of them have immigrated to other countries out of economic necessity. Many of the workers in the sweatshops of clothing production companies in Los Angeles and New York are Isan people. Though they may have little education or knowledge of English when they first arrive, many Thai immigrants have become successful in their adopted homes. The success of Thai restaurants throughout Europe and the Americas is only one example of Thai emigration abroad.

In addition to money coming from Thai workers in developed countries, the Thai economy is also buoyed by tourism. Money spent by tourists represents the largest transfer of wealth from developed countries to developing countries. Tourism is a major source of income for Thailand, which is one of the world's leading tour destinations.⁷

SOCIAL/GOVERNMENT PROGRAMS

Thailand has a strong extended family system. Family members feel a strong sense of duty to take care of their relatives because there are few socialized governmental programs in the country. There is no social security program for the elderly, and those who are too old to work depend entirely on their children and other relatives for support in their old age.

SEXUALITY/SEXUAL PRACTICES

Thai Buddhism stresses personal happiness as a major purpose of life, and Thai culture has a very strong ethic of *sanook* (enjoyment). Children are much loved, and they are encouraged to have fun and enjoy their young childhood before they have to take up the serious work of helping to support the family, by adolescence and adulthood. Though girls are expected to be more restrained than boys, this emphasis on *sanook* includes sexual enjoyment, which, at least for males, is seen as something good and positive in life. Children see the evidence of sex all around them. Buddhist amulets shaped like penises are commonly displayed, and carved wooden penises are sometimes placed at the front of a house to provide spiritual protection for the family. The villages of the northeastern Thailand Isan culture are especially noted for their bawdy public flaunting of sex. Sexual innuendo and pictures of nude bodies or sexual acts, or representations of genitalia, are not uncommon in Isan parades and folk music performances. Though many children observe these public displays, neither they nor their elders get the least bit upset over what a prudish American would consider a scandal for a child to observe. There is a

sense of comfort about sex that Thai children grow up with, to the point that most Thai adults (except for the more sexually conservative ethnic Chinese, Muslims, and those who have been influenced by Western values) are far more accepting of sexuality than is typical in many countries.

The one area of glaring exception to this attitude deals with Buddhist monks, who are supposed to renounce the ways of general society by denying themselves in many areas of life. Monks have many rules to follow, including sexual restrictions, but this is not framed in terms of opposition to homosexuality, because monks are not supposed to experience *any* kind of sexual activity. Monks are supposed to voluntarily renounce all kinds of desire, in an attempt to live as simple and uncomplicated lives as possible. The fact that monks are seen as so exceptional to the general rules of life means that a monk's ordination may be accompanied by dancing by *kathoeyes*, and no one sees any contradiction between the two roles. The rules for monks do not translate into rules for lay people. As a result, after a man leaves the monkhood, if he becomes sexually active (with either sex), there is no problem with either his religious ideas or his self-esteem. Thais have an open attitude toward the body that many people from Christian, Muslim, and Jewish cultures lack. Thai Buddhism does not emphasize scriptures telling people that the body is sinful, or that the matters of the spirit are in opposition to the matters of the flesh (as St. Paul stressed to early Christians).

In contrast, Thai Buddhism even has a tradition of body massage training centers at Buddhist temples. These massages are not explicitly erotic, but they do impart a comfort with the body that is lacking in the Abrahamic religions. Traditional Thai massage is not sexual per se, but it is not a great leap for Thai people to extend the massage of other parts of the body to massage of the genitals. The purpose of Thai massage is to relax and enjoy the experience of being touched all over by another person.

The boundary between traditional Thai massage and explicitly erotic massage is fuzzy, as is the boundary between Thai general enjoyment of life and sexual enjoyment. Thai males are so at ease with bodily contact and with touching other people, mainly of the same sex, that such arbitrary Western boundaries are rather meaningless. Male Isan folk singers will sometimes reach out and touch the genitals of another male while giving a musical performance, with not the slightest awareness that the listener might find such behavior offensive. At public events it is not unusual to see young men caressing each other casually, with their arms draped around each others' shoulders and their hands on the others' thigh. Touching is part of showing friendship. The lack of homophobia in Thai culture means that it is normal even for completely heterosexually inclined men to touch their friends.

Because their history has conditioned them to emphasize their freedom, at least for males, sexual freedom is considered a part of Thais' valued heritage. Freedom to do what one wants with one's own life, as well as freedom from Western imperialism, is part of the people's conception of Thailand as "the land of the free." *Kathoeyes* are seen as having the freedom to dress and act like the other sex, just as other eccentricities go overlooked or unchallenged. Individual differences are part of the Thai conception of what freedom is all about. Thus, people are not expected to fit into one of two opposite categories labeled "heterosexual" and "homosexual." In Thailand, there are gradations in between these two orientations. One person may enjoy touching another's chest, rear, or genitals, but nothing more. Another person might enjoy playing with a dildo with a same-sex friend, but wants no direct

genital-to-genital sexual contact. Still others might enjoy having fellatio performed on them, but will not reciprocate. Still others find that they are comfortable in engaging in same-sex experiences, but only after they have had enough alcohol to give them the excuse of not remembering what they did while drunk. This is not so much a denial of one's sexuality as it is a ruse to avoid forming serious permanent relationships with their attendant financial obligations. Few of these people would define themselves as "bisexual," even though they have had extensive same-sex experiences as well as perhaps some other-sex experiences. These people simply see themselves as unique individuals who have the right to enjoy themselves and act in freedom, just like all other Thai people. Happiness, enjoyment of life, and personal freedom are the great constants of Thai philosophies of life.

This flexibility does not mean that no one in the country identifies himself as homosexual or heterosexual. Some academic theorists, speaking with great authority but little actual ethnographic data, surmise that if homophobia were overcome there would be no more gay people or straight people. Thailand is a very nonhomophobic place, but there are plenty of people there who identify as gay. Contrary to the fears of many heterosexists, though, homophobia is not necessary to ensure that most people grow up to be straight. Thailand proves that, even in a nonhomophobic society, the majority of people are completely heterosexual. That is, both total heterosexuals and total homosexuals are conscious of their sexual proclivities being entirely for a single sex, and they have absolutely no erotic interest in the other sex.

In addition, Thai gay men (who often distinguish themselves as "gey king" as a top inserter, "gey queen" as a bottom insertee, and "quing" as versatile), male-to-female transgendered *kathoey* (who might be either bottoms or tops in their private sexual behavior), and both masculine females and female-to-male transgendered "toms" (after the English word "tomboy") and their feminine female partners (who often call themselves "dee" after the English word "lady"), have an identity of being different from the norm in their gender nonconformity and in their exclusive same-sex inclinations. Just as with people in the middle who have a mixture of erotic inclinations and experiences, those inclinations are considered simply another part of the complex eccentricities that make up human personalities. If anything, what might sometimes be considered weird by some relatives of masculine acting gay men is that they do not dress and act femininely.

It can be argued that Thai attitudes go beyond tolerance of sexual minorities. Beyond simply tolerating homosexuals and transgendered people, many Thai people seem to welcome and cherish such people. Though some families (especially ethnic Chinese, those who have more Western education, and those who are followers of Islam or Christianity) might reject their LGBT relatives, the vast majority of Thai families treat their queer relatives as full-fledged members of the family. This level of family acceptance is so high in Isan villages that gender and sexual nonconformity is completely unremarkable. Every Isan village seems to have at least a few transgendered people, and it is impossible to attend any public event without seeing at least one or two. Whether one is going to a market, a Buddhist temple, or to other daily events, a sharp eye will notice the sexual and gender minorities.

FAMILY

Though most Thai people do not identify as gay, a considerable number may agree to engage in some level of same-sex activity if the offer of money is sufficient.

The idea that sex and good looks are commodities that can be sold, just like anything else, seems rather ingrained in Thai culture. The older and more financially established partner is, one way or another, expected to provide some kind of financial payment or support for the younger partner. The older partner is perceived as having the advantage of a more stable financial position in society, while the younger partner has the advantage of good looks. This is a simple balancing of assets, conceived as part of the natural order of the way people interact. People exchange what they have for what they do not have. The instability of two young people, who are both often in a precarious financial situations, leads to same-age relationships being quite unstable. A more common pattern in Thai sexual partnerships, as with nonsexual partnerships, often involves an older mentor/younger disciple relationship, which fits into the larger family situation.

This relationship between financial considerations and sex is not something that applies only to same-sex activities. In heterosexual relations, marriage, and family, money and sex are intimately tied together. When a man gains a steady girlfriend and becomes sexually active with her, he typically is expected to turn part of his income over to her. Providing money regularly and dependably is part of the way he proves that he will be a good husband. When a couple gets married, the husband will be expected to provide a substantial payment of money to his new wife's parents. The more beautiful and desirable the young woman, the larger the payment will be. This bride payment is not perceived as the husband buying the wife, as occurs in some patriarchal cultures, but rather as an expected payment for her granting her sexual assets to him. In fact, Thai wives have considerable power in their marriages, especially because the new husband is expected to live with the wife's family and contribute to her family's continued financial well-being.

This connection between marriage and finances is one reason why Thai women, *kathoey*s, and gay Thai men, so often wish to seek out a wealthy *farang* (foreigner) as a partner. Good looks and age are considered less important characteristics in the partner than their agreeable personality and financial well-being. In contrast to the average Thai salary, even a common laborer from a developed country can seem wealthy in comparison, thus it is not uncommon to see a beautiful young woman or man paired with an older foreigner. If he is a good husband, one who is typically expected to build a nice house for the family and be something of a walking ATM for the parents, he will fit right in and be treated royally by his spouse and in-laws.

Traditionally, if a man establishes an extramarital relationship with another woman, or (with his first wife's permission) if he takes a second wife, he is also expected to make payments to her. If he does not have enough money to do this, he may just visit a prostitute periodically to keep things simple. Thai men who want to have sex with multiple women, then, have a great incentive to make a lot of money so that they can afford these multiple sex partnerships. This sexual pattern may explain at least part of the history of Thai economic entrepreneurship, which is so evident both in Thailand and in Thai communities abroad.

It is in this context that prostitution in Thailand must be understood. Receiving money for a single sexual act is just one extreme of the larger continuum tying together the financial and affectional relationships that exist among Thai people. Of course, this is not to deny that sexual exploitation occurs in Thailand. Cases have been publicized involving men who approach gullible young women and their parents, promising to get them a good job in a big city for a small fee. Instead, when

the young woman is taken to the city, the good job turns out to be work in a house of prostitution, and the small fee turns into a large payment to the man as his commission. The young woman is forced to continue the work until her fee is paid.

Though such exploitive situations exist, the Thai police have made efforts to prevent such horrors. Thailand has antiprostitution laws, but they seem to be on the books mainly to prevent the coerced holding of a person against her will. Thai police do not bother most Thai people who are freely engaging in the exchange of sex for money. Most sex work is done not because people are forced against their will, but because people feel that they have no other alternative to meet their financial needs. Thai young people, both males and females, feel a strong desire to help their parents financially. Unless they are a student, a person in his late teens or twenties who is not sending money regularly to his parents will typically feel an intense sense of personal shame. This is especially true if the parent is in poor health and needs medical treatment; then, the child may practically be in panic. Worries about parents is a source of great stress for Thai young adults. Because most jobs for unskilled young people pay little more than basic survival needs, the way that many young people—both male and female—see as the only way to generate significant profits is to engage in sex for pay. Thai parents, especially among the poor, often look the other way and do not ask many questions about the source of their offspring's income. Some parents do not hesitate to place guilt upon their offspring on this matter, further increasing the feelings of pressure.

COMMUNITY

Today Bangkok has one of the largest annual gay pride parades in Asia and is home to innumerable gay establishments ranging from upscale restaurants to raunchy nude all-male sex shows. It is internationally prominent as a gay-friendly tourist destination and retirement center. Pattaya is home to the annual Miss International Transgender Beauty Queen contest. Bangkok, Chiang Mai, Pattaya, Phuket, and other Thai cities have huge Broadway-type musicals featuring beautiful transgendered performers and openly gay dancers that are commonly viewed by Thai families in attendance with their children and elders. Gay Thai publications, beginning with magazines like *Mithuna, Jr.*, and *Neon* in the 1980s, have tended to be more social than political in emphasis. While the nature of their work is to try to improve the situation for LGBT people in Thailand, and thus they focus on the areas where they want the government to change, LGBT social networks and activist groups exist openly in ways that would be impossible in many developing countries. In 2008, the third Asian regional conference of the International Lesbian and Gay Association was held in Chiang Mai, which also had a gay pride parade that was favorably received by residents of the city. However, in 2009 the parade met with controversy due to protests by homophobes. Chiang Mai police, although present, did not intervene to protect participants when “red shirt” homophobes engaged in minor violence. This has been unprecedented in Thai history, and speaks to the rising influence of homophobia from the West among some urban Thais.

HEALTH

Throughout the nation, the Thai government operates a fine system of clinics and hospitals that provide basic health care at low cost, but budgets are not big

enough for these public health programs to offer more expensive treatments involving complex diseases, and the average Thai family is not able to pay the costs. As a consequence, people die earlier than they might if they had access to more advanced levels of care.

This is true of people with AIDS and other diseases. Perhaps because sex is so prominent in Thailand, it was the first Asian country to be hit hard by the AIDS epidemic. The medical system was overwhelmed. Buddhist monasteries took in people who were dying of AIDS, and some Buddhist monks have made heroic special outreaches to people suffering with the disease. While dealing with the reality of limited budgets, the government's public health department has responded more effectively than in many other countries. Rather than trying to deny the realities of sexual behaviors that lead to HIV infection, as many governments have done, or ignoring the realities of female and male prostitution, Thai public health officials quickly accepted the advice of pioneering gay AIDS educators and have widely advocated for condom use. Large billboards along major highways, announcements in the mass media, and health education programs in the schools (including Buddhist schools for novice monks) explicitly advise people on how to avoid HIV infection. Condoms are available free of charge from public health projects and at low cost at many stores. By focusing on prevention rather than spending most of their funds on the treatment of those who are already sick, the Thai government has helped to bring the AIDS crisis under control in Thailand. HIV infection remains a problem, and some Thai people with AIDS are rejected by their families, but the situation is much better there than in many other developing nations.

Gay men and transgendered ladyboys, being well aware of the realities of HIV transmission from gay networks in Europe and North America, have become prominent in HIV prevention educational efforts and have emerged as committed heroes in the effort to improve public health. Today, though medical schools may practice some discrimination among M.D. candidates, gay men, lesbians, and transgendered people often go into nursing and work as public health workers and administrators in the health care field, as a visit to many Thai hospitals will attest.

Practically every village in Thailand has access to a nearby government health clinic staffed by professionally trained doctors and nurses, and every major city has at least one full-fledged hospital. Because of its excellent health care system and very accepting attitude toward transgendered people, Thailand has become world famous as a global center for transsexual surgeries. The low cost of medical care in Thailand makes it even more popular as a destination for transgendered people from around the world seeking to undergo sex change operations. Sexual reassignment surgery is mostly a commercially driven enterprise that is done to bring in money, and while the quality of the surgery itself is good, the medical supervision in terms of follow-up, counseling, and hormone use is not emphasized adequately in many hospitals.

POLITICS AND LAW

For the historical reasons highlighted here, Thailand has no antigay laws. However, there have been periodic political controversies. In the 1990s, a Western-educated Minister of Education attempted to pass a regulation saying that LGBT people would not be permitted to be trained as public school teachers in Thailand's government-supported universities. The outcry against this homophobic

and transphobic proposal was so widespread that the idea was dropped completely. Today, transgendered persons can be seen on every major university campus, and there is little resistance to their full participation there. The one exception to this trend seems to be in the field of psychiatry, where some older Western-trained psychiatrists still hold to the outdated view that homosexuality and transgenderism are mental illnesses. In the northeastern Isan area, which in some respects seems more accepting even than the rest of Thailand, transgendered teenagers in many public high schools cross-dress with no apparent negative reactions from teachers, parents, or administrators.

Pioneering gay rights advocates like Seri Wongmontha, who was openly gay in the 1970s and 1980s while being a prominent scholar and a flamboyant celebrity, helped to set the stage for more public gay acceptance in Thailand. In 1987, he produced a play with a gay theme, in which he was the star performer. His play ran with sold-out performances for some time, packing crowds into a major theatre venue in Bangkok. Another big influence on public attitudes was due to General Prem, who was generally perceived to be homosexual. Nothing about his preferences appeared in print in the Thai media, but it was commonly believed by many Thai people that the general was gay. He surrounded himself with handsome adjutants who went everywhere with him. After he retired from the army, Prem became Thailand's Prime Minister. He was lauded as being the most effective leader that the nation had had for some time. Although Prem never spoke out publicly about gay rights, he lived his life openly and never felt the need to showcase a female companion. He continued to have handsome personal assistants who went everywhere with him, and it was commonly assumed that these men were his boyfriends. There was no controversy about his sexuality, as would have been the case in the United States and many other countries. Prem was the most highly respected government official of his era, and even now, in his eighties, he remains a close advisor to the King.⁸

Thailand is also subject to outside influences that are condemnatory of sexual freedom. The most recent political controversy in terms of same-sex attraction has had to do with the suppression of youth sexuality. Pressured by the United States government, recent Thai administrations have passed "age of consent" laws to prevent Thai young people from engaging in sex. Partly this is a justified attempt to inhibit child prostitution, but such measures also run the risk of countering traditionally casual attitudes toward sexual experimentation among children and adolescents. With more Thai social workers and law enforcement officials being trained in the United States, with its current hypersensitive attitude toward any kind of sexual expression among youths, some gay Thai activists are afraid that Thailand might become afflicted with the same kind of sex scandals that often erupt in American politics.

"Miss *Kathoei* Beauty Pageants" are sponsored by local governments, in even small towns, with the top prizes being handed out by high-ranking government officials. Politicians in Thailand seem pleased to have their photograph taken with the transgendered contestants. Lesbian and gay troops serve openly in the Thai military without discrimination.

Though it does not criminalize or persecute LGBT people, Thai law also does not offer many protections against discrimination. The Thai government is very rigid in issuing national identification cards and Thai passports only reflective of the gender of a person's birth. Consequently, even transgendered people who have

been living as the other gender for many years still have to undergo the indignity of having their birth gender listed on all their official documents. Transgender activists feel that the Thai government needs to make a policy change and allow transpeople to change the gender by which they are listed, or better yet to remove all references to a person's gender from these official documents.

With a mobilized LGBT community, some people have become activists and formed political groups like the Rainbow Sky Association, Bangkok Rainbow, M-Plus, Swing, Sisters, Anjaree, and Sapaan. These organizations have formed a Sexual Diversity Network that is the driving force in lobbying for legislative changes.

RELIGION AND SPIRITUALITY

Though under Thailand's democratic constitution every Thai person has the freedom to practice whatever religion he or she wishes, over 90 percent of Thai people are Buddhist. Because formerly Buddhist countries like Indonesia and Malaysia have in the last few centuries converted to Islam, Thai people are determined that Thailand should remain a Buddhist country. Government offices and public schools often have statues of the Buddha on prominent display, and Buddhist monks give lectures in public schools. Buddhist monks were, traditionally, the teachers of youth before the rise of the public school system. Even today, Buddhist schools are quite prominent in providing an education for students whose parents are too poor for them to afford even the minor costs of attending government high schools.

Though the Buddha taught that life is inevitably filled with suffering, he also taught that there is a way out of this suffering by letting go of greed and living a simple life. By suppressing greed, anger, and delusion, and instead emphasizing happiness, learning, creativity, and devotion to helping others, a person can aim toward an enlightened state of existence. By recognizing that one can make oneself miserable simply by desiring something that one does not have, the Buddha counseled his followers not to let their desires overtake them. Rather than practicing extreme denial or extreme indulgence, he said that a "Middle Way" approach is best. Rather than repressing one's desires, or conversely overindulging in them, Buddhists advocate moderation. Happiness is gained, though, not by indulging in selfish desires to others' detriment, but by spreading happiness to others.⁹

Rather than seeing sex, and especially homosexual sex, as sinful, Buddhist ethics focus on creating happiness. If a person rapes another person, or imposes himself sexually on another person against his will, then that causes unhappiness and is morally condemned. On the other hand, if a person gives happiness to another person, whether through sexual enjoyment or through other means, that is considered a moral good. Whether sexual happiness is provided to a person of the other sex or of the same sex is immaterial. Buddhism thus takes a neutral attitude on homosexuality or heterosexuality. Thai Buddhist leaders say that it makes no sense for a religion to oppose a condition of being, or a basic sense of who a person is attracted to, for such large numbers of people as exist in reality. Buddhist thought is, therefore, realistic rather than dogmatic. Above all, the Buddha stressed the need to show compassion and respect toward all people and toward all sentient beings of the earth and the wider universe.¹⁰

An accurate understanding of Thai attitudes toward sexuality necessitates an understanding of Buddhist ethics. Buddhism so thoroughly permeates Thai culture

that it is a crucial element in Thai tolerance of gay, lesbian, bisexual, and transgendered people.

VIOLENCE

Due to the influence of Buddhism, Thai society has much lower levels of violence than is found in many other countries. One of the reasons Thailand has become such a popular tourist destination is because tourists are much safer in Thailand than in most parts of the world. Tourists might suffer theft if their property is stolen by a Thai person, and Thai public opinion is quick to condemn such thievery, but such thefts in Thailand are rarely committed in conjunction with violence. Religiously motivated violence does not exist in Thailand, except in the southern provinces near Malaysia where most of the people are Islamic. There is no such thing, for example, as a fundamentalist Buddhist kidnapping and murdering people in the name of God. Placard-waving Buddhists have never lined the shores of Thailand as a gay cruise ship approaches, shouting condemnations and throwing stones, as has occurred when gay-themed cruises have sought to dock in predominantly Christian countries. Any person claiming to do such things in the name of the Buddha would be considered insane.

Nevertheless, given its Buddhist heritage, one would expect that there would be *no* violence in Thai society. This is not the case, and violent mistreatment of people does occur. Rape and sexual violence, both of women and of ladyboys, exists in Thai society. Thai people commonly explain this by saying that there are good Thais and bad Thais, the latter of which are not truly following the teachings of the Buddha. It is important to acknowledge that people are people, with all their flaws and shortcomings, and even a philosophy like Buddhism is not enough to prevent some people from mistreating others. The Thai government's Human Rights Commission has, in response to complaints and lobbying from LGBT activists, criminalized rape against *kathoeyes* and men, as well as nonvaginal forms of rape.

OUTLOOK FOR THE 21ST CENTURY

With the major acceptance of LGBT people and the vitality of the LGBT community, the outlook for the 21st century in Thailand seems not just favorable, but ideal.¹¹

Such positive events are occurring in Thailand for LGBT people that it is easy to overlook the negatives. Though many queer people from more oppressive nations are envious, transgendered and gay Thais are not always in the best position that they could be. Though they must be accepted by their families and community, job discrimination exists. Especially among Western-educated Thais, transgendered people may be considered base and low-class.

Furthermore, despite the fact that LGBT people can live with their same-sex partner without a problem, and may be accepted in their village or neighborhood as a couple just as a heterosexual married couple would be, there is no legalized marriage available to same-sex couples in Thailand. Certain rights that exist in Thai law for married couples, including the right to travel or immigrate to another country as a couple, do not exist for LGBT couples. Marriage is not considered a religious ceremony (Buddhist monks do not officiate at, or even attend, wedding ceremonies), so this is an issue for the Thai government itself.

Beyond these specific legal issues, the main problems facing Thai LGBT people are the same one that face other people in this freewheeling capitalistic nation with few governmental safety nets. Most notably, when Thai LGBT people are asked about their hopes for the future, a common response is to say that they want a stable relationship. This, however, is not easy because of family pressures for young adults to marry heterosexually. Many ladyboys have felt dejected and abandoned when their boyfriend's parents forced him to marry a "real woman" so that the parents could have grandchildren. Because of this, many Thai ladyboys despair of finding and keeping a permanent partner, and this is often the biggest cause for their unhappiness.

LGBT people are also often concerned about who will care for them once they are old and can no longer care for themselves. Most people in Thailand depend upon their children for elder care. While Thai queer people are not hated or demonized, they may be pitied, mostly because they do not reproduce. There is no Thai tradition of adoption outside of the extended family, and Thai LGBT people seldom talk about the option of adopting homeless children.

Finally, like other Thai young people, Thai LGBT people often worry that they will not make enough money to support their parents in their old age. Because heterosexual siblings marry and settle down with children of their own, it is the childless queer adult member of the family who often feels the most pressure to leave the village and travel to the big city or to another country to earn cash for their parents' support. Thus, they may leave the gay-positive conditions of Thailand to move to another country, where they may be subjected to homophobic discrimination or violence. Ironically, it is because of their strong devotion to financially supporting their family that LGBT Thai people may neglect saving money and making investments for their own elder years. While the strong Thai family system might provide support for such individuals, further study needs to be done to understand trends for elderly LGBT people in Thailand.

Attention to these problems, however, should not detract from the extremely favorable conditions for LGBT people in Thailand, especially among the more traditional people in the rural areas. In sharp contrast to many countries, where the more educated and Westernized class is more accepting of LGBT people, in Thailand it is the more traditional people, those often stereotyped as "uneducated," who are the most accepting. A vision of what life can be like in a nonhomophobic world can be gained by living in a simple Thai village. Many queer people in other countries, those who are in danger of being executed or imprisoned by fundamentalist governments, murdered by rampaging lynch mobs, thrown out of their homes by homophobic relatives or landlords, or considered a shame to their family and religion, would give anything to experience this kind of freedom. Thailand, as "the land of the free," is truly one of the world's most favorable nations for sexual and gender minorities.

RESOURCE GUIDE

Suggested Reading

Peter Jackson, *Male Homosexuality in Thailand: An Interpretation of Contemporary Thai Sources* (Elmhurst, NY: Global Academic Publishers, 1989).

Peter Jackson and Gerard Sullivan, eds., *Lady Boys, Tom Boys, and Rent Boys: Male and Female Homosexualities in Contemporary Thailand* (New York: Haworth Press, 1999).

- Peter Jackson and N. Cook, eds., *Gender and Sexualities in Modern Thailand* (Chiang Mai: Silkworm Books, 1999).
- Christopher Lyttleton, *Endangered Relations: Negotiating Sex and AIDS in Thailand* (Bangkok: White Lotus, 2003).
- Andrew Matzner, "On the Question of Origins: Kathoey and Thai Culture," *TransgenderASIA*, 2002, <http://web.hku.hk/~sjwinter/TransgenderASIA/index.htm>.
- "Sexual Diversity and the Law: Sexuality and Human Rights," <http://www.choike.org/2009/eng/informes/854.html>.
- M. Sinnott, *Tomboys and Ladies: Transgender Identity and Same-Sex Relationships in Thailand* (Honolulu: University of Hawai'i Press, 2004).
- Richard Totman, *The Third Sex: Kathoey—Thailand's Ladyboys* (Chiang Mai, Thailand: Silkworm Books, 2003).
- Walter L. Williams, "Homosexuality in Thailand," *Journal of Homosexuality* 19, no. 4 (1990): 133–37.
- Sam Winter, "Why Are There So Many Kathoey in Thailand?" *TransgenderASIA*, 2002, http://web.hku.hk/~sjwinter/TransgenderASIA/paper_why_are_there_so_many_kathoey.htm.
- Sam Winter, "Thailand Country Report," 2002, http://web.hku.hk/~sjwinter/TransgenderASIA/country_report_thailand.htm.
- Sam Winter and Nuttawut Udomsak, "Male, Female and Transgender: Stereotypes and Self in Thailand," *The International Journal of Transgenderism* 6, no. 1 (2002), http://www.symposion.com/ijt/ijtvo06no01_04.htm.

Videos/Films

- "Beautiful Boxer" (2004, writer/ director Ekachai Uekrongtham).
- "The Iron Ladies" (2000, director Youngyooth Thongkonthun).

Web Site

- Utopia, <http://www.utopia-asia.com>.
Features Asian gay and lesbian resources.

Organizations

- Bangkok Rainbow, <http://www.bangkokrainbow.org>.
Rainbow Sky Association, <http://www.rsat.info>.
Utopia-Asia, <http://www.utopia-asia.com/tipsthai.htm>
Provides current listings of organizations in Thailand and other parts of Asia.

NOTES

1. Chris Baker and Pasuk Phongpaichit, *A History of Thailand* (Cambridge: Cambridge University Press, 2005); David K. Wyatt, *Thailand: A Short History* (New Haven, CT: Yale University Press, 2003); David Chandler, *A History of Cambodia*, 4th ed. (Boulder, CO: Westview Press, 2007).
2. See the photograph of *kathoey* dancers at King Rama V's court in Richard Totman, *The Third Sex: Kathoey—Thailand's Ladyboys* (Chiang Mai, Thailand: Silkworm Books, 2003), 12.
3. Rene Guyon, *Ethics of Sexual Acts* (New York: Alfred Knopf, 1948); Rene Guyon, *Sexual Freedom* (London: John Lane, 1939); Rene Guyon, *Sex Life and Sex Ethics* (London: John Lane, 1934).
4. Maurizio Peleggi, *Thailand: The Worldly Kingdom* (London: Reaktion Books, 2007); Paul Handley, *The King Never Smiles: A Biography of Thailand's Bhumibol Adulyadej*

(New Haven: Yale University Press, 2006); Baker and Phongpaichit, *A History of Thailand*; Wyatt, *Thailand*.

5. Much of the research upon which this chapter is based is the result of the author's ethnographic fieldwork in Thailand, beginning in 1987. The most intensive periods of fieldwork were between 2003 and 2004 and from 2006 to 2008. Research sites have included studies of urban gay communities in Bangkok, Pattaya, Kanchanaburi, and Chiang Mai, as well as teaching English to Buddhist monks and novices while living in a Buddhist monastery in a town in northern Thailand. The longest time, however, was spent living in a small Isan rice-farming village in Maha Sarakham province in northeastern Thailand.

6. See Baker and Phongpaichit, *A History of Thailand* and Wyatt, *Thailand*.

7. Ibid.

8. "General Prem Tinsulanonda," <http://www.generalprem.com> (accessed July 22, 2009).

9. Peter Jackson, *Buddhadasa: Theravada Buddhism and Modernist Reform in Thailand* (Chiang Mai, Thailand: Silkworm Books, 2003); Karen Armstrong, *Buddha* (London: Phoenix, 2002); Saneh Dhammavaro, *Buddhism: Ethics and the Path to Peace* (Chiang Mai, Thailand: Mahachulalongkorn Rajavidyalaya Buddhist University, 2001); M. L. Manich Jumsai, *Understanding Thai Buddhism*, 5th ed. (Bangkok: Chalermnit, 2000); P. A. Payutto, *A Constitution for Living: Buddhist Principles for a Fruitful and Harmonious Life*, trans. Bruce Evans (Bangkok: National Buddhism Press, 1997).

10. Ibid.

11. For more resources on LGBT businesses and events in Thailand, see <http://www.utopia-asia.com>.

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VIETNAM

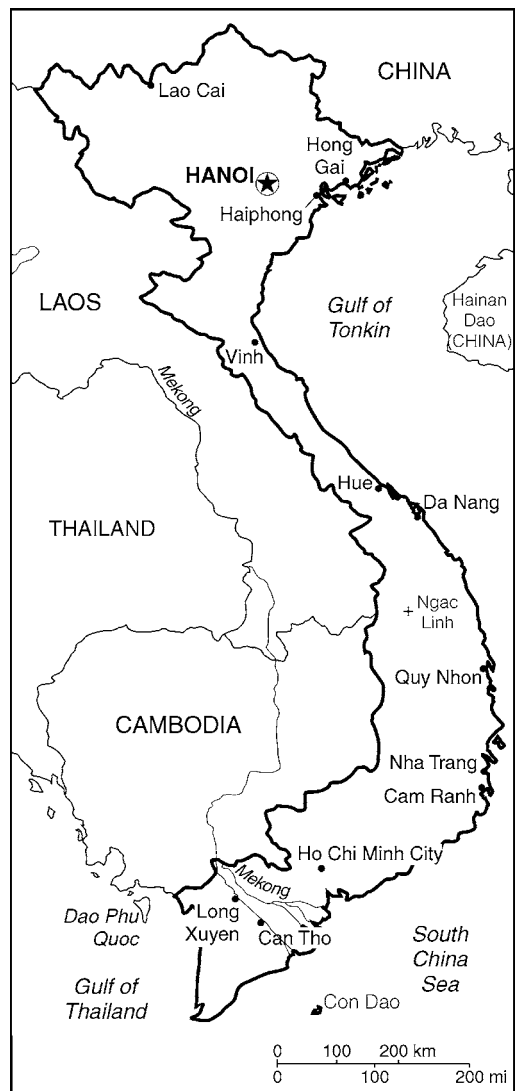
Donn Colby

OVERVIEW

Vietnam had 87 million people in 2007, making it, at that time, the 13th-largest country in the world in terms of population. It covers a land area of 127,000 square miles, making it a little smaller than the American state of California. The wide, densely populated agricultural areas of the Red River and Mekong River deltas are joined by a narrow ribbon of relatively infertile land between the South China Sea and the Truong Son Mountains, giving the country the shape of a dumbbell standing on end. Vietnam shares borders with China to the north and Cambodia and Laos to the west.

The Vietnamese people trace their origins to the Red River Delta in the north of the country. Over hundreds of years, they slowly conquered and assimilated their southern neighbors: first the Hindu kingdom of Champa and then large parts of the Khmer kingdom in the Mekong Delta. Vietnam took on its final shape in the 18th century as the Vietnamese and Thais whittled away at the declining and divided Khmer empire.

Vietnamese history can be read as one long struggle to overthrow foreign domination. The first foreign conquerors were the Chinese, who arrived in the first century C.E. and stayed for 1,000 years. The Chinese brought rice cultivation, a written language, the mandarin administrative system, Confucianism, Taoism, and Buddhism to Vietnam. In the 13th century, the Vietnamese general Tran Hung Dao repelled 500,000 Mongol warriors under Kublai Khan at the Bach Dang River in the north of the country; to this day riverside roads throughout the country are named Bach Dang in memory of that battle.



The French came to Vietnam in the 17th century. One of the first to arrive was the missionary Alexandre de Rhodes, the inventor of *quoc ngu*, the Roman alphabet script that later became the official writing system for the Vietnamese language. French rule continued until 1954, when the Geneva Accords divided the country between north and south at the 17th parallel.

When the French pulled out of Vietnam, the Americans came in; Vietnam came to be seen as an integral part of the worldwide struggle against communist expansion. Under the domino theory, if Vietnam fell to the communists, then the other countries of Southeast Asia would follow one-by-one, like a “row of dominos.”¹ It took more than 20 years, 58,000 American lives, and more than two million Vietnamese casualties to prove that theory wrong.²

The Vietnam War defined a generation and left a deep scar on the psyche of the American people. By contrast, what the Vietnamese call the “American War” was but one brief struggle in over 2,000 years of almost continuous fighting against foreign invaders. It was neither the longest nor the most brutal war they endured. It was not even the final war; in 1978, Vietnam invaded Cambodia to dislodge the Khmer Rouge, and in 1979 they repelled yet another Chinese invasion on the northern border.

OVERVIEW OF LGBT ISSUES

Perhaps the most noticeable aspect of LGBT issues in Vietnam is their almost complete absence from the culture and people’s minds. The average person in Vietnam never thinks about homosexuality. The state-controlled press mostly avoids the subject. Doctors and psychologists never learn about homosexuality in their professional training. In a crowded society where face saving is important, people instinctively avoid situations that are difficult or unpleasant.

This lack of attention gives a certain amount of freedom to Vietnamese LGBT people. The absence of a gay rights movement, or even of a homosexual identity, allows a more fluid expression of sexuality without the requirement of a label or a sexual identity. Two men or two women can hold hands in public without attracting attention. The country is crowded: two people of the same sex sharing the same bed is considered completely normal. If “gay” is not an identity, then a man having sex with another man does not have to question his sexuality. Furthermore, with Buddhism as the predominant religion in the country, there is no religious prohibition against homosexuality.

In spite of these advantages, the lack of a homosexual culture or community also limits how LGBT people can express their sexuality and sexual identity. Having sex with a member of the same sex may be neither illegal nor socially proscribed, but openly declaring oneself a homosexual and rejecting marriage and what is typically considered a normal lifestyle is completely unacceptable to the average family and to society in general.

LGBT people in Vietnam learn to live with the contradictions between their sexuality, sexual identity, and the roles that they must play in the family and in society. Their homosexuality remains largely hidden, shared only with close friends and other LGBT friends. Without role models or social support, few same-sex relationships last for very long. Most LGBT Vietnamese do eventually marry out of obligation and a sense of duty to their families.

EDUCATION

Education is very important in Vietnam and is seen as the way to a better life. Educated people, such as teachers, professors, and doctors, are highly respected in society, even if their professions are poorly paid in the government system. Technically, education through secondary school is mandatory and provided free of charge, but in reality only a minority of children complete high school, and the fees associated with schooling make education an expensive option for many poor families.

The adult literacy rate is high, at 94 percent, according to the United Nations Development Program (UNDP). Primary school enrollment encompasses 88 percent of eligible children, while secondary school enrollment is 69 percent.

University education is expensive and the government now provides low-cost loans to eligible students from poor families. However, the number of university enrollments is quite limited, and the yearly entrance exams given to graduating high school seniors are fiercely competitive. The wealthy, including almost all high-level government officials, send their children overseas to Western universities.

School curricula are centrally controlled by the communist government and completely ignore LGBT issues. Likewise, homosexuality is not covered in the training of medical professionals such as doctors, nurses, and psychologists. There are very few trained counselors in Vietnam, and only a very small percentage of those have any experience with LGBT patients.

There is evidence that Vietnamese students recognize and accept the existence of LGBT classmates despite official inattention to the issue. A recent poll of high school students in Ho Chi Minh City showed that 80 percent disagreed with the statement that “homosexuality is bad” and 72 percent of those with homosexual classmates remained friends after knowing about their peer’s sexual orientation.³ One quarter of the students surveyed estimated that at least 10 percent of their classmates were homosexual, highlighting the increased visibility of gay and lesbian youth in Vietnam.

The law in Vietnam prohibits discriminating against students who are infected with HIV. Schools cannot force a student to have an HIV test, must accept HIV infected students, and cannot separate them from other students.

EMPLOYMENT AND ECONOMICS

There are no laws against discrimination on the basis of sexual orientation in the workplace in Vietnam. Therefore, most homosexuals in the country keep their sexual orientation a secret from their employers for fear of losing their jobs. Discrimination against transgendered employees is very common. Perhaps the only profession where transgenders are openly seen is in hairdressing and beauty salons. Many transgenders turn to prostitution as their only other option for earning money.

Discrimination on the basis of HIV status is prohibited in the workplace. Employers cannot require a worker to have an HIV test and cannot fire a worker because of HIV infection.

Vietnam has one of the fastest growing economies in the world, chalking up growth rates of seven to eight percent each year for the past decade.⁴ Since the government threw off its communist economic policies in the *doi moi* (renewal) reforms of 1986, Vietnam has gone from being one of the poorest countries in the

world to one of the new Asian tigers. It left the World Bank's list of least-developed countries years ago and is poised to become a middle-income country by the end of 2008. The government has set the goal of becoming a modern developed country by 2020.

Massive inflows of foreign investment have fueled a boom in manufacturing and services, such that those two sectors now account for 80 percent of the Vietnamese gross domestic product. The South China Sea, off the southern coast of the country, has oil, which accounts for 23 percent of Vietnam's exports.⁵ Vietnam is also a net exporter of agricultural products; it is the world's first or second-largest exporter of a number of goods, from coffee and rice to pistachios and cashews. It did so well at exporting catfish that the southern catfish farmers in the United States had the Vietnamese fish declared a different species. When the rebranded Vietnamese basa fish still outsold their American cousins, the catfish farmers lobbied for and won further restrictions on its importation.

Although the economy is growing at breakneck speed, most of the investment and growth in the country is concentrated in its urban areas. Growth is slower in the rural areas, where 70 percent of the population still resides despite large numbers of migrants moving to the cities in search of jobs. Incomes for agricultural workers and unskilled factory workers are low, an average of \$50 to \$60 per month. Strikes at factories in Ho Chi Minh City and Hanoi have become more common as rising inflation eats into workers' buying power. Inflation reached 20 percent in the first quarter of 2008, a challenge to government economic policies as rising world prices for food and energy affected the Vietnamese economy.⁶

SOCIAL/GOVERNMENT PROGRAMS

It is a paradox that in a communist country where homosexuality is largely hidden there are several government-sponsored programs that provide outreach services to men who have sex with men (MSM). Over the past few years, as MSM were recognized as a high-risk group for HIV/AIDS and international donors made funding available, it became acceptable for local government agencies to work with MSM under the umbrella of HIV prevention. The first program opened as part of a men's sexual health project in Nha Trang City in 2003.⁷ By 2008, there were programs providing services to MSM in six of the country's largest cities. The more progressive programs have expanded to include activities such as reduction of stigma and discrimination against homosexuals and job placement services, in their efforts to reduce the risk for HIV infection among their MSM clients.

As of 2008 there were no specific social programs for lesbians in Vietnam, however several organizations have proposed working with women who have sex with women as extensions of their MSM programs and may begin operating as soon as funding becomes available.

SEXUALITY/SEXUAL PRACTICES

The two most common terms for homosexual men in Vietnam are *bong kin* and *bong lo*.⁸ The former are masculine-appearing men who prefer to have sex with other men. The latter are effeminized men who act and dress like women and may also be categorized as transgendered. Although *bong kin* (*kin* means "hidden" in

Vietnamese) are more numerous, they cannot be identified as homosexual from their outward appearance and largely avoid stigma and discrimination in society.

Bong lo (*lo* means “revealed” in Vietnamese) take on female gender roles, dressing and acting as women, and using feminine pronouns to refer to themselves in conversation. They may also be referred to using the English term ladyboy. Because they are easily recognized as homosexuals, they are heavily stigmatized and marginalized in Vietnamese society. *Bong lo* have few employment opportunities other than as hairdressers, and many turn to prostitution in order to survive.

Only a very few Vietnamese *bong lo* have had sex-reassignment surgery to become transsexuals. The surgery is not available in Vietnam, but is readily available in nearby Thailand for just a few thousand dollars. The profile of transsexuals in Vietnam has recently been raised by the career of Cindy Thai Tai, the country’s most famous transsexual. She works as a model, singer, and actress, in addition to running her own beauty salon in Ho Chi Minh City. Her first music album, “*Noi Long Co Don* (Lonely Heart)” was released in 2006 after she secured the necessary license from the Ministry of Information and Culture, proving that, at least in the arts, the government does not discriminate against homosexuals or transsexuals.

The English term “gay” is becoming more common in Vietnam, especially in the urban centers of Ho Chi Minh City and Hanoi where exposure to Westerners and Western ideas is more prevalent. Although there are numerous places where homosexual men go to meet and socialize, there are very few places where they would be in the majority, and there is nothing like a gay neighborhood or gay community as would be found in most large Western cities.

Although probably more common than *bong kin* and *bong lo*, bisexuals have a much lower profile in Vietnam. It is very common for MSM to report both male and female sexual partners, and there are strong social and family pressures to marry and have children, thus fulfilling the responsibility to one’s family and ancestors to reproduce and continue the family line. Even most self-identified gay or *bong kin* men eventually succumb to family pressure and marry.

FAMILY

The family is the central unit in Vietnamese life, and a good son or daughter is expected to place obligations to the family ahead of their own needs. Most Vietnamese people live with their parents until they are married, at which point the wife will often move into the home of her husband’s parents. Married women do not change their names, but the children will be given the father’s family name. Divorce rates in Vietnam remain low, but are rising as the society becomes more developed.

In modern Vietnam, people still live in extended families, with several generations typically living under one roof and regular contact kept with a multitude of close and distant cousins, aunts, uncles, nephews, nieces, and grandparents. In the past, large families were the norm and it was common for family members to be nicknamed according to their birth order. The oldest was called “number two,” (referring to someone as “number one” would be considered presumptuous and would surely attract the unwanted attention of evil spirits), the second born was “number three,” and so on. Thus, families are full of people referred to as “Big Sister Two,” “Uncle Five,” or “Great Aunt Nine.”

There has been very little research on issues of sexuality within families in Vietnam, and the research that does exist completely ignores homosexuality. The majority of gay men and lesbians hide their sexual orientation from their families. Most eventually marry due to social pressure or out of a sense of familial obligation, and forced marriages are not uncommon as a way of dealing with the problem of a homosexual family member.

After marriage, Vietnamese couples generally spend less time together compared to married couples in the United States, allowing both husbands and wives the space to continue socializing with their same-sex friends, whether heterosexual or homosexual.

With a large and growing population and a limited land area, the government actively promotes family planning. Families are encouraged to have only two children, and contraception is widely available free or at low cost. Abortion is legal and readily available at public hospitals. For many years, government officials who had more than two children were penalized with lower salaries and loss of promotions, but population control in Vietnam was never mandatory or as draconian at the one-child policy in neighboring China. By 2005, the fertility rate had dropped to 2.3 and is expected to reach the replacement level of 2.1 by 2010.

Gender and Society

One of the positive aspects of communism has been the egalitarian treatment of women. However, women have played a prominent role in Vietnamese society from the beginning. Female names are common on streets and public buildings throughout the country, most of which are named for heroines of the many liberation struggles of the Vietnamese people. The most famous women in Vietnamese history are the Two Trung Sisters (Hai Ba Trung), who led a successful revolt against the Chinese in 40 C.E. When the Chinese invaded the country again three years later, the sisters killed themselves rather than surrender. Today, every town and city in Vietnam has a street named Hai Ba Trung.

Women are commonly found in professional fields, and are often the directors of public institutions and companies. Within the family, however, the wife is expected to play the traditional role of mother and homemaker. Career women in Vietnam face the same challenges of juggling work and family responsibilities as their harried sisters in Western countries.

COMMUNITY

Vietnamese law makes no provision for nongovernmental organizations (NGOs). This stems from the communist government's desire to dominate every aspect of the society, along with paranoia about any organization beyond their control. The few local NGOs that operate owe their existence to close connections with individuals high up in the government power structure. Foreign NGOs are allowed to operate as long as they are registered with the government and partner with local organizations.

This does not mean that the communist government does not recognize the importance of social and civil organizations for the country. Quite the contrary, "mass organizations," as they are known in Vietnam, are too important to be trusted to anyone other than the Communist Party. Many organizations, such as the Women's

Union and the Youth Union, have branches from the central down to the district levels. As government agencies, their first priority is to promote the interests of the Communist Party. The interests of the groups that they purportedly represent come second. However, these organizations do advocate on issues for their groups and will be well placed to form the basis of a civil society if and when they are ever given freedom from political control.

The hidden nature of homosexuality in Vietnam, in combination with the official prohibition of NGOs, results in the lack of an LGBT community as might be found in more developed and open societies. All publications in Vietnam must be approved by government censors, and to date there are no magazines or newspapers that specifically address LGBT issues. The few Web sites that target MSM from within Vietnam are controlled by government agencies and limit their content to HIV prevention and health information (see resources at the end of this chapter). The Vietnamese-language Web sites that offer more than public health messages to the LGBT population are hosted outside the country (and beyond the reach of government censors), although their content may be created and managed from within the country.

The few LGBT community-based organizations that do exist must keep a low profile in order to avoid attention and possible sanctions from government security agencies. Publicly advocating for LGBT rights would not be tolerated, but quietly working on HIV/AIDS prevention for homosexuals appears to be acceptable. However, the lack of an official registration system for NGOs, which cannot even open bank accounts, limits their ability to grow and obtain funding for their work.

HEALTH

The provision of health care in Vietnam has been hit hard by the transition from socialism to capitalism. Under communist rule, health care was provided for free, and a highly organized care delivery system was developed from the central to the provincial, district, and commune levels. Health stations, staffed by nurses and physician's assistants, were built in every community. In reality, however, there was little medicine or diagnostic testing available, and the underpaid staff may or may not have shown up for work on a given day.

Along with economic growth, the availability and quality of health care services has boomed. Insurance is available for government employees and the truly poor, but insurance covers only a limited range of medicines and services, and only in the overcrowded public facilities. As of 2007, all medical care for children less than six years old, including basic immunizations, is provided by the government. Treatment for certain infectious diseases seen as public health threats, such as tuberculosis and HIV/AIDS, is also provided for free through government programs.

Most medical care in Vietnam is provided in a fee-for-service context. Emergency rooms are required by law to provide care, but hospital admission and medications may be denied unless the patient or his or her family can pay for the service, up front, and in cash. This applies to the public sector as well as the growing private sector, where costs are slightly higher but the quality of services is considered much better.

By Western standards, medical care in Vietnam is extremely inexpensive. A hospital bed may cost only a few dollars per day, and an appendectomy would only be about \$200, but even these costs would be a significant burden on a factory worker who may take home only \$60 per month. It is not uncommon for hospitalized

patients to abscond in the middle of the night once they start to feel better, in order to avoid paying their hospital bills.

HIV/AIDS

The HIV epidemic came late to Vietnam, but exploded rapidly among high-risk populations. The first case of HIV infection was identified only in 1990, in a woman who was married to a foreign man. In the mid 1990s, an epidemic of injection drug use (IDU) among young men in the cities and northern border provinces allowed HIV, along with hepatitis C, to spread quickly throughout the country. By 2005, there were an estimated 240,000 drug users in Vietnam and the HIV prevalence rate in this group was 34 percent.⁹

The other factor driving the HIV epidemic in Vietnam is the widespread nature of commercial sex work. Massage parlors and karaoke bars are often fronts for prostitution and can be found throughout the country, even in the smallest towns. An estimated five to 10 percent of all men utilize the services of sex workers each year. Among female sex workers, the HIV rate in 2005 was 16 percent nationwide.¹⁰ Male sex work also exists, but is more hidden and seems to be limited to the larger cities and tourist sites. Prostitution is illegal in Vietnam, and if caught offenders could face up to two years in a re-education camp.

By the end of 2005, an estimated 310,000 people in Vietnam were infected with HIV, representing 0.5 percent of the adult population.¹¹

Antiretroviral therapy (ART) for HIV infection became increasingly available in 2005, largely through donations from the Global Fund for AIDS, TB, and Malaria and the United States government's President's Emergency Plan for AIDS Relief (PEPFAR). In addition, the Vietnam government provides free ART for limited numbers of patients in each of the country's 63 provinces. By the end of 2008, over 28,000 people were on ART provided free by the government and international donors.

MSM are a recognized high-risk group for HIV and are specifically mentioned in the Vietnam Ministry of Health's program for HIV prevention and harm reduction. Since 2004, the government has included MSM in regular HIV surveillance surveys in Ho Chi Minh City, and in 2009 they plan to expand surveillance of MSM to Hanoi, Hai Phong, and Can Tho. In 2006, HIV prevalence among MSM was 5.3 percent in Ho Chi Minh City and 9.4 percent in Hanoi.¹²

HIV prevalence appears to be lower in the smaller cities and rural areas; one survey completed in 2005 in the city of Nha Trang and surrounding rural areas found that none of the 295 MSM tested were infected with HIV.¹³

POLITICS AND LAW

In economics, Vietnam has embraced capitalism and is racing full speed ahead to meet its goal of being a developed country by 2020. Politically, however, communism still reigns. Vietnam is a one-party state, and the communists have made it clear that they will do whatever is necessary to keep it that way. Any display of opposition to the Communist Party or challenges to one-party rule are swiftly squashed.

There are three people at the top of the political structure in Vietnam: the President, Prime Minister, and the Secretary General of the Communist Party. Unlike

China, where one person can hold several important positions, the three top posts in Vietnam are always held by three different people. The current group of leaders rose to the top at the most recent party congress in 2006, and are seen to be reformers.

Vietnam has a National Assembly that is directly elected by the people. The government (in effect, the Communist Party) screens all candidates for office, and no more than a token few noncommunists are allowed to run or to win seats. Previously a rubber stamp for the ruling politburo, the National Assembly now actually debates bills and can send them back for revision before giving their stamp of approval.

At the local level, the government is run People's Committees. Each province, city, district, and sub-district has a People's Committee of appointed (nonelected) members. As membership in People's Committees is a key to power and patronage, the positions are coveted and bitterly fought over. Although not a legal requirement, membership in the Communist Party is, in reality, a prerequisite for any government position above the most basic level.

There are no laws in Vietnam against homosexuality, a fact that owes more to the hidden nature of homosexuals in Vietnamese society rather than to any enlightened nature on the part of the government. Another factor is the influence of Buddhism on the culture, which is more tolerant of sexual diversity than the monotheistic religions of the West. On the other hand, there are also no legal protections against discrimination on the basis of sexual orientation, and no provision for homosexual marriage in the law. Homosexuals are not barred from military service.

Stigma and discrimination against homosexuals is still quite common in Vietnam. Only in the urban metropolis of Ho Chi Minh City is there anything approaching a "gay scene," but even there, most gay men and lesbians keep their sexual orientation hidden from their families and friends. Homosexuality is even more hidden in the workplace. The combination of social stigmatization and lack of legal protection creates an environment where coming out in the workplace could easily result in a loss of employment without any legal recourse.

In 2006, the National Assembly passed a revised "Law on HIV/AIDS prevention and control." The new law guarantees the right to privacy and medical care for HIV-infected individuals and prohibits compulsory HIV testing. Homosexuals are listed as one of the high-risk groups that "will be given priority access to information, education and communication on HIV prevention." Discrimination against HIV-infected persons is prohibited, with specific protections listed for education and employment.

Speech and Association

"Freedom" and "independence" are enshrined in the Vietnamese constitution, and everything in the Socialist Republic of Vietnam is done "for the people," but the rights and privileges provided to the communist government and its highest officials are clearly different than those enjoyed by the common man.

Freedom of association does not exist in Vietnam. In theory, any gathering of more than a few people requires a permit from the local authorities. Although rarely enforced, the law can be applied to break up or prevent any meeting. In the past few years, the government has allowed limited demonstrations of dissent,

such as farmers and rural residents protesting against developers encroaching on or taking their land. However, any questioning of the inalienable right of the Communist Party to lead the country would not be tolerated and would lead to swift reprisals. Activists continue to be jailed for the crime of simply calling for greater democracy in the running of the country.

Early on, the Communist Party of Vietnam recognized the importance of the mass media in informing and controlling the population. There are over 600 daily or weekly publications in the country, and each of the country's more than 60 provinces seems to have at least one television station. The media is 100 percent controlled by the state, and therefore represents the views of the Communist Party. There is no official censor in Vietnam, but all publications practice self-censorship under the knowledge that going too far can result in arrests and closure.

With the opening up of the economy in the past few years, the press has become more vociferous. Many publications take the safe route of sensationalism, using tales of violent crime, drugs, and prostitution to sell newspapers, but several newspapers have taken their roles as journalists seriously, actively investigating and reporting on abuses of power and corruption. This role appears to be encouraged by the central government, whose top leaders also openly and frequently bemoan the high level of corruption in the government. Every year the press seems to get more daring in their reporting, but also every year at least a few journalists learn the limits of free speech the hard way.

Publications have been reprimanded with temporary closures for reporting that angered the wrong people in high government or communist party positions. In May 2008, two journalists from two of the country's most popular daily newspapers (*Tuoi Tre* and *Thanh Nien*) were arrested for "abuse of power" after reporting on a Ministry of Transportation official who had gambled away more than \$750,000 in government funds and then spent another \$75,000 bribing 40 others to cover up the incident. Because nothing that they had reported was proven to be false, it was not clear how they had abused their power.

The Internet has taken off in Vietnam. Even the smallest villages have Internet shops where the public can surf to their heart's delight for as little as US\$0.20 per hour. High-speed lines are available throughout most of the large cities. All Internet traffic in Vietnam passes through a filter that is designed to prevent access to anticommunist political material from outside the country. Pornography is supposedly off-limits as well, but this seems to be less vigorously enforced than the ban on political material. LGBT sites are not blocked.

Perhaps realizing how difficult it is to totally control access to the Internet, in 2006, the government enlisted Internet shop owners in their campaign to prevent politically dangerous ideas from entering the country; a new law was passed making shop owners responsible for any material downloaded or viewed on their premises. Many shops responded by posting signs barring access to prohibited sites, and at least one shop owner was arrested as a warning to others. The campaign was seemingly short-lived, however, and in 2007 there were few signs of interfering with Internet access beyond the blocking of a list of anticommunist Vietnamese-language sites.

RELIGION AND SPIRITUALITY

Centuries of repeated foreign occupation and domination have left their mark on the religious beliefs of the Vietnamese people. The majority of the population,

about 85 percent, follows what has been termed the triple religion, which blends Buddhism, Confucianism and Taoism. About 10 percent of the population is Catholic, a result of French missionaries who first came to Vietnam in the 17th century. There are also small numbers of Protestants and Muslims, as well as several indigenous religions such as Cao Dai and the Hoa Hao.

The Chinese influence on Vietnamese Buddhism can clearly be seen in the architecture of the Buddhist temples throughout the country. In addition to a statue of the Buddha, most temples will have numerous statues of Chinese gods for praying and making offerings. Buddhist monks are expected to lead austere lives. They wear dull brown or gray robes, in contrast to the bright orange robes worn by monks in Cambodia, Thailand, and Laos. Monks eat a vegetarian diet, do not smoke or drink alcohol, and are celibate. Unlike other Southeast Asian countries, there is no tradition of young men becoming monks for periods of time during their adolescence.

A central part of Vietnamese culture is the veneration of one's ancestors. The commonly used term ancestor worship is a misnomer because ancestors are not treated as gods, but rather as spirits who watch over and protect the family. Every house in Vietnam has a family altar with photographs of deceased ancestors in a prominent location. Lighting incense and making offerings on a regular basis keeps the spirits happily grounded and prevents them from wondering away where they might cause all kinds of trouble. Especially important is the death anniversary of ancestors, when the entire family gathers together to make offerings and enjoy a feast.

Buddhism is largely silent on the issue of homosexuality. Therefore, for the majority of people in Vietnam, there is no religious proscription against homosexual sex and homosexual persons are not perceived as sinners. The communist government's official atheism and its unofficial suppression of all religions has the result that the Catholic Church's views on homosexuality are not be publicized and are only known to the 10 percent of the population who belong to the Church.

VIOLENCE

In comparison to the United States and other Western countries, the level of violence in Vietnamese society is very low. Petty crimes such as purse snatching and pick-pocketing are common, and most middle-class Vietnamese families seem almost paranoid about security, keeping their houses locked and their windows barred. Violent crime, however, is extremely rare. The streets of the large cities are safe any time of day or night, and it is not uncommon to see young women bicycling home alone after midnight.

Violence against gays and lesbians is also extremely rare. There are no reports of violence directed at homosexuals or transgenders because of their sexual orientation or outward appearance.

OUTLOOK FOR THE 21ST CENTURY

Vietnam is rushing full speed ahead into the 21st century. For the first time in recorded history, the country is at peace without fear of foreign invasion. The wars of the recent past are ancient history for the majority of the population born within the last 25 years, and the country is getting richer by the minute. Vietnam may not

make the list of high-income countries by 2020, but no one doubts that its hard working and energetic people will get there eventually.

With rapid economic change there is also social change. The move from a closed communist society to an open capitalist one means that Vietnamese people are traveling to other countries and are exposed to foreign cultures and ideas in unprecedented numbers. In the urban hub of Ho Chi Minh City, the term “gay” is becoming more common, and there are the beginning stirrings of an LGBT population, if not yet a community. More businesses cater to the LGBT crowd, and the younger generation appears more comfortable with nonconformity. There are no laws with which the government can repress homosexuals. The rise of the AIDS epidemic has brought recognition for MSM as a group deserving of intervention from public health authorities.

Still, social change takes time, and Vietnamese society remains rooted in its traditions and veneration for the family unit. How the society and culture at large will respond to a growing and more confident LGBT presence remains to be seen.

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- Nguyen Tran Hien, Nguyen Thanh Long, and Trinh Quan Huan, “HIV/AIDS Epidemics in Vietnam: Evolution and Responses,” *AIDS Education and Prevention* 16, supplement A (2004): 137–54.
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- Frank Proschan, “‘Syphilis, Opiomania, and Pederasty’: Colonial Constructions of Vietnamese (and French Social Diseases),” *Journal of the History of Sexuality* 11, no. 4 (2002): 610–36.
- David Wilson and Paul Cawthorne, “‘Face up to the truth’: Helping Gay Men in Vietnam Protect Themselves from AIDS,” *International Journal of STD and AIDS* 10 (1999): 63–66.

Video/Films

- Gai Nhay (Dancing Girls)*, DVD, directed by Le Hoang. (2002; Ho Chi Minh City: Giai Phong Film Studio, 2003). The first of a breed of new cinema to come out of the Vietnamese state-controlled studios. The film follows a group of bar girls who deal with drug addiction, organized crime, and AIDS. This was the first Vietnamese film to feature a gay character.
- Trai Nhay (Call Boys)*, DVD, directed by Le Hoang. (2006; Ho Chi Minh City: Thien Ngan Film Studio, 2007). Le Hoang’s follow-up to his hugely successful *Gai Nhay*. He pushes the boundaries of acceptability of the communist country’s censors further in this film, dealing openly with homosexuality and transgenders.

Organizations/Web Sites

Adamzone, <http://adamzone.com.vn>.

HIV prevention information for MSM. In Vietnamese.

BoyVN.com, <http://www.boyvn.com>.

Focuses on gay Vietnam. In Vietnamese.

Cindy Thai Tai, www.cindythaitai.com.

Vietnam's first, famous, and fabulous transgendered person has her own Web site.

Muon Sac Mau (Many Colors) Club, <http://www.goctamtinhnamgioi.org>.

Club sponsored by the health department of the Khanh Hoa provincial government to provide HIV/AIDS prevention information to MSM in Nha Trang City and the surrounding areas. The club has regular drop-in sessions, offers free HIV and STD testing, and holds periodic special events.

Nguyen Friendship Society, <http://www.govietnam.com/nfs/>.

A group of volunteers that provides HIV/AIDS prevention information, condoms, and lubricants to homosexual men in Ho Chi Minh City.

UNAIDS Vietnam, <http://www.unaids.org.vn>.

Clearinghouse for information on HIV/AIDS in Vietnam. Most materials are available both in English and Vietnamese.

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3. Phuong Nguyen, “High School Poll on Homosexuality Throws up Startling Facts,” *Thanh Nien News* 2007, <http://www.thanhniennews.com/education/?catid=4&newsid=32805> (accessed July 25, 2008).

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9. Ministry of Health, *HIV/AIDS Estimates and Projections 2005–2010* (Hanoi: Vietnam Ministry of Health, 2005).

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12. Ministry of Health, *Results from the HIV/STI Integrated Biological and Behavioral Surveillance (IBBS) in Vietnam, 2005–2006* (Hanoi: Vietnam Ministry of Health, 2007).

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VOLUME INDEX

- Aborigines, 50, 250, 317, 488
Abortion, 202, 237 n.96, 289, 478, 528
Abstinence, 202; Haiti and, 137; Jamaica and, 161; Venezuela and, 301
Adoption: Americas/Caribbean, marriage and child, 8; in Asia and Oceania, 313; in Australia, 325; in Bolivia, 28; in Canada, 57, 60–61; in Uruguay, 293
African Americans, 277, 278
Agnostics, 74
Aguirre, Patricio, 111
AIDS/HIV. *See* HIV/AIDS
Aizhi Newsletter, 361
Albertini, Laura, 294
Alemán, Arnoldo, 224
Allende, Salvador, 75, 78–79
Altman, Dennis, 324
Alvarez, Martha, 100
Amandala, 21
American Psychological Association, 27
Americas and Caribbean: African slave trade in, 4; AIDS in, 9–10; ambiguous/fluid gender roles of indigenous peoples in, 3–4, 10; antidiscrimination statutes and violence in, 7–8; Christianity and conversion in, 3–4, 10; creation myths' transsexual gods in, 3; education in, 8–9; intersexed in, 11; introduction, 1–12; marriage and child adoption in, 8; outlook for 21st century, 11–12; overview of LGBT issues in, 6–11; religion in, 10–11; sexual/relationship arrangements in machismo cultures, 5–6; sodomy in, 6–7; transgendered people in, 11
Amnesty International, 180
Anal intercourse, 55, 59–60, 153, 198 n.81. *See also* Sodomy
Anaya, Alvin (general), 26–27
Andrade, Xavier, 111
Anglican Church, 62, 153, 467
Anisú, 428
Antidiscrimination statutes, 85; Americas/Caribbean, violence and, 7–8; in Asia and Oceania, 312–13; in Honduras, 145–46; in Nicaragua, 228; in U.S., 273. *See also* Law(s)
Anti-Heterosexism (Hiroaki), 421
Antisodomy statutes: in Jamaica, 7; in Trinidad and Tobago, 7. *See also* Law(s)
Araujo, Arturo, 116
Arco Iris, 38
Argentina, 9
Arias, Arnulfo, 242
Arias Dávila, Pedro, 241
Arthashastra, 398
Ashe Productions, 177
Asia and Oceania: antidiscrimination statutes and violence in, 312–13; education in, 313–14; HIV/AIDS in, 314; introduction, 307–12; marriage and child adoption in, 313; outlook for 21st century, 316; overview of LGBT issues in, 312–16; religion in, 314–15; sodomy in, 312; transgendered and intersexed people in, 315–16
Association: Nicaragua, speech and, 229–30; Uruguay, speech and, 295; U.S., speech and, 274–75
Atheists, 74
Atobá, 38
Au, Alex, 481
Australia: adoption in, 325; community in, 321–22; education in, 318–19; employment and economics in, 319; family in, 320–21; Gay Pride festivals and, 321–22; health in, 323–24; HIV/AIDS and, 322–24, 325, 328; indigenous peoples of, 317; LGBT issues in, 317–32; map of, 317; outlook for 21st century in, 327–28; overview, 317–18; politics and law in, 324–26; population of, 317; religion and spirituality in, 326–27; sexuality/sexual practices in, 320; social/government programs in, 319–20; suicide and, 323; violence in, 327
A&V (Artists for Life), 301, 302
Aya Kamikawa, 422
Aymara, 25
Babin, Herculine, 56–57
Baby Cham, 187
Badalu, John, 413
Bai Xian-yong, 494
Bangladesh: community in, 338–39; education in, 336; employment and economics in, 336–37; ethnic makeup of, 333; family in, 338; health in, 339–41; *bijra* subculture in, 334–36, 337, 340, 341–42, 343 n.4, 343 n.6;

- HIV/AIDS and, 336, 337–38, 339–40; *kothi* subculture in, 335, 337, 338, 339, 340, 343 n.6, 344 n.17; languages/dialects spoken in, 333; LGBT issues in, 333–46; map of, 333; outlook for 21st century in, 342–43; overview, 333–36; *panthi* subculture in, 334, 340; politics and law in, 341; religion and spirituality in, 341–42; sexuality/sexual practices in, 337–38; social/government programs in, 337; violence in, 342
- Banton, Buju, 186, 187
- Baptists, 153, 260
- Barazoku*, 427
- Barhona, Ana, 202
- Barnett, Tim, 465
- Bashment Granny*, 188–89
- de Bastidas, Rodrigo, 241
- Battle y Ordóñez, José, 289
- “Batty man,” 153, 186
- “Bears,” 320
- Beauty pageants, 482; Miss Gay Bolivia, 28; Miss Kathoey, 516; Miss Waria, 413
- Beenie Man, 187
- Belize:** carnal intercourse law in, 19–20; Catholic Church’s influence in, 16–17, 21; Catholic Church’s influence on education in, 16–17; colonial, 14–16; community in, 18; culture of love in, 18; depopulation of, 14; education in, 16–17; employment and economics in, 17; ethnic makeup of, 15–16; family in, 18; gay cruise ship landing of 1998 and, 20–21; gay tourist dollars and, 12; GDP of, 17; health in, 18–19; HIV/AIDS in, 18–19, 21–22; homosexuals equated with prostitutes in, 20; homosexuals impacted by discriminatory laws in, 19–20; as independent nation, 16; languages/dialects spoken in, 16; LGBT issues in, 13–23; map of, 13; Mayan people and, 13–16; military spending in, 17–18; outlook for 21st century in, 22; overview, 13–16; politics and law in, 19–20; population of, 13, 15–16; poverty and children in, 17; religion and spirituality in, 20–21; same-sex marriages in, 16; sexuality/sexual practices in, 18; “Skittles” and openly gay men in, 18; social/government programs in, 17–18; violence in, 21–22; youth and first sexual intercourse, 20
- Benavides, O. Hugo, 111
- Bennett, Natalie D. A., 151
- Beyer, Georgina, 465
- Bhumibol Adulyadej (king), 508
- Bichas* (men in passive sex roles), 38, 40
- Birit manga* (collecting alms), 337
- Birth control: China’s policy on, 356; machismo culture and, 9; machismo views of, 9. *See also* Condoms; Sexual practices
- Bisexuals: in Canada, 56; in Honduras, 146; legally unrecognized in Bolivia, 30; in Nicaragua, 222–23; in Uruguay, 295; in U.S., 275
- Black Sheep Collective, 293
- Blais, Martin, 49
- Blanco criollo* (white Creole), 300
- BOB. *See* Boys Only Bangladesh
- Bofe* (men in dominant sex roles), 38
- Bolívar, Simón, 242, 300
- Bolivia:** adoption in, 28; bisexuals, transsexuals and intersexuals not legally recognized in, 30; Catholic Church’s influence in, 31; closet homosexuality in, 27–28; community in, 28–29; as drug hub, 9; education in, 27; employment and economics in, 27; ethnic makeup of, 26; family in, 28; Gay Day in, 28; Gay Pride festival in, 29; GDP of, 26; health in, 30; HIV/AIDS and, 30; Inca Empire and, 25–26; languages/dialects spoken in, 25; legal prostitution in, 30; LGBT issues in, 25–35; LGBT organizations in, 28–29; map of, 25; military and homosexuals in, 26–27; outlook for 21st century in, 31; overview, 25–27; politics and law in, 30; *ponguaeje* and indentured servitude in, 26; religion and spirituality in, 31; same-sex marriage in, 26; sexuality/sexual practices in, 27–28; social/government programs in, 27; sodomy and, 30; three groups of homosexuals in, 27–28; violence in, 25
- Bollywood, 393
- Bonaparte, Napoleon, 300
- Bondage, 320
- Books. *See* Text books
- “Boom Bye Bye,” 186, 188
- Bouchard, Jen Westmoreland, 37, 135, 257, 391
- Bowers v. Hardwick*, 273
- Boys Only Bangladesh (BOB), 335, 339, 342, 345 n.25
- Brand, Dionne, 136
- Brazil:** Catholic Church’s influence in, 37, 43–44; community in, 41–42; as drug hub, 9; education in, 38–39; employment and economics in, 39; family in, 41; Gay Pride festival in, 38, 41–42; health in, 42–43; HIV/AIDS and, 40, 42–43; languages/dialects spoken in, 37; LGBT issues in, 37–47; LGBT organizations in, 38, 41; map of, 37; outlook for 21st century in, 44–45; overview, 37–38; politics and law in, 43; population of, 38; religion and spirituality in, 43–44; same-sex marriages in, 41; sexuality/sexual practices in, 40; slavery legacy in, 37; social/government programs in, 40; sodomy and, 37; suicide and, 43; transsexual population in, 42; violence in, 44
- Brokeback Mountain*, 54
- Bronze Age, 505–6
- Brother Tobi, 120
- Brown v. Board of Education*, 264, 278
- La Brújula Queer, 293
- Buddhism, 61, 154, 246, 347, 349, 352–53, 356, 365, 385, 412, 420, 430, 448, 455, 467, 498, 506, 517, 518, 523, 533
- Bufen* (versatile lesbian), 360
- Bullying, 52, 62, 267, 291, 344 n.11
- Buraku* people, 428
- Burke, Christopher, 459
- Bush, George W., 268
- Butler, Judith, 421
- CAFTA. *See* Central America Free Trade Agreement
- Calabash Literary Festival, 190
- Cambodia:** education in, 351; employment and economics in, 351; ethnic makeup of, 347; family in, 352; health in, 352; HIV/AIDS and, 352; Khmer Empire and, 348–49; Khmer Rouge and destruction of, 349, 351; LGBT issues in, 347–54;

- map of, 347; outlook for 21st century in, 353–54; overview, 347–51; rape and, 353; religion and spirituality in, 352–53; sexuality/sexual practices in, 352; social/government programs in, 351–52; violence in, 353
- Camuflados* (camouflaged homosexuals), 27–28
- Canada:** adoption in, 57, 60–61; bisexuals in, 56; Catholic Church's influence in, 52; community in, 58; education in, 51–53; employment and economics in, 53–54; equal rights in, 4; family in, 57–58; family projects in, 57; federal/provincial gay/lesbian health and health agendas in, 56; First Nations people in, 62; full legal equality for LGBTs in, 51; Gay Pride festival in, 58; gay-friendly culture/rights in, 7; gays in military and, 54; health in, 58–59; HIV/AIDS and, 51, 54–56; intersexuals in, 56–57; lack of attention to women's health issues in, 55–56; languages/dialects spoken in, 50; LGBT issues in, 49–71; map of, 49; Metropolitan Community Church of Toronto in, 61; outlook for 21st century in, 64; overview, 49–51; politics and law in, 59–61; population of, 49; provincial charters in, 60; religion and spirituality in, 61–62; same-sex marriage in, 8, 10, 50–51, 57, 60; same-sex spouse recognition in, 60; seniors in, 57–58; sexuality/sexual practices in, 54–57; transsexual people's rights in, 61; two legal systems in, 50; violence against lesbians in, 63–64; violence in, 62–64
- Candomblé*, 44
- Cao Dai, 533
- Capill, David, 467
- Cardeño, Endry, 100
- Caribbean: Voodoo in, 4, 10–11.
See also Americas and Caribbean
- Caritas, 119
- Carnal intercourse, 19–20
- Carter, Chris, 465
- Casas, Francisco, 75
- Catholic Church, 246, 260, 412, 467; in Belize, 16–17, 21; in Bolivia, 31; in Brazil, 37, 43–44; in Canada, 52; in Chile and, 75, 78–79; in Colombia, 98, 100–101; in El Salvador, 119–20; in Guatemala, 130; interference in public schools by, 9; Jesuits and, 250; in Mexico, 200, 206; negativity promoted by, 4; in Nicaragua, 235 n.51, 237 n.96; Opus Dei and, 85, 119, 294; as primary religion in Latin America, 5; in Uruguay, 296.
See also Religions
- Central America Free Trade Agreement (CAFTA), 117–18, 127, 220
- Central Intelligence Agency (CIA), 268, 393
- Centre de solidarité lesbienne*, 64
- Cerda Delgadillo, Eulalio, 204
- Chamberland, Line, 49
- Chamorro, Violeta, 221
- Chang, Beng, 439
- Chang, Larry, 173, 183
- Chauvel, Charles, 466
- Child Support Scheme, 320
- Children: Americas/Caribbean, marriage, adoption and, 8; Belize, poverty and, 17; bullying in schools and, 52, 62, 291; criminalization of sex play between, 20; custody of, 22, 63; death rate of Ecuadorian youth and, 113; homosexual, 83; machismo's influence on, 5–6.
See also Adoption; Family
- Chile:** Catholic Church's influence in, 75, 78–79; colonial, 74–75; community in, 83; education in, 77–78; employment and economics in, 78–81; family in, 82–83; health in, 83–84; history of sex education in, 78; HIV/AIDS and, 76, 81, 83–84; Inca Empire and, 75; LGBT issues in, 64–88; LGBT organizations in, 76; map of, 73; Mapuche people in, 74–75; outlook for 21st century in, 85–86; overview, 73–77; penguin revolution in, 77–78; politics and law in, 84–85; population of, 73; religion and spirituality in, 73–74, 85; sexuality/sexual practices in, 81–82; social/government programs in, 81; sodomy and, 84; violence in, 85
- China:** birth control policy, 356; community in, 361–62; education in, 358–59; employment and economics in, 359; family in, 360–61; health in, 362–63; HIV/AIDS and, 357, 359, 361, 363, 366; languages/dialects spoken in, 356; LGBT issues in, 355–73; map of, 355; outlook for 21st century in, 366; overview, 355–58; politics and law in, 363–65; population of, 356; religion and spirituality in, 365–66; sexual terms in, 360; social/government programs in, 359–60; violence in, 366
- Chiyo Rokuhana, 422
- Chojjin Lama, 449
- Christianity, 260, 356, 385, 430, 498; indigenous people, forced conversions and, 3–4, 10; orthodox, 61
- Chu T'ien-wen, 494
- Chulalongkorn (king), 507, 508
- Church of God, 153
- CIA. *See* Central Intelligence Agency
- Cliff, Michelle, 136
- Clinton, Bill, 265, 268
- the Closet, 6
- Colby, Donn, 523
- Colipato*, 81
- Colita*, 81
- Colombia:** Catholic Church's influence in, 98, 100–101; colonial, 90, 97; community in, 95–96; death rate in, 101–2; as drug hub, 9; education in, 91–92; employment and economics in, 92–93; equality, intimacy, and free development of personality in, 97–98; family in, 94–95; GDP of, 92; health in, 96–97; HIV/AIDS and, 97; intersexed people in, 99; LGBT issues in, 89–106; LGBT persons in jails in, 100; literacy rate in, 91; map of, 89; marriages in, 94–95; outlook for 21st century in, 102; overview, 89–91; political system in, 89; politics and law in, 97–100; population of, 89–90; public expressions of gender identity in, 100; religion and spirituality in, 100–101; same-sex couples' rights in, 98–99; sexuality/sexual practices in, 94; social/government programs in, 93–94; sodomy in, 97; transgendered and transsexuals' rights in, 99; transgendered people and education system in, 92; violence

- in, 101–2; working women, pregnancy and, 92
- Colombia Diversa, 98
- Colón, Cristóbal, 241
- Columbus, Christopher, 135, 151, 299
- Community: in Australia, 321–22; in Bangladesh, 338–39; in Belize, 18; in Bolivia, 28–29; in Brazil, 41–42; in Canada, 58; in Chile, 58; in China, 361–62; in Colombia, 95–96; in Ecuador, 111–12; in El Salvador, 118–19; in Guatemala, 129; in Haiti, 137; in Honduras, 144–45; in Hong Kong, 382; in India, 396; in Indonesia, 409–10; in Jamaica, 170–75; in Japan, 426–28; in Malaysia, 442; in Mexico, 206–7; in Mongolia, 453–55; in New Zealand, 464; in Panama, 245; in Paraguay, 252–53; in Singapore, 481–82; in Taiwan, 493–95; in Thailand, 514; in Trinidad and Tobago, 259; in Uruguay, 293–94; in U.S., 271; in Venezuela, 303; in Vietnam, 528–29
- Condoms: resistance/refusal to use, 40, 130, 360; safer sex and, 16–17. *See also* Sexual practices
- Conference of Bishops, 9, 291
- Confucianism, 356, 365, 385, 420, 523
- Conquistadors*, 241
- Contra War, 215
- Cook, James (captain), 317
- Cook, Peter, 52
- Cooper, Carolyn, 197 n.80
- Core Reports* (UniBAM), 22
- Corleto, Cristina, 317
- Correa, Rafael, 110, 112, 113
- Corriveau, Patrice, 49
- Cotugno, Nicolás (archbishop), 296
- Creation myths, 3
- Creole, 16, 136, 153, 300
- Crimes: masturbation as, 20; oral sex as, 20; war, 290
- Culture: antigay, 7; family in Mayan, 18; *hijra sub*, 334–37, 340, 341–42, 343 n.4, 343 n.6; Jamaica, 184–90; *kothi sub*, 335, 337, 338, 339, 340, 343 n.6, 344 n.17; of love, 18; machismo, 5–6, 7, 9; male sexual identity and machismo, 5–6; Native Americans, same-sex eroticism and, 14; *panthi sub*, 334, 340
- Dai Jinhua, 359
- Dancehall music, 153, 197 n.80
- Daoism, 356
- A Darker Side of Black*, 186
- Dating: services, 320; sites, 396
- Dau-Chuan Chung, 487
- Deaths: Buddhist monks, 349, 352; in Colombia, 101–2; of Ecuadorian youths, 113; in Guatemala, 131; HIV/AIDS, 10; in Honduras, 147–48; machismo, honor killings and, 5; persecution of homosexuals resulting in, 14–15, 44, 45, 63; violence against women and, 157. *See also* Violence
- Defense of Marriage Act (DOMA), 8
- Degeneres, Ellen, 477
- Deities. *See* Gods/deities
- Delpiazzo, Carlos, 294
- Depression, 322, 384
- Derogatory terms: “faggot” and other, 81–82; *pédé*, 136; used against homosexuals, 31; used against LGBTs in Colombia, 95
- Diagnostic and Statistical Manual* (DSM), 265, 341, 405, 420
- Dialects/languages. *See* Languages/dialects
- Dialogay, 38
- Díaz-Muñoz, Marco, 213
- Dignidad, 28
- The Dignity Group, 38
- Discrimination: Americas/Caribbean, violence and statutes for anti, 7–8; Cuenca, detention of homosexuals and, 111; workplace, 79
- Divorce, 292
- DOMA. *See* Defense of Marriage Act
- Domínguez-Ruvalcaba, Héctor, 199
- “Don’t ask, don’t tell” policy, 265, 268
- Douke* (versatile), 360
- Drug trafficking, 242
- Drugs, 443; countries producing, 9; intravenous, 442
- DSM. *See* *Diagnostic and Statistical Manual*
- Economics: in Australia, 319; in Bangladesh, 336–37; in Belize, 17; in Bolivia, 27; in Brazil, 39; in Cambodia, 351; in Canada, 53–54; in Chile, 78–81; in China, 359; in Colombia, 92–93; in Ecuador, 109–10; in El Salvador, 117–18; gay tourist dollars and, 12; in Guatemala, 127; in Haiti, 136; in Honduras, 143; in Hong Kong, 379; in India, 393–94; in Indonesia, 406–7; in Japan, 423–24; in Malaysia, 441; in Mexico, 203–5; in Mongolia, 450–51; in New Zealand, 461–62; in Nicaragua, 220–21; in Panama, 243–44; in Paraguay, 251; in Singapore, 478–79; in Taiwan, 489; in Thailand, 509–10; in Trinidad and Tobago, 258; in Uruguay, 292; in U.S., 267–68; in Venezuela, 301; in Vietnam, 525–26
- Ecuador**: antigay culture in, 7; community in, 111–12; death rate of youths in, 113; education in, 108–9; employment and economics in, 109–10; ethnic makeup of, 108; family in, 111; Gay Pride festival in, 112; health in, 112; HIV/AIDS and, 108; LGBT issues in, 107–14; map of, 107; outlook for 21st century in, 113; overview, 107–8; politics and law in, 112–13; population of, 107–8; religion and spirituality in, 113; same-sex marriage in, 108; sexuality/sexual practices in, 111; social/government programs in, 110–11; violence in, 113
- Education: in Americas and Caribbean, 8–9; in Asia and Oceania, 313–14; in Australia, 318–19; in Bangladesh, 336; in Belize, 16–17; in Bolivia, 27; in Brazil, 38–39; in Cambodia, 351; in Canada, 51–53; Catholic Church’s interference with public, 9; in Chile, 77–78; in China, 358–59; in Colombia, 91–92; controversial text books and, 291; in Ecuador, 108–9; in El Salvador, 117; in Guatemala, 126–27; in Haiti, 136; in Honduras, 143; in Hong Kong, 378; in India, 393; in Indonesia, 405–6; in Jamaica, 158–64; in Japan, 422–23; in Malaysia, 441; in Mexico, 201–3; in Mongolia, 450; in New Zealand, 460–61; in Nicaragua, 219; in Panama, 243; in Paraguay, 251; poverty’s influence on, 9; rainbow curriculums in, 9; in Singapore, 477–78; in Taiwan, 488–89; in

- Thailand, 508–9; in Trinidad and Tobago, 258; in Uruguay, 290–91; in U.S., 266–67; in Venezuela, 301; in Vietnam, 525
- El Salvador:** antigay culture in, 7; Catholic Church's influence in, 119–20; civil war in, 117; community in, 118–19; education in, 117; employment and economics in, 117–18; family in, 118; Football War and, 142; health in, 119; HIV/AIDS and, 117, 119; languages/dialects spoken in, 115; LGBT issues in, 115–23; literacy rate in, 117; map of, 115; outlook for 21st century in, 121–22; overview, 115–17; politics and law in, 119; population of, 115; pregnancy, HIV/AIDS and, 119; rape and, 121; religion and spirituality in, 115, 119–20; sexuality/sexual practices in, 118; social/government programs in, 118; sodomy in, 119; transvestites and, 118; violence in, 120–21
- Elephant Man, 187
- Ellis, Havelock, 362
- Ellis, Owen “Blakka,” 189
- Employment: in Australia, 319; in Bangladesh, 336–37; in Belize, 17; in Bolivia, 27; in Brazil, 39; in Cambodia, 351; in Canada, 53–54; in Chile, 78–81; in China, 359; in Colombia, 92–93; in Ecuador, 109–10; in El Salvador, 117–18; in Guatemala, 127; in Haiti, 136; in Honduras, 143; in Hong Kong, 379; in India, 393–94; in Indonesia, 406–7; in Jamaica, 164–67; in Japan, 423–24; in Malaysia, 441; in Mexico, 203–5; in Mongolia, 450–51; in New Zealand, 461–62; in Nicaragua, 220–21; in Panama, 243–44; in Paraguay, 251; in Singapore, 478–79; in Taiwan, 489; in Thailand, 509–10; in Trinidad and Tobago, 258; in Uruguay, 292; in U.S., 267–68; in Venezuela, 301; in Vietnam, 525–26. *See also* Economics
- Endeavour*, 317
- Epidemic of Hate* (Mott), 44
- Estenssoro, Víctor Paz, 26
- Ethiopian Coptic Church, 154
- Eunuchs, 335
- Evangelical Christians, 246
- Evangelical Federation, 146–47
- Evangelicals, 73, 113, 146–47, 246
- Exodus International, 277
- Ezili Danto, 138
- Fabio Estrada, Josef, 147
- “*Faggot*”, 81–82
- Falun Gong, 385
- Family: in Australia, 320–21; in Bangladesh, 338; in Belize, 18; in Bolivia, 28; in Brazil, 41; in Cambodia, 352; in Canada, 57–58; in Chile, 82–83; in China, 360–61; in Colombia, 94–95; in Ecuador, 111; in El Salvador, 118; in Guatemala, 128–29; in Haiti, 137; in Honduras, 144; in Hong Kong, 381–82; in India, 395–96; in Indonesia, 408–9; in Jamaica, 167–70; in Japan, 426; *kotbis*, *hijras* and, 338; in Mayan culture, 18; in Mexico, 206; in Mongolia, 452–53; in New Zealand, 463–64; in Panama, 244–45; in Paraguay, 252; in Singapore, 480–81; in Taiwan, 492–93; in Thailand, 512–14; in Trinidad and Tobago, 258; in U.S., 269–71; in Venezuela, 302–3; in Vietnam, 527–28
- Family projects, 57
- Fang Gang, 359, 364
- Farabundo Martí, Agustín, 115
- Federal Bureau of Investigation (FBI), 268
- Ferdinand VII (king), 300
- Field, Jesse, 439
- Figueroa, Peter, 176, 180
- Films: banned, 477; Bollywood, 393; festivals, 361, 413
- Finlayson, Chris, 465
- First Nations people, 62
- Fleto*, 81
- Florida, Richard, 479
- Fong, Otto, 478
- Football War, 142
- Formula 17*, 477
- 419 (one-night stand), 360, 361
- Frei Ruiz-Tagle, Eduardo, 84
- Freud, Sigmund, 362
- Friedman, Milton, 79
- FTM Nippon*, 428
- Fung, Richard, 136
- Furine*, 428
- Galán Family, 29
- Galgani, Jaime, 73
- Galindo, María, 29
- Gambuush, 449
- Gay*, 95
- Gay, Claudio, 75
- Gay Day, 28
- Gay Liberation, 324
- Gay Pride festivals/parades: Australia's, 321–22; in Bolivia, 29; in Brazil, 38, 41–42; in Canada, 58; in Ecuador, 112; in Guatemala, 130; in Mexico, 207; in New Zealand, 464; in Uruguay, 294
- Gay Pride Survey of 2005, 296
- Gaydar, 320
- GDP. *See* Gross Domestic Product
- Gender identity: in Colombia and public expressions, 100; in Vietnam, 528
- Gender-Motivated Violence Act, 275
- Genitalia: *katials* and cutting of, 340; ritualistic shedding of male, 335
- Girls, pregnancy, 128. *See also* Children
- Gods/deities: Americas/Caribbean's creation myths and transsexual, 3; Krishna, 398; Maha Maya Ji, 334, 337, 341; *orishas*, 44; Shiva, 347, 348, 398
- Goh Chok Tong, 479
- Golding, Bruce, 155, 176, 182, 186
- Gordon, Rodney (pastor), 21
- Government programs: in Australia, 319–20; in Bangladesh, 337; in Belize, 17–18; in Bolivia, 27; in Brazil, 40; in Cambodia, 351–52; in Chile, 81; in China, 359–60; in Colombia, 93–94; in Ecuador, 110–11; in El Salvador, 118; in Guatemala, 127–28; in Honduras, 144; in Hong Kong, 379–80; in India, 394; in Indonesia, 407; in Japan, 424; in Malaysia, 441–42; in Mexico, 205; in Mongolia, 451–52; in New Zealand, 462; in Nicaragua, 221–22; in Panama, 244; in Paraguay, 252; in Singapore, 479–80; in Taiwan, 489–91; in Thailand, 510; in Trinidad and Tobago, 258; in Uruguay, 292; in U.S., 268–69; in Venezuela, 301; in Vietnam, 526
- Great Spirit, 62
- Gross Domestic Product (GDP): Belize's, 17; Bolivia's, 26; Colombia's, 92; Haiti's, 135; Hong Kong's, 379; Indonesia's, 404; Jamaica's, 155; Mexico, 199; Mongolia's, 451; New Zealand's, 461

- Grupo Gay da Bahia, 38, 39–40, 41, 44, 45
- Guatemala:** antigay culture in, 7; CAFTA and, 127; Catholic Church's influence in, 130; community, 129; deaths in, 131; education in, 126–27; employment and economics in, 127; family in, 128–29; Gay Pride festival in, 130; health in, 129–30; HIV/AIDS and, 126; languages/dialects spoken in, 125; LGBT issues in, 125–33; LGBT organizations in, 129; literacy rate in, 126–27; map of, 125; outlook for 21st century in, 132; overview, 125–26; politics and law in, 130; population of, 125; religion and spirituality in, 130–31; sexuality/sexual practices in, 128; social/government programs in, 127–28; suicide rate in, 126; violence in, 131; virginity in, 128
- Guillarte, Óscar, 27
- Guo Xiaofei, 359
- Guyon, René, 507
- Haiti:** abstinence and, 137; community in, 137; cultural view of homosexuals in, 135–36; early stages of gay civil rights in, 4; education in, 136; employment and economics in, 136; family in, 137; GDP of, 135; health in, 137–38; HIV/AIDS and, 136–37, 138; languages/dialects spoken in, 136; LGBT issues in, 135–39; literacy rate in, 136; map of, 135; outlook for 21st century in, 139; overview, 135–36; politics and law in, 138; religion and spirituality in, 138; sexuality/sexual practices in, 136–37; slave revolt in, 135; violence in, 138; Voodoo in, 10, 138–39
- Hall, Marc, 52
- Haniff, Nesha, 176
- Harijans* (untouchables), 392
- Harvey, Lenford “Steve,” 179
- Hated to Death* (HRW), 180
- Health: in Australia, 323–24; in Bangladesh, 339–41; in Belize, 18–19; in Bolivia, 30; in Brazil, 42–43; in Cambodia, 352; in Canada, 58–59; in Chile, 83–84; in China, 362–63; in Colombia, 96–97; in Ecuador, 112; in El Salvador, 119; in Guatemala, 129–30; in Haiti, 137–38; in Honduras, 145; in Hong Kong, 381–84; in India, 396–97; in Indonesia, 410–11; in Jamaica, 175–77; in Japan, 428–30; in Malaysia, 442–43; in Mexico, 207–8; in Mongolia, 455; in New Zealand, 464–65; in Nicaragua, 226–27; in Panama, 245–46; in Paraguay, 253; in Singapore, 482; in Taiwan, 495–96; in Thailand, 514–15; in Trinidad and Tobago, 259; in Uruguay, 294–95; in U.S., 271–72; in Vietnam, 529–30
- “Hear Us Out,” 53
- Heche, Anne, 477
- Henry, Gareth, 179, 183
- Henry, Greg, 136
- Hernandez Martinez, Maximiliano, 116
- Herrera, Gioconda, 111
- Hierarchies, machismo culture and, 5–6
- Hijras* (impotent, third sex), 336, 337, 340, 343 n.4, 343 n.6; family and, 338; India's subculture of, 395; *nirban and*, 335; *panthi, parik and*, 334; religion and, 341–42; sexual health projects for, 339
- Hinduism, 61, 246, 260, 333, 385, 412, 467
- Hiroaki Hirano, 421
- Hiroko Kakefuda, 421, 427
- Hirschfeld, Magnus, 362
- HIV/AIDS, 291; in Americas and Caribbean, 9–10; in Asia and Oceania, 314; Australia and, 322–24, 325, 328; Bangladesh and, 336, 337–38, 339–40; Belize and, 18–19, 21–22; Bolivia and, 30; Brazil and, 40, 42–43; Cambodia and, 352; Canada and, 51, 54–56; Chile and, 76, 81, 83–84; China and, 357, 359, 361, 363, 366; Colombia and, 97; condoms and, 16–17; Ecuador and, 108; El Salvador and, 117, 119; Guatemala and, 126; Haiti and, 136–37, 138; Honduras and, 145; India and, 394, 396, 399; Indonesia and, 404–5, 407–8, 410–11; IV drug users and, 9; Jamaica and, 166–67, 173–77, 179–80; Japan and, 420, 429; Malaysia and, 440–43; Mexico and, 202–3, 207–8; Mongolia and, 450, 451–52, 454–55, 456–57; MSM and, 55; New Zealand and, 460, 462–63, 465; Nicaragua and, 218, 226–27; Panama and, 242; Paraguay and, 253; pregnancy and, 119; Singapore and, 480, 482; Taiwan and, 488, 491, 495–96; Thailand and, 515; Trinidad and Tobago and, 258, 259, 261; two-spirited persons and, 62; Uruguay and, 292, 294; U.S. and, 264, 268–69, 271–72; Venezuela and, 300–301, 303, 304; Vietnam and, 525–29, 530, 534; women and, 55–56, 130
- Hoa Hao, 533
- Holmes/Watson v. California Army*, 268
- Holness, Andrew, 161, 162
- Homosexual: Oppression and Liberation* (Altman), 324
- Homosexuals: behavior among African slaves, 14–15; behavior among Mayans, 13; behavior among pirates, 14; Bolivia and closet, 27–28; Bolivian military and, 26–27; Canadian military and, 54; Colombian military and, 92; Cuenca and detention of, 111; Ecuadorian military and, 112; Haiti's cultural views of, 135–36; impacted by discriminatory laws in Belize, 19–20; “lowerclass,” 82; masculinization of Brazil's male, 40; pejorative language used against, 31; persecution and death of, 14–15, 44, 45, 63; *weye*, 75; workplace rights for, 204–5. *See also* Violence
- Honduras:** antidiscrimination statutes and Constitution in, 145–46; bisexuals in, 146; community in, 144–45; deaths in, 147–48; education in, 143; employment and economics in, 143; family in, 144; Football War and, 142; health in, 145; HIV/AIDS and, 145; LGBT issues in, 141–50; map of, 141; outlook for 21st century in, 148; overview, 141–43; politics and law in, 145–46; population of, 141; religion and spirituality in, 146–47; sexuality/sexual practices in, 144; social/government programs in, 144; sodomy in, 145; transvestites and, 146; violence in, 147–48
- Hong Kong:** colonial, 365–66; community in, 382; education in,

- 378; employment and economics in, 379; ethnic makeup of, 365; family in, 381–82; GDP of, 379; health in, 382–84; LGBT issues in, 375–90; map of, 375; outlook for 21st century in, 385–86; overview, 375–77; politics and law in, 384–85; religion and spirituality in, 385; sexuality/sexual practices in, 380–81; social/government programs in, 379–80; suicide and, 384; violence in, 385
- Hongwei Bao, 355
- Honor killings, 5
- Hossain, Adnan, 333
- Hossain, Shakhawat, 339
- Howard, John, 325
- HRW. *See* Human Rights Watch
- Huaco*, 81
- Human Rights Tribunal, 64
- Human Rights Watch (HRW), 180–81
- Hun Sen, 349, 350, 352
- Hurtado, Juan (general), 27
- I, Rigoberta Menchú: An Indian Woman in Guatemala* (Menchú Tum), 131
- Ibáñez del Campo, Carlos, 75
- Ibrahim, Anwar, 443, 444
- Identity: Colombia and public expressions of gender, 100; machismo culture and male sexual, 5–6; Vietnam and gender, 528
- IGLTA. *See* International Gay and Lesbian Travel Association
- Inca Empire, 3; Bolivia and, 25–26; Chile and, 75
- Incarceration. *See* Prisons
- India:** community in, 396; education in, 393; employment and economics in, 393–94; family in, 395–96; health in, 396–97; *bjbras* in, 395; HIV/AIDS and, 394, 396, 399; languages/dialects spoken in, 392; LGBT issues in, 391–401; map of, 391; outlook for 21st century in, 399; overview, 391–93; politics and law in, 397–98; population of, 391; rape and, 399; religion and spirituality in, 398; sexuality/sexual practices in, 395; social/government programs in, 394; violence in, 398–99
- Indigenous peoples: in Americas/Caribbean and ambiguous gender roles, 3–4, 10; Australia's, 317; First Nations, 62; Paraguay's, 249–50. *See also* Native Americans
- Indonesia:** colonial, 403–4; community in, 409–10; education in, 405–6; employment and economics in, 406–7; family in, 408–9; GDP of, 404; health in, 410–11; HIV/AIDS and, 404–5, 407–8, 410–11; LGBT issues in, 403–17; map of, 403; outlook for 21st century in, 414; overview, 403–5; politics and law in, 411–12; population of, 403; rape and, 413; religion and spirituality in, 412; same-sex marriages in, 409; sexuality/sexual practices in, 407–8; social/government programs in, 407; suicide and, 409; violence in, 413–14
- Intercourse: anal, 55, 59–60, 153, 198 n.81; carnal, 19–20; youth and first sexual, 20. *See also* Sexual practices
- International Gay and Lesbian Travel Association (IGLTA), 187
- Intersexed people: in Americas and Caribbean, 11; Asia and Oceania, and transgendered and, 315–16; in Asia and Oceania, 315–16; in Canada, 56–57; in Colombia, 99; legally unrecognized in Bolivia, 30; in Nicaragua, 225; in U.S., 275–76
- IS* (Chiyo), 422
- Ishida, Hitoshi, 356, 419
- Islam, 61, 154, 385, 412
- IV drug users, 9
- Jails. *See* Prisons
- Jamaica:** abstinence and, 161; antisodomy statutes in, 7; community in, 170–75; early stages of gay civil rights in, 4; education in, 158–64; employment and economy in, 164–67; ethnic makeup of, 152; family in, 167–70; GDP of, 155; health in, 175–77; HIV/AIDS and, 166–67, 173–77, 179–80; languages/dialects spoke in, 153; LGBT issues in, 151–98; map of, 151; media and culture in, 184–90; outlook for 21st century in, 190–91; overview, 151–58; politics and law in, 177–84; population of, 152; pregnancy and, 161; rape definition and, 178; religion and spirituality in, 184; Taino peoples in, 151
- Jamaica Gleaner*, 160, 185–86
- Jamaican Gaily News*, 173
- Janoff, Douglas, 63
- Japan:** community in, 426–28; education in, 422–23; employment and economics in, 423–24; family in, 426; health in, 428–30; HIV/AIDS and, 420, 429; LGBT issues in, 419–37; outlook for 21st century in, 431–32; overview, 419–22; politics and law in, 430; population of, 419; religion and spirituality in, 430–31; sexuality/sexual practices in, 424–26; social/governmental programs in, 424; violence in, 431
- de la Jaraquemada, Juan, 75
- Jayavarman, 506
- Jayavarman VII (king), 348–49, 506
- Jehovah's Witnesses, 73, 153, 246
- Jensen, Peter (archbishop), 326
- Jesuits, 250
- John, Elton, 259
- Jubran, Azmi, 64
- Judaism, 61, 73, 113, 154, 246, 276, 385
- Julien, Isaac, 186
- Kamasutra*, 398
- Kanako Otsuji, 421
- Karma, 448–49, 457 n.2
- Katials* (ritual genital cutters), 340
- Khmer Empire, 347–49, 505, 506
- Khmer Rouge, 351, 524; Buddhist monks killed by, 349, 352; Cambodia's destruction and, 349
- Khorloogiin Choibalsan, 455
- King, Mark E., 375
- King, Peter, 157
- Kinsey Report, 362
- Kirby, Michael, 326
- Knight, K. D., 179
- Koseki* (family register), 430, 431
- Kosofsky Sedgwick, Eve, 421
- Kothis* subculture, 335, 337, 340, 343 n.6; cooking work and, 344 n.17; family and, 338; sexual health projects for, 339
- Krishna, 398
- Kublai Khan, 523
- Kumiko Ikeda, 423
- LABRYS*, 427, 428
- Lacalle, Saenz (bishop), 119
- Languages/dialects: Aymara, 25; Bangladesh's, 333; Bolivia's

- ethnic linguistic groups and, 25; Brazil's, 37; Canada's, 50; China's, 356; Creole, 16; derogatory terms, homosexuals and, 31; "faggot" and other pejorative terms and, 81–82; Guatemala's, 125; Haiti's, 136; India's, 392; Jamaica's, 153; Mongolia's, 448; pejorative, 31, 81–82, 136; Quechua, 25; *quoc ngu* and, 524
- Lasalvia, Eduardo, 294
- Latifundios* (large landholdings), 290
- de Lauretis, Teresa, 421
- Law(s): of Antisocial States, 75; in Australia, 324–26; in Bangladesh, 341; in Belize, 19–20; Belize's carnal intercourse, 19–20; in Bolivia, 30; in Brazil, 43; in Canada, 59–61; in Chile, 84–85; in China, 363–65; in Colombia, 97–100; in Ecuador, 112–13; in El Salvador, 119; in Guatemala, 130; in Haiti, 138; homosexuals impacted by discriminatory, 19–20; in Honduras, 145–46; in Hong Kong, 384–85; in India, 397–98; in Indonesia, 411–12; in Jamaica, 177–84; in Japan, 430; in Malaysia, 443–44; in Mexico, 208–9; in Mongolia, 455; in New Zealand, 465–67; in Nicaragua, 227–30; in Panama, 246; in Paraguay, 253; in Singapore, 483; in Taiwan, 496–98; in Thailand, 515–17; in Trinidad and Tobago, 259–60; in Uruguay, 295–96; in U.S., 272–76; in Vietnam, 530–32
- Lawrence v. Texas*, 273
- Lawyers' Christian Fellowship, 181
- Lee Hsien Loong, 479
- Los Legionarios de Cristo, 85
- Lemebel, Pedro, 76
- Leon, Laurence Wai Teng, 475
- Lesbiana*, 95
- Lesbians: butch/femme, 360; Canada and violence against, 63–64; child custody and, 63; machismo culture's influence on, 6; in prison and rights to intimate visits, 100; suicide and, 396; versatile, 360
- Lesbians on the Loose*, 322
- Lesboflexible*, 94
- Lévy, Joseph Josy, 49
- Lewis, Richard, 467
- Li Xiaojiang, 359
- Li Yinhe, 359
- Liberal Party of Honduras (PLH), 142
- Lim-Hing, Sharon, 136
- Lin Yinhe, 361
- Literacy rate: Colombia's, 91; El Salvador's, 117; Guatemala's, 126–27; Haiti's, 136; Vietnam's, 525
- Liu Dalin, 359, 362
- Locas*, 82, 94
- Locos*, 95
- Lon Nol, 349
- Loquita*, 82
- Lorde, Audre, 136
- Love, culture of, 18
- The "L" Word*, 189
- Lu Longguang, 363
- Lwa* (feminine spirit), 138
- Machis* (Mapuche shamans), 75
- Machismo culture: in Americas/Caribbean and sexual-relationship arrangements, 5–6; birth control in, 9; honor killings in, 5; violence in, 5–6, 7
- Macho* (men in dominant sex roles), 40, 111
- Maha Maya Ji, 334, 337, 341
- Mahuad, Jamil, 110
- Malaysia**: community in, 442; education in, 441; employment and economics in, 441; health in, 442–43; HIV/AIDS and, 440–43; LGBT issues in, 439–46; map of, 439; outlook for 21st century in, 444–45; overview, 439–41; politics and law in, 443–44; population of, 439; religion and spirituality in, 444; sexuality/sexual practices in, 442; social/government programs since 1992, 441–42; violence in, 444
- Male-to-female. *See* MTF
- Mambos* (religious leaders), 138
- Manly, Michael, 158
- Manu Spirit*, 398
- Mao Zedong, 356
- Maori people, 459–60, 463
- "Mapping Homophobia in Australia," 326
- Maps: Australia, 317; Bangladesh, 333; Belize, 13; Bolivia, 25; Brazil, 37; Cambodia, 347; Canada, 49; Chile, 73; China, 355; Columbia, 89; Ecuador, 107; El Salvador, 115; Guatemala, 125; Haiti, 135; Honduras, 141; Hong Kong, 375; India, 391; Indonesia, 403; Jamaica, 151; Malaysia, 439; Mexico, 199; Mongolia, 447; New Zealand, 459; Nicaragua, 213; Panama, 241; Paraguay, 248; Singapore, 475; Taiwan, 487; Thailand, 505; Trinidad and Tobago, 256; Uruguay, 288, 289; U.S., 263; Venezuela, 297; Vietnam, 523
- Mapuche people, 74–75
- Maquiladora* (assembly plants), 204
- Maraco*, 82
- Marica*, 81
- Mariposón*, 81
- Mariquita*, 81
- Marriages: in Americas/Caribbean and child adoption, 8; in Asia and Oceania, 313; in Colombia, 94–95; common-law, 137; DOMA and, 8; Mayan, 13–14; same-sex, 8, 10, 108; in U.S., 273–74. *See also* Same-sex marriages
- Masturbation, 9, 20, 360, 450, 477
- Maxwell, John, 185
- Mayans, 3; Belize and, 13–16; depopulation of, 14; family, 18; homosexuals, 13; marriages, 13–14
- MB (money boy), 360, 361
- Media, in Jamaica, 184–90
- Medina, Javier, 144
- Meléndez, Eduardo Alfonso Caro, 107, 125, 241, 249
- Men: machismo's influence on, 5–6; MTF, 5–6, 11. *See also* Family "Men who have sex with men." *See* MSM
- Menchú Tum, Rigoberta, 131
- Mendoza Ralph, Roberto, 204
- Mestizos*, 108
- Methodists, 153, 276, 326
- Mexico**: Catholic Church's influence in, 200, 206; community in, 206–7; education in, 201–3; employment and economics in, 203–5; family in, 206; Gay Pride festival in, 207; GDP, 199; health in, 207–8; HIV/AIDS and, 202–3, 207–8; LGBT issues in, 199–212; map of, 199; outlook for 21st century in, 209; overview, 199–201; politics and law in, 208–9; population of, 200; sexuality/sexual practices in, 205; social/government programs in, 205; textbooks and, 202; violence in, 209; workplace, homosexual rights and, 204–5

- Micheletti, Roberto, 142
Miches (homosexual prostitution), 44
 Military: Bolivia and homosexuals in, 26–27; Canada and homosexuals in, 54; Colombia and homosexuals in, 92; coup d'état in Uruguay, 290; Ecuador and homosexuals in, 112; spending in Belize, 17–18; U.S. and “don’t ask, don’t tell” policy with, 265, 268
 de Miranda, Francisco, 299
 Miss Gay Bolivia pageant, 28
Mithuna, Jr., 514
 Mohamad, Mahathir, 443, 444
 Mon people, 505
 Money boy. *See* MB
Mongolia: community in, 453–55; education in, 450; employment and economics in, 450–51; family in, 452–53; GDP of, 451; health in, 455; HIV/AIDS and, 450, 451–52, 454–55, 456–57; languages/dialects spoke in, 448; LGBT issues in, 447–58; map of, 447; outlook for 21st century in, 456–57; overview, 447–50; politics and law in, 455; population of, 447; provinces in, 457 n.9; religion and spirituality in, 455–56; sexuality/sexual practices in, 451–52; social/government programs in, 451–52; violence in, 456
 Montoya, Alba, 100
 Montreuil, Micheline, 61
 Morales, Evo, 25
 Morgan, Henry, 242
 Morinigo, Higinio, 250
 Mormons, 73
 Moscoso, Mireya, 242
 Mott, Luiz, 41, 44
 MOVILH (Homosexual Liberation Movement), 76, 83, 84
 Msac, Torai, 428
 MSM (Men who have sex with men), 21, 343 n.7, 482; HIV/AIDS and, 55; networks, 22; social implications in machismo culture and, 5–6; Uruguay and, 294
 MTF (Male-to-female): surgeries, 272, 482; transsexuals and, 5–6
 Mu Sochua, 350
Mulher-macho (male woman), 37
 Muslims, 113, 260, 333, 404, 430, 467
 Myal (revivalism), 154
 Myrie, Phoebe, 157
Nabozny v. Podlesny, 267
 Nanda, Serena, 343 n.4
 Naraa, 449
 National Church Alliance, 181
 Native Americans, 3; culture and same-sex eroticism, 14; Mayans, 13–16
 Nazis, 349
 Negroponte, John, 142
Neon, 514
New York Times, 188
New Zealand: community in, 464; education in, 460–61; employment and economics in, 461–62; family in, 463–64; Gay Pride and, 464; GDP of, 461; health in, 464–65; HIV/AIDS and, 460, 462–63, 465; LGBT issues in, 459–73; Maori people and, 459–60; map of, 459; outlook for 21st century in, 468–69; overview, 459–60; politics and law in, 465–67; religion and spirituality in, 467–68; sexuality/sexual practices in, 462–63; social/government programs in, 462; suicide and, 461; violence in, 468
 Newspapers. *See specific newspapers*
Nicaragua: antidiscrimination legislation in, 228; antigay culture in, 7; bisexuals in, 222–23; CAFTA and, 220; Catholic Church’s influence in, 235 n.51, 237 n.96; church, state and reparative therapy in, 230; community in, 224–26; Contra War and, 215; education in, 219; employment and economics in, 220–21; ethnic makeup of, 214; family in, 223–24; gay marriage in, 229; health in, 226–27; HIV/AIDS and, 218, 226–27; intersexed people in, 225; lesbians in, 225–26; LGBT issues in, 213–40; map of, 213; NGOs and, 234 n.30; outlook for 21st century in, 232; overview, 213–19; politics and law in, 227–30; population of, 213; religion and spirituality in, 230–32; Sandinista Revolution and, 216, 220, 226, 228; sexuality/sexual practices in, 222–23; social/government programs in, 221–22; sodomy laws in, 227–28; speech and association in, 229–30; transsexuals in, 225; violence in, 232
Nirban (freedom from worldly desires), 335
 Nondiscrimination and civil union contracts, 84–85
 Noriaki Fushimi, 421
 Noriega, Manuel Antonio (general), 242
 Norodom Sihamoni (prince), 350
Not in My Family, 22
Notes of a Desolate Man (Chu T’ien-wen), 494
 Nuances, 38
 Numbers, 360–61
O Lampião (The Lantern), 38, 41
 O Salish Kendro, Ayeen, 339
 OASIS, 129
 Obama, Barack, 265
On Being a “Lesbian” (Hiroko), 421
 Operation Save Jamaica, 181
 Operations. *See* Surgeries
 Opus Dei, 85, 119, 294
 Oral sex, 476; criminalization of, 20; between men, 495
Orishas (religious deities), 44
 Orozco, Caleb, 13
 Ortega, Daniel, 235 n.47
 Orthodox Christianity, 61
Oungans (religious leaders), 138
 OutRage, 187
 L’Ouverture, Toussaint, 135
Ovoos, 457 n.10
 P (femme lesbians), 360
 Pageants. *See* Beauty pageants
 Palacio, Pablo, 111
 Pan Suiming, 359, 362
Panama: antigay culture in, 7; community in, 245; education in, 243; employment and economics in, 243–44; family in, 244–45; health in, 245–46; HIV/AIDS and, 242; LGBT issues in, 241–47; map of, 241; outlook for 21st century in, 247; overview, 241–43; politics and law in, 246; religion and spirituality in, 246; sexuality/sexual practices in, 244; social/government programs in, 244; violence in, 246–47
Panthis, 334, 340
Paraguay: community in, 252–53; as drug hub, 9; early stages of gay civil rights in, 4; education in, 251; employment and economics in, 251; family in,

- 252; health in, 253; HIV/AIDS and, 253; indigenous population of, 249–50; LGBT issues in, 249–55; map of, 248; outlook for 21st century in, 254; overview, 249–51; politics and law in, 253; population of, 249; religion and spirituality in, 253–54; sexuality/sexual practices in, 252; social/government programs in, 252; violence in, 254; War of Three Alliances and, 254
- Paredes, Julieta, 29
- Parik*, 334
- Patil, Pratibha Devisingh, 392
- Patiño, Ricardo, 110
- Patterson, P. J., 155, 176
- Paulk, Anne, 276
- Paulk, John, 276–77
- Pédé* (pejorative French term for gay), 136
- Pejorative language, 31, 81–82, 136
- Pell, George (archbishop), 326
- Penetration: *activo/pasivo* model of, 94; *bichas* and, 38, 40; *bofe* and, 38; forced anal/oral, 178; hierarchy of, 5–6; *macho* and, 40, 111; male views on, 81
- Penguin revolution, 77–78
- Penises: carved stone, 348; worship of, 506. *See also* Genitalia
- Pentecostals, 113, 260
- Pérez Balladares, Ernesto, 242
- Pérez de Guzmán, Don Juan, 242
- Pierce, Joseph M., 73, 199
- Pink triangle, 441, 443
- Pinochet Ugarte, Augusto (general), 74, 75
- Pirates, 242; homosexual relationships among, 14
- Planeta Paz, 96
- Plasaj* (common-law marriage), 137
- Pocomania, 154
- Pol Pot, 349
- Politics: in Australia, 324–26; in Bangladesh, 341; in Belize, 19–20; in Bolivia, 30; in Brazil, 43; in Canada, 59–61; in Chile, 84–85; in China, 363–65; in Colombia, 97–100; in Ecuador, 112–13; in El Salvador, 119; in Guatemala, 130; in Haiti, 138; in Honduras, 145–46; in Hong Kong, 384–85; in India, 397–98; in Indonesia, 411–12; in Jamaica, 177–84; in Japan, 430; in Malaysia, 443–44; in Mexico, 208–9; in Mongolia, 455; in New Zealand, 465–67; in Nicaragua, 227–30; in Panama, 246; in Paraguay, 253; in Singapore, 483; in Taiwan, 496–98; in Thailand, 515–17; in Trinidad and Tobago, 259–60; in Uruguay, 295–96; in U.S., 272–76; in Vietnam, 530–32.
- See also* Law
- Poll, Christabel, 324
- Population: Australia's, 317; Belize's, 13; Brazil's, 38; Brazil's transsexual, 42; Canada's, 49; Chile, 73; China's, 356; Colombia's, 89–90; Ecuador's, 107–8; El Salvador's, 115; Guatemala's, 125; Honduras', 141; India's, 391; Indonesia's, 403; Jamaica's, 152; Japan's, 419; Malaysia's, 439; Mexico's, 200; Mongolia, 447; Nicaragua's, 213; Paraguay's, 249; Singapore's, 475; Taiwan's, 487; Trinidad and Tobago's, 257; Uruguay's, 289; U.S. immigrant, 263–64; Vietnam's, 523
- Poverty: children in Belize and, 17; influence on education, 9
- Power, machismo culture and, 5–6
- Pregnancy, 78; Colombia's working women and, 92; El Salvador, HIV/AIDS and, 119; Uruguay and teen, 291
- Prem Tinsulanonda (general), 516
- Presbyterians, 326, 467
- Prescod, John, 179
- Prisons: African American males in, 277; Colombia and LGBT persons in, 100; lesbians and rights to intimate visits in, 100
- Private Gay Life* (Noriaki), 421
- Project Watercolor, 39
- Prostitutes: homosexuals in Belize equated with, 20; *kothi* and *hijra* as, 337; male, 363; MBs as, 360, 361; *miches* and, 44
- Protestants, 113, 303
- Provincial charters, 60
- Puranas*, 398
- Qing* (deep sentiment or passion), 360
- Qinshihuang (emperor), 355
- Quakers, 326
- Quechua, 25
- Queiruga, Álvaro, 289
- Quilter v. AG*, 466
- Quinceañeras* (fifteenth birthday), 111
- Quintela, Manuel, 294
- Quoc ngu*, 524
- Quran, 342
- Rainbow curriculums, 9
- Rama I (king), 507
- Rama IX (king), 508
- Rama V (king), 507
- Rama VI (king), 507
- Ranariddh (prince), 350
- RAND Corporation, 21
- Rape, 6, 19, 146, 342, 364, 518; bullying and mock, 267; Cambodia and, 353; El Salvador and, 121; Indonesia and, 413; Jamaica and definition of, 178; Taiwan and, 491; U.S. and, 267
- Rastafarianism, 154
- Ratnam, S. S., 482
- Reagan, Ronald, 116
- Real* magazine, 489
- Real Women, 62
- Reece, Richard, 179
- Relationships, in Americas/
Caribbean with machismo culture and sex, 5–6
- Religions: Afro-Brazilian, 44; in Americas and Caribbean, 10–11; in Asia and Oceania, 314–15; in Australia, 326–27; in Bangladesh, 341–42; in Belize, 20–21; in Bolivia, 31; in Brazil, 43–44; in Cambodia, 352–53; in Canada, 61–62; in Chile, 73–74, 85; in China, 365–66; in Colombia, 100–101; in Ecuador, 113; in El Salvador, 115, 119–20; in Guatemala, 130–31; in Haiti, 138; *hijras* and, 341–42; in Honduras, 146–47; in Hong Kong, 385; in India, 398; in Indonesia, 412; in Jamaica, 184; in Japan, 430–31; in Malaysia, 444; in Mongolia, 455–56; in New Zealand, 467–68; in Nicaragua, 230–32; in Panama, 246; in Paraguay, 253–54; in Singapore, 483–84; in Taiwan, 498; in Thailand, 517–18; tolerance of, 10; in Trinidad and Tobago, 260; in Uruguay, 296; in U.S., 276–77; in Venezuela, 303; in Vietnam, 532–33; Voodoo, 4, 10–11.
- See also specific religions*
- Religious Society of Friends.
See Quakers
- Reparative therapy, 230
- de Rhodes, Alexandre, 524
- Richard, Gabrielle, 49
- Rig Veda*, 392, 398

- Rights: Canada and equal, 4; Canada and gay-friendly culture and, 7; Canada and transsexuals', 61; Colombia, transgendered and transsexuals', 99; Colombia and same-sex couples', 98–99; Uruguay and gay-friendly, 7; women and voting, 289; workplace and homosexual, 204–5
- Roberto Mendoza Ralph vs. Coca-Cola/FEMSA*, 204
- Royal Palm Estate*, 188
- Ryan, Bill, 49
- Sa'at, Alfian, 478
- Sado-masochism, 320
- Salek, Fabiola Fernández, 25
- Salvation Army, 18
- Same-sex eroticism, 14
- Same-sex marriages, 4; Belize and, 16; Bolivia and, 26; Brazil and, 41; Canada and, 8, 10, 50–51, 57, 60; Canada and spouse recognition in, 60; Ecuador and, 108; Indonesia and, 409; Nicaragua, 229; Uruguay's legislation on, 292–93; U.S. and, 265, 270
- Sandinista Revolution, 216, 220, 226, 228
- Sanguinetti, Julio María, 290
- Schools: bullying in, 52, 62, 291; discriminating against students, 64; sex education and church-affiliated, 16. *See also* Education
- Sempol, Diego, 289
- Seniors, 57–58
- Seri Wongmontha, 516
- SERPAJ (Servicio de Paz y Justicia), 294
- Serrano, Fernando, 89
- Seventh Day Adventists, 153, 164, 246, 260
- Sex: in Americas/Caribbean with machismo culture and relationships, 5–6; criminalization of oral, 20; doctors, 362; industry, 292; tourists, 482; workers, 530
- Sex education: church-affiliated schools and limited, 16; history of Chile's, 78. *See also* Education
- Sexual harassment, 267. *See also* Bullying
- Sexual intercourse. *See* Intercourse; Penetration
- Sexual practices: in Australia, 320; in Bangladesh, 337–38; in Belize, 18; in Bolivia, 27–28; in Brazil, 40; in Cambodia, 352; in Canada, 54–57; in Chile, 81–82; in Colombia, 94; in Ecuador, 111; in El Salvador, 118; in Guatemala, 128; in Haiti, 136–37; in Honduras, 144; in Hong Kong, 380–81; in India, 395; in Indonesia, 407–8; in Japan, 424–26; in Malaysia, 442; in Mexico, 205; in Mongolia, 451–52; in New Zealand, 462–63; in Nicaragua, 222–23; in Panama, 244; in Paraguay, 252; in Singapore, 480; in Taiwan, 491; in Thailand, 510–12; in Trinidad and Tobago, 258; in Uruguay, 292; in U.S., 269; in Venezuela, 302; in Vietnam, 526–27
- Shamanism: *ovoo*s and, 457 n.10; Thailand and, 505; women and, 448
- Shebada (fictional character), 189
- Shilts, Randy, 138
- Shintoism, 420, 430
- Shiva, 347, 348, 398
- Sihamoni (king), 352
- Sihanouk (king), 349–50, 352
- Sikhism, 61, 385
- Simpson-Miller, Portia, 155, 158, 176
- Singapore:** community in, 481–82; education in, 477–78; employment and economics in, 478–79; family in, 480–81; health in, 482; HIV/AIDS and, 480, 482; LGBT issues in, 475–86; map of, 475; outlook for 21st century in, 484–85; overview, 475–77; politics and law in, 483; population of, 475; religion and spirituality in, 483–84; sexuality/sexual practices in, 480; social/government programs in, 479–80; suicide and, 479; violence in, 484
- Singh, Manmohan, 392, 394
- 69 (mutual, simultaneous oral sex), 360
- “Skittles,” 18
- Slaves: Brazil and legacy of, 37; freed, 15; homosexual behavior among African, 14–15; revolt in Haiti, 135
- Smith, Jake, 479
- Society, Vietnam, gender and, 528
- Sodom and Gomorrah, 198 n.81
- Sodomy: in Americas and Caribbean, 6–7; in Asia and Oceania, 312; in Bolivia, 30; in Brazil, 37; in Chile, 84; in Colombia, 97; dens of, 14; in El Salvador, 119; in Honduras, 145; in Jamaica, 7; laws in English colonies, 14–15; in Nicaragua, 227–28; statutes, 4, 6–7; in Trinidad and Tobago, 7; in Uruguay, 295; in U.S., 272–73; witchcraft and, 75
- Somos (We Are), 38, 41
- Somoza, Anastasio, 215, 230
- Speech: Nicaragua, association and, 229–30; Uruguay, association and, 295; U.S., association and, 274–75; Vietnam, association and, 531–32
- Spellmant, Claudia, 144
- Spirituality: in Australia, 326–27; in Bangladesh, 341–42; in Bolivia, 31; in Brazil, 43–44; in Cambodia, 352–53; in Canada, 61–62; in Chile, 85; in China, 365–66; in Colombia, 100–101; in Ecuador, 113; in El Salvador, 119–20; in Guatemala, 130–31; in Haiti, 138; in Honduras, 146–47; in Hong Kong, 385; in India, 398; in Indonesia, 412; in Jamaica, 184; in Japan, 430–31; in Malaysia, 444; in Mongolia, 455–56; in New Zealand, 467–68; in Nicaragua, 230–32; in Panama, 246; in Paraguay, 253–54; in Singapore, 483–84; in Taiwan, 498; in Thailand, 517–18; in Trinidad and Tobago, 260; in Uruguay, 296; in U.S., 276–77; in Venezuela, 303; in Vietnam, 532–33
- Stalin, Joseph, 455
- Stalinists, 349
- Statutes, sodomy, 4, 6–7
- Stewart, Chuck, 263
- Street, Maryan, 465
- Stroessner, Alfredo, 250, 251
- Suganuma, Katsuhiko, 419
- Sugiura, Ikuko, 419
- Suharto, 404, 408
- Suicide, 52, 422, 456; Australia and, 323; Brazil and, 43; Guatemala and, 126; Hong Kong and, 384; Indonesia and, 409; lesbians and, 396; New Zealand and, 461; Singapore and, 479; Taiwan and, 499
- Sukarno, 404
- Sukhragchaa Mijidsuren, 447
- Sullivan, Gerard, 317

- Sun Yat-sen, 356
- Surgeries: dangerous practices with transgender, 11; MTF, 272, 482; sex-reassignment, 527; transsexuals and free sex reassignment, 294–95. *See also* Transgendered people; Transsexuals
- Sydney Star Observer*, 322, 325
- T (butch lesbian), 360
- Taino people, 151
- Taiwan:** community in, 493–95; education in, 488–89; employment and economics in, 489; family in, 492–93; health in, 495–96; HIV/AIDS and, 488, 491, 495–96; LGBT issues in, 487–503; map of, 487; outlook for 21st century in, 499; overview, 487–88; politics and law in, 496–98; population of, 487; rape and, 491; religion and spirituality in, 498; sexuality/sexual practices in, 491; social/government programs in, 489–91; suicide and, 499; violence in, 499
- Tamaki, Brian, 467
- Tamayo, Marta, 100
- Taoism, 356, 365, 385, 498, 523
- Tatchell, Peter, 187
- Text books: controversial, 52, 291; Mexico's, 202
- Thailand:** Bronze Age and, 505–6; Buddhism and, 506, 517, 518; community in, 514; education in, 508–9; employment and economics in, 509–10; family in, 512–14; health in, 514–15; HIV/AIDS and, 515; LGBT issues in, 508–21; map of, 505; outlook for 21st century in, 518–19; overview, 505–8; politics and law in, 515–17; religion and spirituality in, 517–18; sexuality/sexual practices in, 510–12; shamanism and, 505; social/government programs in, 510; violence in, 518
- Thajib, Ferdiansyah, 403
- Thio-Li Ann, 483
- Time*, 188, 479
- "To bow," 198 n.81
- To Go*, 489
- Tobago. *See* Trinidad and Tobago
- Tobi (brother), 120
- Tong Ge, 359
- Tourism, in Belize and gay tourist dollars, 12
- Tran Hung Dao (general), 523
- "Trans Stage," 29
- Transgendered people: in Americas and Caribbean, 11; in Asia and Oceania, 315–16; Colombia and rights of transsexuals and, 99; Colombia's education system and, 92; in Uruguay, 295–96; violence against, 120–21
- Transsexuals: Americas/Caribbeans creation myths and, 3; in Brazil, 42; Canada and rights of, 61; Colombia and rights of transgendered people and, 99; discrimination against transvestites and MTF, 5–6; legally unrecognized in Bolivia, 30; in Nicaragua, 225; Uruguay and free sex reassignment operations for, 294–95; in U.S., 275
- Transvestites, 27–28, 95; discrimination against MTF transsexuals and, 5–6; El Salvador and, 118; Honduras and, 146
- Travestis*. *See* Transvestites
- Triângulo Rosa (Pink Triangle), 38
- Trinidad and Tobago:** antisodomy statutes in, 7; community in, 259; early stages of gay civil rights in, 4; education in, 258; employment and economics in, 258; family in, 258; health in, 259; HIV/AIDS and, 258, 259, 261; LGBT issues in, 257–61; map of, 256; outlook for 21st century in, 260–61; overview, 257–58; politics and law in, 259–60; population of, 257; religion and spirituality in, 258; sexuality/sexual practices in, 258; social/government programs in, 258; violence in, 260
- Trudeau, Pierre-Elliott, 51
- Trung Sisters, 528
- 21st century: Asia and Oceania's outlook for, 316; Australia's outlook for, 327–28; Bangladesh's outlook for, 342–43; Belize's outlook for, 22; Bolivia's outlook for, 31; Brazil's outlook for, 44–45; Cambodia's outlook for, 353–54; Canada's outlook for, 64; Chile's outlook for, 85–86; China's outlook for, 366; Colombia's outlook for, 102; Ecuador's outlook for, 113; El Salvador's outlook for, 121–22; Guatemala's outlook for, 132; Haiti's outlook for, 139; Honduras's outlook for, 148; Hong Kong's outlook for, 385–86; India's outlook for, 399; Indonesia's outlook for, 414; Jamaica's outlook for, 190–91; Japan's outlook for, 431–32; Malaysia's outlook for, 444–45; Mexico's outlook for, 209; Mongolia's outlook for, 456–57; New Zealand's outlook for, 468–69; Nicaragua's outlook for, 232; Panama's outlook for, 247; Paraguay's outlook for, 254; Singapore's outlook for, 484–85; Taiwan's outlook for, 499; Thailand's outlook for, 518–19; Trinidad and Tobago's outlook for, 260–61; Uruguay's outlook for, 296; U.S.'s outlook for, 277–78; Venezuela's outlook for, 303–4; Vietnam's outlook for, 533–34
- "Twinks," 320
- Two-spirited persons, 3, 14; HIV/AIDS and, 62
- Um Outro Olhar (Another Look), 38
- Unitarian Church, 61
- United Church, 61, 276
- United States:** antidiscrimination statutes in, 273; bisexuals in, 275; community in, 271; education in, 266–67; employment and economics in, 267–68; equal rights in, 4; family in, 269–71; health in, 271–72; HIV/AIDS and, 264, 268–69, 271–72; homosexuals in military and, 265, 268; immigrant population and, 263–64; intersexuals in, 275–76; LGBT issues in, 263–88; map of, 263; marriage in, 273–74; outlook for 21st century in, 277–78; overview, 263–66; politics and law in, 272–76; rape and, 267; religion and spirituality in, 276–77; same-sex marriage and, 265, 270; sexuality/sexual practices in, 269; social/government programs in, 268–69; sodomy in, 272–73; speech and association in, 274–75; transsexuals in, 275; violence in, 277
- Upanishads*, 398
- "Urban tribes," 82
- Uribe, Alvaro, 98
- Uruguay:** adoption in, 293; bisexuals in, 295; Catholic

- Church in, 296; community in, 293–94; coup d'état and military reign in, 290; decriminalization of sodomy in, 295; divorce rate in, 292; as drug hub, 9; education in, 290–91; employment and economics in, 292; family in, 292–93; Gay Pride festival in, 294; gay-friendly culture/rights in, 7; health in, 294–95; HIV/AIDS and, 292, 294; *latifundios* and, 290; LGBT groups in, 293; LGBT issues in, 289–98; map of, 288, 289; MSM and, 294; outlook for 21st century in, 296; overview, 289–90; politics and law in, 295–96; population of, 289; religion and spirituality in, 296; religious makeup of, 290; same-sex marriage in, 292–93; sexuality/sexual practices in, 292; social/government programs in, 292; speech and association in, 295; as “Switzerland of South America,” 289–90; teen pregnancy and, 291; transgendered population in, 295–96; transsexuals and free sex reassignment operations in, 294–95; violence in, 296; voting rights for women in, 289
- USAID, 220
- Varnas* (caste system levels), 392
- Vásquez, Manuel Amador, 208
- Vatican, 62
- Venezuela:** abstinence and, 301; colonial, 299–300; community in, 303; as drug hub, 9; education in, 301; employment and economics in, 301; family in, 302–3; HIV/AIDS and, 300–301, 303, 304; LGBT issues in, 299–304; map of, 297; outlook for 21st century in, 303–4; overview, 299–300; religion and spirituality in, 303; sexuality/sexual practices in, 302; social/government programs in, 301; violence in, 303
- Victoria (queen), 259
- Victoria Mercado Brigade, 234 n.30
- Vietnam:** community in, 528–29; education in, 525; employment and economics in, 525–26; family in, 527–28; fertility rate in, 528; gender and society in, 528; health in, 529–30; HIV/AIDS in, 525–29, 530, 534; LGBT issues in, 523–35; literacy rate in, 525; map of, 523; outlook for 21st century in, 533–34; overview, 523–24; politics and law in, 530–32; population of, 523; religion and spirituality in, 532–33; sexuality/sexual practices in, 526–27; social/government programs in, 526; speech and association in, 531–32; violence in, 533
- Vietnam War, 524
- Villegas-Perez, Larry, 299
- Violence: in Americas/Caribbean and antidiscrimination statutes, 7–8; in Asia and Oceania, 312–13; in Australia, 327; in Bangladesh, 342; in Belize, 21–22; in Bolivia, 25; in Brazil, 44; in Cambodia, 353; in Canada, 62–64; in Chile, 85; in China, 366; in Colombia, 101–2; in Ecuador, 113; in El Salvador, 120–21; in Guatemala, 131; in Haiti, 138; as hallmark of machismo culture, 5–6, 7; in Honduras, 147–48; in Hong Kong, 385; in India, 398–99; in Indonesia, 413–14; in Japan, 431; against lesbians in Canada, 63–64; in Malaysia, 444; in Mexico, 209; in Mongolia, 456; in New Zealand, 468; in Nicaragua, 232; in Panama, 246–47; in Paraguay, 254; in Singapore, 484; in Taiwan, 499; in Thailand, 518; against transgendered people, 120–21; in Trinidad and Tobago, 260; in Uruguay, 296; in U.S., 277; in Venezuela, 303; in Vietnam, 533; against women in Honduras, 147; against women in Jamaica, 157
- Virgen de los Descos (Virgin of Desires), 29
- Virginity: abstinence and, 478; Guatemala and social views on, 128
- von Krafft-Ebing, Richard, 362
- Voodoo, 260; as gay-friendly, 4, 10–11; Haiti and, 10, 138–39; *ounfos and*, 138
- Vybz Kartel, 187
- Wan Yanhai, 361
- War crimes, 290
- War of Three Alliances, 254
- Ware, John, 324
- Warren, Murray, 52
- Wei Wei, 359
- Weye* (homosexuals), 75
- WHO. *See* World Health Organization
- Wilets, James Daniel, 115, 141
- William and John*, 324
- Williams, Candice, 157
- Williams, Walter, L., 13, 347, 505
- Williamson, Brian, 157, 179
- Williman, José Claudio, 291
- Winter, Sam, 375
- Witchcraft, 75
- Women: Canada and lack of attention to health issues for, 55–56; HIV/AIDS and, 55–56, 130; machismo's influence on, 5–6; male, 37; pregnancy and, 78, 92, 119, 291; sexual/reproductive health and, 17; shamanism and, 448; violence against, 147, 157; voting rights for Uruguay's, 289. *See also* Family
- World Health Organization (WHO), 294; “sexual deviation” removed from illness list by, 27
- World War II, 242
- Wu Zongjian, 362
- Xing* (sex), 360
- Yang* (masculine energy), 365
- Yin* (feminine energy), 365
- Youth Development Strategy Aotearoa*, 461
- Youth Health: A Guide to Action*, 461
- Youths. *See* Children
- Zambos*, 108
- Zelaya, Manuel, 142
- Zhang Beichuan, 359
- Zhang Jingsheng, 362
- Zuazo, Hernán Siles, 26
- Zuo* (have sex), 360

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CONTENTS

<i>Set Preface</i>	xi
<i>Acknowledgments</i>	xiii
<i>Advisory Board</i>	xv
<i>Editor and Contributors</i>	xvii

VOLUME 1

The Americas and the Caribbean

Introduction	3
Belize	13
Bolivia	25
Brazil	37
Canada	49
Chile	73
Colombia	89
Ecuador	107
El Salvador	115
Guatemala	125
Haiti	135
Honduras	141

Jamaica	151
Mexico	199
Nicaragua	213
Panama	241
Paraguay	249
Trinidad and Tobago	257
United States	263
Uruguay	289
Venezuela	299

Asia and Oceania

Introduction	307
Australia	317
Bangladesh	333
Cambodia	347
China	355
Hong Kong	375
India	391
Indonesia	403
Japan	419
Malaysia	439
Mongolia	447
New Zealand	459
Singapore	475
Taiwan	487
Thailand	505

Vietnam	523
Volume Index	537

VOLUME 2

Europe

Introduction	3
Andorra	13
Austria	23
Belarus	35
Belgium	49
Bulgaria	65
Croatia	79
Czech Republic	101
Denmark	111
European Union	123
Finland	147
France	163
Georgia	177
Germany	191
Greece	203
Hungary	219
Ireland	235
Italy	251
Kyrgyzstan	269
Moldova	277
The Netherlands	289

Norway	305
Poland	321
Portugal	337
Romania	347
Russia	357
Slovenia	373
Spain	393
Switzerland	413
Turkey	427
United Kingdom	439
Volume Index	453

VOLUME 3*Africa and the Middle East*

Introduction	1
AFRICA	
Botswana	11
Cameroon	23
Egypt	29
Ethiopia	41
Ghana	47
Kenya	55
Liberia	69
Morocco	75
Namibia	87
Nigeria	97

South Africa	113
Tanzania	123
Tunisia	129
Uganda	135
Zimbabwe	147
THE MIDDLE EAST	
Iran	163
Lebanon	175
Saudi Arabia	193
<i>Volume Index</i>	225
<i>Selected Bibliography</i>	233
<i>Set Index</i>	241

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SET PREFACE

The Greenwood Encyclopedia of LGBT Issues Worldwide is a multivolume set presenting comprehensive, authoritative, and current data related to the cultural, social, personal, and political experiences of lesbian, gay, bisexual, and transgendered (LGBT) people. The set encompasses more than 80 countries with each volume covering major populated world regions: Africa and the Middle East, Asia and Oceania, the Americas and the Caribbean, and Europe. Volumes are organized regionally and then alphabetically by country (including Hong Kong and the European Union, the latter because of its importance to European laws) with chapters that reflect LGBT geopolitical and historical context and follow a broad outline of topics—Overview of the country, Overview of LGBT Issues, Education, Employment and Economics, Social/Government Programs, Sexuality/Sexual Practices, Family, Community, Health, Politics and Law, Religion and Spirituality, Violence, and Outlook for the 21st Century. Under these topics, contributors explore a range of contemporary issues including sodomy, antidiscrimination legislation (in employment, child adoption, housing, immigration), marriage and domestic partnerships, speech and association, transsexualism, intersexualism, AIDS, safe-sex educational efforts, and more. As such, the set provides an unparalleled global perspective on LGBT issues and helps facilitate cross-national comparisons.

The term *LGBT* was chosen for this encyclopedia as a shorthand, yet inclusive, notation for the class of people who experience marginalization and discrimination perpetrated by heterosexual norms. In the late 19th century, the word *heterosexual* was invented to denote abnormal sexual behaviors between persons of the opposite sex. Ten years later, the word *homosexual* was invented for the same purpose of medicalizing same-sex behaviors and psychology. Many people found it offensive to categorize their lifestyle as pathology. They also thought that the emphasis on sex restrictive in describing their experiences and, instead, created and used the term *homophile* or *Uranian*. By the mid-20th century, the word *gay* came into common usage. As the gay political movement took roots in the 1950s and 1960s, it became apparent that, in the eyes of the public, gay women were invisible. In response to that phenomenon, many gay organizations changed their names to include women, as in—“lesbian and gay” or “gay and lesbian.” Still, bisexuals, the transgendered (which includes transsexuals, transvestites, and intersexed people), and those questioning their sexual orientation believed that “lesbian and gay” was not inclusive enough to describe their experiences and challenged the status quo.

By the 1980s and 1990s, more gay organizations modified their names to include their moniker. However, a backlash occurred with many groups because the names became un-wielding. At the same time, radical street organizations, such as Queer Nation and ACT UP, appropriated the epithet *queer* and embraced its shocking value. This is a common practice by people who are marginalized and discriminated against to defuse the power of hateful words. Further, academia appropriated the word *queer* since it was a concise term denoting all persons outside heteronormative power structures. Still, many community organizations resisted the attempts to include *queer* in their names but rather stuck to some version of lesbian, gay, bisexual, and transgendered (LGBT). In the chapters, readers will encounter many variations of *LGBT*. Sometimes this will be written as “gay community,” “lesbian and gay,” LGBT, queer, or other terminology. The word usage reveals much about the community’s level of understanding concerning LGBT issues.

Contributors were chosen based on their expertise in LGBT issues and knowledge of their country. Every effort was made to find contributors who live, or have lived, in the country in question. This was important, as gay people are often a hidden minority not easily quantified. Some contributors are from countries where gay people are routinely rounded up and killed. Contributors from these countries have taken great personal risk to participate in this encyclopedia and we commend their courage. Each contributor provides an authoritative resource guide that strives to include helpful suggested readings, Web sites, organizations, and film/video sources. The chapters and resources are designed for students, academics, and engaged citizens to study contemporary LGBT issues in depth for specific countries and from a global perspective.

CHUCK STEWART

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This project took more than two years to complete. Locating experts on LGBT issues, especially for the smaller countries or in countries where it is dangerous to be gay, was a monumental task. In working with the contributors, I was struck by their dedication to making the world safe for all people. They are much more than just writers; they are people interested in changing the world to make it a better place. They understood that the first step toward reducing heterosexism and homophobia is to educate the public on LGBT culture and issues. To that end, they were eager to participate—even if they faced language difficulties or possible persecution from their governments. I commend each writer for the courage to be part of the solution toward overcoming sexual orientation bias. I hope this encyclopedia will further their vision.

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EUROPE

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INTRODUCTION

OVERVIEW OF EUROPE

The histories and sociopolitical forces in Europe are deeply complex. With each change in governments or ruling powers, the life experiences of lesbian, gay, bisexual, and transgendered (LGBT) people change. The current status of LGBT rights is dependent upon these forces.

Poland is a prime example of this process. The Polish state is considered to have come into existence in 966 C.E. when the ruler, Mieszko I, converted to Christianity and pulled together regional warlords into one country that approximated the boundaries of modern Poland. Before then, the local religion was an amalgam of various pagan religions, some accepting of homosexuality and some not. Even after the conversion to Christianity, homosexual behaviors were sometimes accepted and at other times they were not, depending on various cultural forces. Over the next 1,000 years, Poland went through periods of empire building; it was later divided between neighboring rulers and then went back to being one country. Poland declared itself a kingdom in 1025 C.E. Five hundred years later, in 1569, it cemented a relationship with the Grand Duchy of Lithuania to form the Polish-Lithuanian Commonwealth. War led to its collapse 200 years later, and it was divided between Russia, Prussia, and Austro-Hungary in 1795. Poland aligned with the French at the beginning of the French expansion into Europe in the late 19th century and adopted the criminal code developed by the French National Constituent Assembly (1789–1791) that decriminalized sodomy. This was further codified under Napoleon in the penal codes of 1810. As such, there was a brief period in which homosexuality was not legally persecuted. Napoleon's march to Russia in the first decade of the 19th century allowed Poland to recapture land that had been taken by Russia. The reunification was brief, as Germany overran Poland in World War I and replaced its government with one friendly to Germany. With the onslaught of Germany, paragraph 175 of the German criminal code that made male homosexual acts a crime was enforced against Polish homosexuals. With the defeat of Germany, Poland reorganized and became an independent state in 1918, but kept the German criminal code and its antigay statutes intact. Unification was short-lived, as Poland was soon divided between Nazi Germany and the Soviet Union. Again, Germany was defeated; this time, the Soviet Union took complete control of Poland, annexing it into the Soviet bloc. The Polish legal system was modified

to conform to communist thought. Initially, homosexuality was ignored and not criminalized. However, the medical profession in the Soviet Union reconceptualized homosexuality as a pathology, which influenced all the satellite states, like Poland, to adopt the same view. As a result, Polish homosexuals were in constant fear of being rounded up and sent to reeducation camps or mental hospitals. The collapse of the Soviet Union in 1989, due in part to the Polish Solidarity movement, allowed Poland to regain its independence. The return of freedom of speech and association allowed LGBT people to begin organizing and advocating for equal rights. Poland was interested in joining the European Union (EU). A condition of membership was to implement national antidiscrimination legislation that included a ban on employment discrimination based on sexual orientation. Poland adopted such a policy, met all of the other conditions for membership, and officially joined the EU in 2004. The Polish constitution now officially affords some protection for LGBT people.

War and occupation change societal views concerning homosexuality. For more than 2,000 years, most of Europe has been in a constant state of war and occupation from such sources as the Romans, Christian crusaders, Protestant reformers, border wars, Christian inquisitions and witch hunts, the Ottoman Empire, Napoleon's conquests, World War I and II, and the communist revolution. With each change in government, LGBT people embraced the hope of freedom or the fear of possible extinction. But it does not require full-scale war for conditions to change drastically for LGBT people. Instead, a minor shift in political power within a country can have a major effect on LGBT rights. For example, a majority of EU countries were politically center-left for much of the 1970s through to the late 1990s. The influx of foreign workers from Islamic countries, combined with the fears generated by the terrorist attacks on the United States in 2001, saw a shift in many European countries toward the political right. So far, the rights of LGBT people have not been jeopardized, but there is always the fear that xenophobia and Islamophobia could be applied against homosexuals, and that their hard-fought gains in securing equal rights could be reversed.

The most significant factor that has influenced LGBT rights in modern Europe has been the formation of the European Union. Originating in 1957 with the Treaty of Rome, the European Economic Community (EEC) was established and later renamed the European Community (EC). Its goals were to create internal markets where trade and services could circulate without barriers. By 1992, the EC was expanded to introduce monetary and economic normalization, and its name was changed to the European Union. This allowed for the development of a common currency (the euro) and many other rights such as the right to move and reside in any of the member states. By 2008, 27 countries belonged to the EU as member states, including most of Europe and what used to be the western satellites of the Soviet Union. The EU is approximately half the size of the United States, but with a population that is 50 percent larger, making it the third largest geopolitical center after China and India. Its gross domestic product (GDP) exceeds that of the United States.

The EU has been committed to the active promotion of human rights. In 2000, the Employment Framework Directive was formulated to "take appropriate action to combat discrimination based on sex, racial, or ethnic origin, religion or belief, disability, age, or sexual orientation." The directive obliges all member states to introduce legislation to their governments to implement the directive. As of 2009,

most of the member states have passed legislation in their countries implementing the directive. Countries applying to join the EU must also pass legislation implementing the directive. Considering the number of countries and population affected by the Employment Framework Directive, it is arguably the single most important piece of legislation in the history of Europe for protecting the rights of LGBT people.

The impact of the directive has been significant. Many of the early members of the EU were socialist states with liberal values and politically active gay communities. For these countries, it was not a big step to pass antidiscrimination legislation. For other countries, such as the ones that were at one time part of the Soviet Union, the thought of passing antidiscrimination legislation based on sexual orientation was considered a far-off dream for many LGBT people. Most human rights political process requires a bottom-up approach, with community activism slowly creating legal, political, and cultural change. Here, gay rights were affirmed in many cases before there were active LGBT political groups in these countries. Romania is an example. By many estimates, Romania is considered to be the most homophobic country in Europe, and has a highly traumatized and hidden gay community. By joining the EU, it was forced to recognize the existence of LGBT people and legally protect their rights to employment before there was a visible gay community. Romanian activists are scrambling to organize and bring to public attention the employment protections based on sexual orientation. However, LGBT people still need to come out and demand the laws be applied effectively. It will take years of organizing in Romania to make the culture less homophobic.

OVERVIEW OF LGBT ISSUES

Sodomy

For hundreds of years, most European countries had antisodomy laws and customs in place that made male-to-male sexual behaviors illegal. Sodomy was punishable by death in many cases (burning at the stake). This was due to the influence of Christianity. Women, who held a much lower caste than men, were overlooked in the laws. The idea of woman-on-woman sex was incomprehensible for most European cultures. Virtually no European country had antisodomy laws that included women. The French Revolution (1789–1799) instigated a change in the French criminal code by adopting ideas from the 18th-century Enlightenment. Homosexuality was decriminalized along with the offenses of heresy, witchcraft, blasphemy, incest, and bestiality. The 1810 penal code promulgated by Napoleon adopted much of the French criminal code, decriminalizing homosexuality by simply leaving same-sex sexual behaviors out of the legal code. Because of the imperialistic expansion of France into Europe and the Napoleonic Wars, the penal code was adopted throughout most of Europe. Even after the defeat of Napoleon, the penal code remained, and most European countries had no antigay sodomy law.

However, over time, many countries implemented some form of legislation of sexual mores that included phrases such as “unnatural debauchery” (Greece), “offense against nature” (Denmark), and “unnatural fornication” (Croatia). The vague terminology allowed for the prosecution of anyone for behaviors deemed offensive to the ruling power. In some countries, like the Netherlands, although antisodomy statutes dealing with adult men were abolished in 1811, they were later

reintroduced by defining sodomy as sex occurring between an adult and minor child. A different strategy used by antigay countries wanting to enter the European Union was to redefine sodomy to include the use of force, or threat of force, in conjunction with male-on-male or female-on-female sex. For example, Moldova replaced “homosexuality” with “forced homosexuality” in its first revision of its antisodomy statutes in 1995 to comply with the Council of Europe’s standards. A similar tactic was used by Russia in 1996 to make its legal system appear more modernized when it removed an outright ban on LGBT people.

At this time, no European country has antisodomy laws on its books.

Antidiscrimination Statutes and Violence

The European Parliament has been the primary driving force behind the development of LGBT rights within the European Union. The Roth report, commissioned by the parliament in 1994, recommended full and equal rights for “homosexuals and lesbians” in the European Union. Input was received over the next decade from member states, public meetings, and professionals that reinforced the Roth report. The recommendations were later refined at a summit in Nice (2000) with the creation of the Charter of Fundamental Rights and Freedoms in the EU. Article 21 of the charter explicitly prohibited discrimination on the grounds of sexual orientation. By 2007, the charter acquired the same legally binding character as other European treaties. All member states are required to comply with the charter. A newly established fundamental rights agency was established to oversee compliance with the charter of fundamental rights. Part of the work of the agency is to conduct research on homophobia in the EU.

The adoption of the charter of fundamental rights and establishment of the Fundamental Rights Agency are extremely important for the future of antidiscrimination statutes in Europe. Since the Roth report, it has taken over a decade for all the member states to approve their own antidiscrimination statutes for employment protections based on sexual orientation. If history is any guide, it will probably take another decade or so to fully implement antidiscrimination protections for LGBT people as they relate to housing, services, and public accommodations besides hate crime reporting as specified in the charter of fundamental rights.

Violence against LGBT people has continued to increase across Europe for the past 20 years. Although there are variations in intensity and methodology in specific localities, the general trend has been toward greater and greater violence. As has been observed elsewhere in the world, the act of coming out, organizing, and bringing attention to LGBT people and issues increases acts of violence. Eventually, the violence levels off and then begins to decline as LGBT people become assimilated and LGBT issues are normalized in society. A problem that has spilled over into the LGBT community has been nationalistic hate directed toward immigrants by conservatives. Europe has experienced a massive immigration of workers, many from Islamic countries. As the world economies have entered into recession, the job market has tightened and many people have lost their jobs. The war on terrorism, initiated by the United States, has enlisted the help of many European countries. The synergy between the loss of jobs, tightening economic conditions, and heightening tensions over possible terrorist attacks has given conservative politicians the opportunity to blame Muslims for their problems. Conservatives have traditionally been antigay. There seems to be a convergence between xenophobia

and homophobia that has increased the level of hate-motivated crimes against LGBT people.

Marriage and Child Adoption

Of the six countries in the world that allow same-sex marriages, four are found in Europe: Belgium, the Netherlands, Norway, and Spain. The Netherlands led the way by approving same-sex marriages in 2001, becoming the first country in the world to do so in modern times. Initially, there were limitations within same-sex marriages with regards to child adoption and foster care. These have now been lifted. Same-sex marriages in these European countries have been fully harmonized with existing marital laws and are legally equivalent to heterosexual marriages, with exactly the same rights. For many people, both gay and straight, it was thought that gay marriage represented full LGBT emancipation, and that the struggle for equal rights was over. This has not been proven to be true. It has become clear that legal equality does not necessarily translate into social equality. LGBT people still face many acts of discrimination in the workplace, in housing and public accommodations, in medical access, and elsewhere. Legal equality is necessary, but there is still considerable work to be done to break down antigay social barriers.

In a modern context, same-sex marriage may seem new and exotic. Yet there is a long history of different cultures in different times that not only allowed, but also venerated gay marriages. Worldwide, there is considerable evidence of the acceptance of same-sex marriages. For example, during the Ming dynasty period, many women in the southern Chinese province of Fujian bound themselves to younger females in elaborate rituals. The Japanese tradition of Shudo practiced during the medieval period and up to the 19th century instituted age-structured homosexuality analogous to the ancient Greek tradition of pederasty (*paiderastia*). In Europe, the Roman emperor Nero married his slave boy. Same-sex marriages were recorded throughout Europe during the Middle Ages. Legal contracts have been found in France dating from the 14th century that establish a brotherhood between two men. Similar documents are found in many European countries in which the brothers pledged to live as a couple, sharing the joys of life and “one purse” (meaning they shared property jointly). The contracts were sworn before witnesses and legally notarized. Many of these marriages were performed in a church.

Before same-sex marriages were approved in modern Europe, an intermediate step was taken in recognizing same-sex relationships with civil unions and/or domestic partnerships. Many European countries do not provide same-sex couples with the option to marry, but do allow civil unions or partnerships. Currently, Andorra, Croatia, the Czech Republic, Denmark, Finland, France, Germany, Hungary, Iceland, Luxembourg, Portugal, Slovenia, Sweden, Switzerland, and the United Kingdom provide some form of union for same sex couples. How civil unions or domestic partnerships are structured varies from country to country. Sometimes, they are limited to living arrangements and financial entanglement. Other times they include childcare, adoption, and foster care. Within the LGBT community, classifications of civil unions and domestic partnerships are considered one step toward obtaining equality with heterosexuals; ultimately, however, full marriage is desired.

Marriage is problematic for transgendered and intersexual individuals in Europe and elsewhere. For transgendered individuals, changing from one gender to

another causes difficulties with identification documents and marriage. In countries such as the United Kingdom, which does not provide for same-sex marriage but does provide for civil partnership, a transgendered person must dissolve his/her civil partnership or marriage before obtaining legal recognition (what is called a gender recognition certificate in the United Kingdom) within the new gender. Once the new gender is established, the person can enter into either marriage or civil partnership, depending on whether the relationship is opposite-sex or same-sex.

Education

Only a few European countries include LGBT issues in their public school curriculum. Typically, they are only addressed within the context of health education and, perhaps, as a safe sex lesson designed to reduce the transmission of HIV. Rarely is homosexuality presented without judgment and as a viable alternative to the heterosexual lifestyle. Most European countries still have state-supported religion, and religious study is required in public education. As such, there is still strong influence of religious thought enforced in public schools. In predominantly Catholic and Protestant countries, an antigay message is still being fostered in elementary and high schools. School is typically a dangerous setting for LGBT students. However, this is slowly being mediated by the greater tolerance shown by society and the changes in antidiscrimination laws that include sexual orientation. Religion, in general, is on the decline in Europe, and its impact on the social discourse is weakening.

Belgium, the Netherlands, Norway, and Spain, the four countries that have approved same-sex marriage, have fairly well-developed antidiscrimination programs in their public schools, even though they have state-supported religion. These programs include LGBT issues and promote the idea that homosexuality and heterosexuality are equivalent in terms of legal rights and responsibilities, and represent a personal status that does not require justification. In 2006, Spain implemented its new law on education, which explicitly states in its preamble that respect for sexual and familial diversity is to be taught in schools, and that openly gay or lesbian teachers cannot be fired from their jobs.

In many of the previous Western bloc countries of the former Soviet Union, the situation is more complex. They are atheistic states, and religion is not promoted in schools. However, lingering antigay beliefs from the previous communist régime has had a negative affect on LGBT students and teachers. For example, in 2003, the Ministry of Science, Education, and Sport in Croatia implemented curriculum materials that stated that homosexuality was wrong, categorizing it with incest, prostitution, and pedophilia. In the Czech Republic, although textbooks state that homosexuality is not an illness, it is included in a chapter on sexual deviation along with necrophilia and pedophilia. Mirosław Orzechowski, deputy minister of education in Poland, introduced legislation in 2007 that condemned attempts to bring LGBT topics into schools. He claims that such materials promote sexual deviance. He further advocated the dismissal of openly gay and lesbian teachers.

A few countries like Greece have no sex education in public schools. Likewise, there is no safe sex campaign. Homosexuals are presented in police academies and law schools as criminals and primary suspects related to drug addiction and pedophilia.

AIDS

The health care needs of LGBT people and the issue of AIDS run the gamut from progressive intervention programs to outright denial that there is an AIDS problem. Denmark and a few other European countries not only have extensive safe sex programs, but these programs specifically target male-to-male sexual behaviors in their advertising campaigns. They do not shy away from including homosexuality in their health programs, and health providers are trained to work with the LGBT population. Russia, Croatia, Belarus, and a few of the previous satellite countries of the defunct Soviet Union are at the other extreme. Although they may no longer officially persecute LGBT people, their cultures are extremely antigay. Their medical professionals still see homosexuality as a mental disorder and believe that sexuality can be treated (changed) through medical procedures. They grudgingly admit that some of the population is infected with HIV. AIDS is commonly presented as a Western import, and true citizens of the state have nothing to fear. There are no safe sex campaigns. As can be imagined, it is very difficult to ascertain the true extent of the AIDS problem, and obtaining adequate medical care is difficult. International health organizations believe that AIDS infections are exploding in Russia, faster than almost anywhere else on the planet.

Most European countries fall somewhere between these two extremes, and have implemented safe sex campaigns. In some cases, like in the campaigns found in Italy, the safe sex materials do not mention anything about homosexuality or male-to-male sexual behaviors. In Spain, the Ministry of Health launched its first safe sex advertising campaign targeting men who have sex with men (MSM) in 2007. The minister banned the ads that contained images of two men kissing. Similarly, some countries, like Andorra and Greece, do not allow LGBT people to donate blood. All European countries provide free HIV testing and free HIV medication. However, in the poorer countries, medical services are at a minimum, and the free HIV medications are often unavailable. The international AIDS organizations based in Belgium have seen more gay men engaging in unsafe sexual behaviors and a subsequent rise in HIV infections.

Lesbian health needs are overlooked in virtually all European countries. A few studies of lesbian sexuality and health have been conducted in Denmark, the Netherlands, Belgium, and the United Kingdom, but they have not had a major impact on national health policy.

Religion and Spirituality

Most of the countries of central and western Europe are secular states with a state-recognized and state-supported religion (usually some form of Christianity). Germany typifies this arrangement. Citizens may elect to have 1 percent of their taxes go to their local church. The local churches keep records of who participate in the tax and those who do not. By becoming an official member of the local church, citizens reap additional benefits, including employment opportunities, since the local church controls many sources of employment—schools, hospitals, and social services. Although it is not mandatory to contribute taxes or belong to the local church, the economic benefits of doing so are substantial. Germany is a member of the European Union and has adopted the antidiscrimination statutes related to employment and sexual orientation. This provides LGBT citizens with some level of job protection. However, the law provides exemptions that allow religious groups

to discriminate. Within Germany, several million jobs are controlled by the Catholic Church. LGBT people can work at these jobs, but must do so without revealing their sexual orientation; if they do, it is possible that they will be harassed and fired.

The influx of Muslim workers into Europe has created a great deal of tension. The incidence of violence against immigrants has increased. The conservative factions of many political parties have seen an increase in membership and power, primarily due to the controversy over immigration issues. At the same time, antigay Islamic beliefs fuel Muslim violence against LGBT people. In a strange twist of events, the hate crimes being committed against LGBT people by Muslim immigrants are being exploited by conservatives to advocate for immigration restrictions.

The ex-Communist states are all secular countries with no state-recognized religion. With the fall of the Soviet Union and the breakup of the satellite states into independent countries, there has been an increase in the number of people reclaiming their religious heritage. In many cases, this heritage involves orthodox and fundamentalist religions with antigay core beliefs. LGBT people often feel that they are trapped in societies that have not only medicalized homosexuality as a pathology, but ones in which religious condemnation is on the rise. The antidiscrimination laws required by members of the EU give hope in the context of the rising tide of religious hate.

Transgender

Because transgendered individuals cross gender lines, they are often the most visible members of the LGBT community. Not surprisingly, the beginnings of the modern gay rights movement were often led by transgendered people. For example, the Stonewall Bar in New York is where transvestites, transsexuals, and other marginal sexual minorities rioted against police in 1969. This event is often credited with launching the gay civil rights movement in the United States (although it had been already going on for 20 years). This is still true today. In the more repressive European countries (like the ex-Communist countries), transgendered people often found and lead gay rights organizations.

Transsexuals and intersexual people are mostly concerned with gender issues rather than sexual orientation issues. In many cases, they require medical intervention to achieve their gender goals. Because medicine can achieve a certain level of gender and sexual conformity through surgical and hormonal treatments, the community at large often seems to be more accepting of their needs than of homosexuality. For example, in Italy, transgendered individuals obtained the right to sex change operations in 1982. Furthermore, the ex-Communist states seem to be more accepting of a transsexual request for medical intervention than they are to grant equal rights to homosexuals. In contrast, many transgendered people in Denmark, Belgium, France, and elsewhere believe there has been too much medicalizing of transgenderism. They advocate a cessation of medical services and call for the acceptance of nonoperative transgenderism (i.e., the choice to forego sexual reassignment surgery).

The European Union has been instrumental in advancing the rights of LGBT people within Europe through the adoption of antidiscrimination resolutions. At this point, the resolutions have focused primarily on sexual orientation and not so much on transgenderism or intersexuality. Expansion in the rights of transgendered and intersexual people has mostly come about through case law developed by the European Court. This process should continue into the foreseeable future.

Intersexuality

Intersexual people are faced with even greater challenges when approaching marriage. Intersexual people, by definition, are between the sexes or of indeterminate sex. Actually, humans are complex and have gender roles (masculinity or femininity), sex roles (biological functioning as male or female), sexual orientation (homosexual or heterosexual), primary and secondary sexual characteristics (hormones, sexual glands, etc.), social roles (mother, father, sister, brother, etc.), and more. Their feelings and identities are very complex and reflect an interplay between biology and social constructs. Most legal systems conflate sex with gender, adding to the confusion. Throughout Europe and elsewhere, many legal systems limit humans to one pole or the other—male or female, gay or straight. As such, birth certificates and driver's licenses are restricted to indicating male or female, with no other option. Intersexual people are often forced into one box or the other at birth, when doctors and parents choose the gender they think is most appropriate for the newborn and perform surgery to obtain outward compliance to societal norms. Many intersexual individuals later feel that the gender and sexual roles assigned to them do not fit. International intersex organizations advocate a cessation of gender assignment surgeries performed on newborn children, leaving such a drastic decision to the individual upon reaching the age of majority. In most European countries, marriage is still limited to opposite-sex couples. An intersexual individual may or may not have legal documents clearly defining the sex to which he or she is assigned, and the documents may or may not reflect how the person feels and identifies. Furthermore, the intersexual individual may be contemplating surgery and hormonal treatments and transitioning from one gender to another. As such, the individual may be unable to conform to legal restrictions related to marriage.

OUTLOOK FOR THE 21ST CENTURY

The primary source of change for LGBT rights in Europe is the people themselves, those who put themselves on the front line, demanding equal treatment under the law and full inclusion in society. Their determination has influenced the European Union and its parliament and courts to champion LGBT rights. Passage of the Employment Framework Directive forces member states to introduce and pass legislation in their countries that provides antidiscrimination employment protection based on sexual orientation. Even countries in which there is limited gay organizing have been forced to adopt antidiscrimination protections, thereby giving hope to a highly marginalized community.

The establishment of the EU Fundamental Rights Agency is very important for the future progress of LGBT rights. The agency's purpose is to assure compliance in implementing antidiscrimination provisions within member states. It is also charged with conducting research concerning LGBT issues. The agency should prove to be very influential throughout Europe in helping LGBT people to gain and maintain their rights.

The world's economies have sustained a major contraction, and Europe has not been exempt from this. Already, there has been a rise in conservative thinking and conservative political leaders. Historically, marginalized people fare poorly under conservative political systems. LGBT people hope that their rights will be maintained and improved through these difficult economic and political times.

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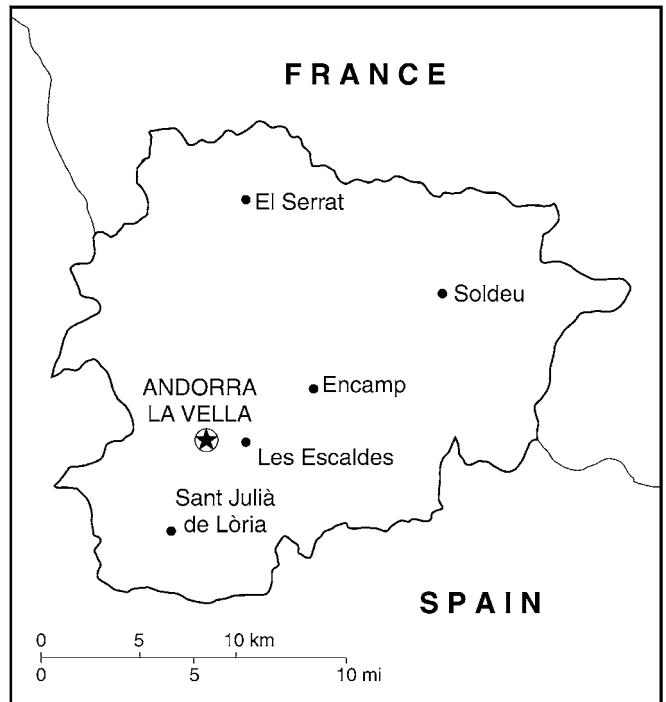
ANDORRA

Joel Samper Marbà

OVERVIEW

The Principality of Andorra is a tiny country in southwestern Europe, located in the Pyrenees Mountains between Spain and France. It has a surface of 180 square miles, where only approximately 29 square miles comprise urban space. Its main river is Valira, which is shaped like a Y. One of its valleys is Madriu, which has been declared a World Heritage Site by the United Nations Educational, Scientific and Cultural Organization (UNESCO). Its highest mountain is Comapedrosa, at 9,652 feet. The estimated population is 83,137, and only 37 percent have Andorran nationality. The rest come from Spain (33%), Portugal (16%), France (6%), or elsewhere.¹ Andorra has seven administrative regions: Canillo, Encamp, Ordino, la Massana, Andorra la Vella, Sant Julià de Lòria, and Escaldes-Engordany. The capital is Andorra la Vella.

Andorra was founded with the signing of the 1278–1288 Pariages by the Bishop of Urgell and the Count of Foix. This agreement established their cosovereignty over the valleys of Andorra after a period of conflict. From that time on, Andorra has never been involved in a war and lacks an army. Always neutral, it has tried to maintain a balance of power between the French side and the Bishop; this was only interrupted for a few years during the French Revolution. Although there are no known cases of prosecution of homosexuals in Andorra, the Spanish Inquisition courts did conduct trials there. The 1419 Council of Land was created as a form of parliament formed by the *heads of house*, that is, the patriarchs of all the families



in Andorra. In 1933, universal male suffrage was established; women were not able to vote until 1970.

The 1993 Constitution describes the unique political status of Andorra as a Parliamentary Co-principate, being an independent state. This implies that it has two co-princes as heads of state. One of them is the President of the French Republic, and is known as the French co-prince; the other is the Bishop of La Seu d'Urgell, from the village of La Seu d'Urgell in the bordering Spanish region of Catalunya, known as the Episcopalian co-prince. Also in 1993, Andorra gained wide international recognition when it became a member of the United Nations (UN). Óscar Ribas, then Prime Minister, made the first UN speech in Catalan, the official national language. The currency of Andorra is the euro. Its economy is mainly sustained by tourism. In addition, it is still considered an uncooperative tax haven by the Organization for Economic Cooperation and Development (OECD).

OVERVIEW OF LGBT ISSUES

Andorra belongs to the Council of Europe, but to date is still not a member state of the European Union (EU). Lack of EU membership has been one of the obstacles to improving LGBT rights in areas such as employment. In spite of this, Member of European Parliament (MEP) Raül Romeva of the European Green Party posed a Written Question² to the European Commission regarding the rejection of blood donations from homosexuals in Andorra, in terms of the cooperation agreement with the European Community.

Contact with the outside world has not led to a more open-minded society. In fact, 80 percent of the population of Andorra thinks that Andorran society is quite or very conservative, and 50 percent consider it to have little or no tolerance in general. In relation to homosexuality, 28 percent of citizens of Andorra think that their society is tolerant, whereas 55 percent say that it has little or no tolerance for LGBT people.³

EDUCATION

Three educational systems coexist in Andorra: the French system, the Spanish system, and the Andorran system. Each is controlled by a different state, so LGBT issues do not receive the same coverage. Lycée Comte de Foix's students organized an NGO (nongovernmental organization) forum that included an LGBT organization. In all Spanish schools, the curriculum includes the subject of education for civic behavior, which addresses the existence and issues of sexual minorities. Educational activities on the subject of sexual minorities have been conducted at the Andorran School of Ordino. The Green Party has been especially active in promoting educational activities and policies dealing with LGBT issues, with the participation of Inclou (Include), a Catalan LGBT association. Several materials are available at the national resource center and the government's public library.

EMPLOYMENT AND ECONOMICS

Discrimination exists against HIV-positive people who apply for residence and work permits. Applicants for such permits must have a medical examination that includes an HIV test. The liberal government—and *liberal* here refers to liberal

economic politics—claimed that HIV-positive applicants are not suitable because HIV is considered a “chronic infection which disables one from labor and is a threat to public health.”⁴ In 1996, however, Andorra had ratified the European Convention on Human Rights, which establishes the universal right to work under the sole condition of required professional competence.

Some doctors have argued that HIV tests are conducted without consent.⁵ Furthermore, employment discrimination based on health also affects people under other circumstances. In 2005, 7,960 medical examinations were performed for work permits. At least five of them were denied because of HIV, and four were denied due to diabetes. In 2007, a case was issued to the European Court of Human Rights in Strasbourg when an applicant was denied both work and residence permits based on her medical history. The applicant had an operation on her colon, and another for liver metastasis, but she had completely recovered, as stated by migration services’ medical staff. As proof of her recovery, she was already working in Puigcerdà, a town outside of Andorra.

SEXUALITY/SEXUAL PRACTICES

The Ministry of Health has reported that there are fewer AIDS cases in Andorra than in Spain. This may be due to the preference of HIV-positive people from Andorra to move to areas where treatments are more accessible and where there is less prejudice against them. On December 1, 2006, the first campaign aimed at promoting healthy behaviors and the fight against AIDS was announced by the Ministry of Health. The campaign does not mention any specific community, and suggests four ways to prevent sexual transmission: abstaining; engaging in non-penetrative sexual practices, such as petting; using condoms; and “being careful with whom you engage sexual relationships, you never know who is infected.”⁶ Condoms are available at health centers and other youth centers.

FAMILY

Some parliamentary groups supported the law proposal of De Facto Family Unions presented on October 30, 1997. It included same-sex couples, giving them the same rights as heterosexual couples. It was introduced by Member of Parliament (MP) Rosa Ferrer of New Democracy at the parliamentary session. Yet, this proposal was only included in the National Democratic Initiative’s electoral program for the February 1997 general elections. According to the liberal government’s criteria, family must be defined as a stable union between a man and woman with the possibility of descendants, so it should be protected as such. Concerns about its implications in obtaining the Andorran nationality were also raised. Former French Co-prince Jacques Chirac made it clear to the Andorran Government that he was reluctant to approve such a law, especially regarding the rights that were to be granted to homosexuals. The law was not passed.

In 2003, the Social Democratic Party resumed political work on the Stable Union of Couples Act,⁷ which was enforced two years later. The act establishes duties and benefits for same-sex partners in social security, division of labor, civil service, and inheritance rights. Register officers affirmed that same-sex couples were able to adopt children, a statement that was later denied by Prime Minister Albert Pintat. Same-sex couples in Andorra cannot adopt children.

Same-sex marriage is still not legal in Andorra, and same-sex couples married in Spain have no rights in Andorra. The Episcopalian Co-prince Joan Enric Vives has opposed same-sex marriage. Legally, there is nothing in the Constitution to hinder same-sex couples from marrying.⁸ At the same time, the constitution prohibits discrimination, and makes the Universal Declaration of Human Rights binding in Andorra. On April 26, 2004, the Green Party issued a political statement supporting LGBT rights, including same-sex marriage, adoption, civil partnership, and asylum rights. It was the first time a political party supported same-sex marriage. It also proposed a set of public policies aimed to promote nondiscrimination in education, research, civic participation, solidarity, health, old age, and gender identity. One year later, they launched the Marriage for Everybody campaign to raise awareness and explain the importance of supporting LGBT relationships.

COMMUNITY

The homosexual community of Andorra first made itself public when an anonymous group published a press release through a Web site on September 6, 2002. They denounced the unconstitutional discrimination against homosexuals in blood donations. The first and only LGBT organization in Andorra was founded on June 28, 2003. The organization, called Som Com Som (We Are Like We Are), set up an information booth that day in the main square of the capital, Andorra la Vella, and hosted the country's first gay pride celebration, 34 years after the Stonewall riots in New York. Lesbian, gay, and transgender people were present. A presentation ceremony was held at the Congress Hall of the local council (known as Comú) of Andorra la Vella, with the attendance and support of numerous public figures.

Later, a number of contacts were made with political parties, including young members of the Liberal Party currently in power. Som Com Som also ran a Vote Pink campaign before the local elections, consisting of a 33-question survey submitted to political parties. The questionnaire was promptly answered by the Green Party of Andorra (94% affirmative answers), the Democratic Renewal (76%), and the Social Democratic Party (73%), while the Andorran Democratic Center preferred to have a meeting and the Liberal Party delayed responding.⁹ The same year, the organization participated in the 25th Andorra la Vella Fair, and received special mention from journalists.¹⁰ On December 2, 2003, Som Com Som organized a conference about AIDS at the main hall of the local council of Escaldes-Engordany. A documentary was screened at the Cultural and Congress Center of Sant Julià de Lòria. Som Com Som has also actively campaigned for gay marriage.

In the first year after the creation of Som Com Som, chaired by Nicolás Pérez, some other Andorran public figures came out. Belén Rojas and Paloma Olea were the first lesbians to come out. Marc Pons of the Social Democratic Party was the first elected politician to come out in 2004. He was a local councilor in Andorra la Vella in the areas of Youth, Culture, Tourism, and Environment between 2003 and 2007. He has been especially active on the blood donations issue. Juli Fernández, Secretary General of the Green Party of Andorra since 2005, member of the Administration Council of the Social Security Fund of Andorra since 2006, and elected Andorran of the Year in 2007,¹¹ also came out. He has promoted an educational project on LGBT issues and been very active in seeking support from institutions and public representatives.

For the first time, a delegation of four Andorran people of diverse sexual orientations participated in Eurogames Barcelona 2008. The Eurogames are a huge European gay sport event open to everyone. This was also the first time the Eurogames were held in Southern Europe. From July 24 to 28, around 35,000 people enjoyed sports, culture, debates, and fun in Barcelona. The members of the Andorran delegation participated in bowls-*pétanque* and cycling. The Secretary of State of Sports, Youth, and Volunteering from the Government of Andorra, Víctor Filloy, was present at the opening ceremony.

HEALTH

The discrimination against homosexuals in blood donations was the first issue to be denounced by the Andorran gay movement when it first appeared in 2002. Blood donation campaigns are organized by the Red Cross of Andorra, but are performed by the staff of the *Établissement Français du Sang* (EFS). The EFS has an internal directive not to allow gays to donate blood, as they are considered an at risk group. Meanwhile, the World Health Organization (WHO) and other organizations talk about sexual practices of risk, not groups at risk. Candidates must fill out a form and sit for an interview prior to blood extraction. An Oral Question¹² was posed by MP Maria Pilar Riba of the Social Democratic Party to the government in 2006. The National Ministry of Health claimed that gays were not to be discriminated against, but year after year, gay men are still rejected as blood donors. According to Prime Minister Albert Pintat, this has been for the sake of public health. Historically, the right to donate blood has been, and still is, one of the major demands of the gay community in Andorra.

POLITICS AND LAW

In 2001, the Superior Court dictated in the Nuno case that “the term sex cannot include sexuality or sexual orientation, but the difference between male and female.”¹³ An aggravating factor for homophobic crime could not be addressed because, at that time, Andorran legislation did not cover this possibility. Som Com Som issued a proposal for reforming the law to the Ombudsman, which was later delivered to the 28-seat parliament (known as the *Consell General*). In 2005, the reformed penal code¹⁴ prohibited discrimination against sexual orientation in public services, labor, salary, violent acts, murder, and personal data protection.

The co-princes of Andorra, that is, the Bishop of La Seu d’Urgell and the President of the French Republic, are constitutionally recognized figures (as heads of state) with feudal origin. They have membership competences in the Superior Board of Justice and the Constitutional Court. They can hold unconstitutionality appeals, sanction acts, and have the competencies of international representation, ratification of international treaties, and pardon granting. They also have diplomatic bureaus in Andorra. At the same time, Andorran citizens have no power or influence in the election of their co-princes. This means that the co-princes have overwhelming power over national civil institutions. Moreover, both the Catholic Church and French co-prince enjoy privileges such as tax exemption.

Political influence has been used by co-princes. Former French co-prince François Mitterrand did not sign the Nationality Law in 1993. Former Episcopalian co-prince Joan Martí Alanis did not sign the Marriage Law in 1995. Moreover, the

Episcopal co-prince Joan Enric Vives did not sign the Stable Union of Couples Law in 2005. Laws may be approved by both co-princes, but if one of them holds an unconstitutionality appeal and this appeal fails, then only the approval of the other co-prince is needed. At the same time, “when there may be circumstances preventing one of the co-princes from formalizing the acts,”¹⁵ his or her signature is not needed. In practice, only one signature of either co-prince is needed, so the aforementioned acts could be passed.

Andorra has traditionally been more conservative over controversial issues than its bordering countries. Abortion, prostitution, and panhandling are always illegal and prosecuted. The 2005 penal code made the distribution of pornographic material legal, and some time later, the first sex shops appeared. The age of consent, 16, is the same for same-sex relationships as it is in opposite sex relationships, but is higher than in Spain and France. Currently, sex changes are by no means legally recognized in Andorra, and sex reassignment surgery is not covered under the national health care system.

RELIGION AND SPIRITUALITY

The Constitution of Andorra was written by the Tripartite Commission, formed by representatives of each co-prince and a representative of the citizens. It was approved on March 14, 1993, with 74 percent affirmative votes, but it was not until April 30 that it came into effect, after being ratified by both co-princes. In opposition to the act sanctioning ordinary procedures, any change to the Constitution must be ratified by both co-princes. The representation costs of the co-princes are established by the annual budgets from the public assets. In 2007, they had an overall cost of 428,000 euros each.¹⁶ However, they do not have to justify their expenses.

The Constitution of Andorra states the following:

Art. 11: 1. The Constitution guarantees the freedom of ideas, religion and cult, and no one is bound to state or disclose his or her ideology, religion or beliefs. 2. Freedom to manifest one’s religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in the interests of public safety, order, health or morals, or for the protection of the fundamental rights and freedoms of others. 3. The Constitution guarantees the Roman Catholic Church free and public exercise of its activities and the preservation of the relationship of special co-operation with the State in accordance with Andorran tradition.

Art. 20.3: Parents have the right to decide the type of education for their children. They also have the right to moral or religious instruction for their children in accordance with their own convictions.

It is not explicitly stated in the Constitution that Andorra is a lay and nonconfessional state. On one hand, this means that the French co-prince is a prince of a non-lay state; he also has competences that can override what is resolved by the three classic powers, such as pardon granting or act sanctioning. This is totally contradictory to the French tradition. On the other hand, this allows the Vatican to impose political decisions in line with its moral values over Andorran public affairs.

Albert Pintat’s liberal government, after 10 years of negotiations and without the intervention of Parliament, agreed on March 17, 2008, on a concordat with

the Holy See. Its preamble claims that the agreement is sustained by a tradition of more than 700 years, the Constitution, and the fact that a large portion of the Andorran population professes to be Catholic. It ratifies that the designation of the Episcopalian co-prince lies solely on the jurisdiction of the Holy See, so Andorra still has no power in its designation. Priests practicing in Andorra enjoy Andorran nationality. Catholic Church assets are not subject to taxes, but enjoy state guardianship. The concordat also establishes that Andorran schools must offer lectures on Catholicism. These lectures will be optional for the students, and the lecturers must be authorized by the Church. The definition of lecture contents and the proposal of books and other didactic materials are solely determined by the Church.

In 2005, there was a reform in the Andorran Penal Code concerning abortion or attempted abortion. While this establishes different punishments depending on the case, the law prohibits abortion in all cases. This makes Andorra, besides Malta, the only European state (including Russia, Turkey, and all Eastern European states) with this peculiar status, despite the recommendations of the Council of Europe. Even further, the Episcopalian co-prince declared that he would resign if abortion were to be made legal, which would make the status of the Andorran institutions uncertain.

Only 55 percent of the population of Andorra consider themselves Catholic,¹⁷ compared to 79 percent in Spain. Forty-seven percent of the population of Andorra consider its society quite or very religious, whereas 44 percent consider that it is not or not very religious.¹⁸ In Andorra, there are no religious lobbies outside the Catholic hierarchy like the ones in Spain and other countries. The religion and state issues are more political than civil.

VIOLENCE

Prior to the Andorran gay rights movement, on April 13, 2000, an event of extreme homophobic violence occurred in Andorra la Vella. That night, the 17-year-old Portuguese Nuno Miguel Oliveira died from a brutal beating committed outside a disco by two aggressive young men in their early 20s who looked like skinheads. The young men referred to the sexual orientation of their victim as the reason for their attack.¹⁹ Since this event, several gay clubs have appeared in Andorra, and at least one case of aggression against a same-sex couple has been reported.

OUTLOOK FOR THE 21ST CENTURY

Antisodomy laws have never existed in Andorra. However, the conservative-minded society and small population may make it difficult for LGBT people to come out. The social, political, and historical peculiarities of Andorra could help researchers and the general public to understand why the LGBT rights movement did not appear there until late 2002.

After the rise of the LGBT rights movement in Andorra and the appearance of openly gay people, there has been a wider acceptance of homosexuality. Non-scientific polls conducted by newspapers show that 62 percent of the Andorran population support same-sex marriage.²⁰ Furthermore, in the 2007 local elections, 13 out of 19 candidates supported it.²¹ The fact that same-sex marriage has already been approved in Spain suggests that, sooner or later, this will be a logical step for

Andorra. If so, it remains uncertain whether the French co-prince would sign such a law, or whether the Episcopalian co-prince would resign.

While many nations strive to create a clear distinction between religion and state, Andorra still includes the Catholic Church as part of its public powers. Consequently, the question of the traditional role of co-princes versus the popular democratic will still remains unresolved. However, there is growing public debate over a redefinition of the co-princes' constitutional role, or even a referendum on a Republic of Andorra.

RESOURCE GUIDE

Web Sites/Organizations

INCLOU, www.inclou.org.

LGBT educational organization of Catalunya.

LGBT Commission of the Green Party of Andorra, www.verds.ad.

Secretariat of LGBT Affairs, Social Democratic Party of Andorra, www.psa.ad.

NOTES

1. Service of Studies, Finance Ministry, Government of Andorra, 2006, <http://www.estadistica.ad/indexdee.htm> (accessed September 2, 2007).

2. "Does the Commission believe action should be taken, and will it ask for an explanation from the Andorran Government? . . . Does the Commission believe that the cooperation agreement should be extended in order to include respect for human rights within its scope?," Reference E-2277/06, May 23, 2006, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+WQ+E-2006-2278+0+DOC+XML+V0//EN> (accessed September 2, 2007).

3. Center of Sociological Research of the Institute of Andorran Studies, 2006 Polls, <http://www.iea.ad/cres/observatori/temes/valors2semestre2006.htm> (accessed September 2, 2007).

4. *Medical Examinations of Migrants Act*, January 28, 1998, Official Bulletin of the Principality of Andorra, Number 4, Year 10, <http://www.bopa.ad/bopa/1998/bop10004.pdf> (accessed September 14, 2007).

5. Progressive Doctors' organization, <http://www.medicos-progresistas.org/modules.php?name=News&file=article&sid=264> (accessed September 14, 2007).

6. More Information Less AIDS campaign by the Health and Wellness Ministry, <http://www.salutibenestar.ad/VE/sida/sida.html> (accessed May 3, 2008).

7. Qualified Law of Stable Union of Couples 4/2005 of February 21st, <http://www.bopa.ad/bopa/2005/bop17025.pdf> (accessed September 14, 2007).

8. Article 13 states that "Law will regulate marital status of people and forms of marriage. . . Marital partners have same rights and obligations."

9. *Diari d'Andorra* and *El Periòdic d'Andorra* newspapers, December 12, 2003.

10. "The Present-day Say 'No to war,'" *Diari d'Andorra*, February 18, 2004. Special Mention of the Open Microphone awards in the Present-day Prizes Soiree.

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AUSTRIA

Kurt Krickler

OVERVIEW

Austria is situated in central Europe. It comprises a total area of 32,000 square miles. It borders Germany and the Czech Republic to the north, Slovakia and Hungary to the east, Slovenia and Italy to the south, and Switzerland and Liechtenstein to the west. It is landlocked, without access to the sea. The capital city is Vienna.

It is a republic composed of nine federal states, and is one of six European countries that have declared neutrality. It has been a member of the European Union (EU) since 1995.

Austria has a population of just above eight million, of which a quarter live in Vienna (more than 1.6 million, 2.2 million with suburbs). The capital is the only city with a population of more than one million. The second largest city, Graz, has 250,000 inhabitants, followed by Linz (190,000), Salzburg (150,000), and Innsbruck (117,000).

German-speaking Austrians are by far the country's largest group (roughly 90%). In addition, there are autochthonous minorities (Slovenes and Croats). Austria also has a large immigrant population. Around 12 percent of today's population was not born in the country. There are more than 700,000 foreign nationals living in Austria.

OVERVIEW OF LGBT ISSUES

In the European spectrum of countries, Austria's position in terms of the social and political status of LGBT individuals somewhat reflects the country's geographic position in the heart



of the continent: Austria is certainly not as advanced as the Nordic countries, England, Spain, or even neighboring Switzerland, but neither is it as conservative as some of the countries in eastern Europe or in the Balkans.

There are a few important historic features that explain why Austria, in comparison with many similar countries, has made less progress in the field of LGBT emancipation and equality. One of these is the fact that Austria's democratic tradition in general is relatively short; it did not really have any liberal revolution deserving this label in the 19th century, and it is a predominantly Catholic country where the Roman Catholic Church continues to have a very strong influence on both politics and society.

Moreover, the Nazis' short but intense antihomosexual brainwash during the years of the Anschluss of Austria to the German (Third) Reich from 1938 to 1945 also left its traces in the minds of people, even long after the end of Nazi rule. This is also reflected by the fact that the Federal Nazi Victims Compensation Act (*Opferfürsorgegesetz*) was only amended in 2005 to include those Nazi victims persecuted and sent to concentration camps on the grounds of their sexual orientation. It took the LGBT movement more than 20 years of lobbying to achieve this. Until then, the law restricted compensation to persons persecuted on political, religious, or racial grounds, while homosexual victims were considered common criminals, as homosexuality was forbidden both before and after the Anschluss. Therefore, homosexual victims were denied official recognition and, consequently, any legal entitlement to compensation. The amendment in 2005, however, came only at a time when no known Pink Triangle concentration camp survivor was still alive who could make use of the new legislation.

Another important feature of the general LGBT situation is that Austria—between the end of World War II and today—only had a very short period of 13 years (1971–1983) with a left/progressive majority in parliament. Most of the time since 1945, Austria has been governed by a grand coalition between the Socialist (later Social Democratic) Party (SPÖ) and the conservative People's Party (ÖVP). Even when the SPÖ was the stronger and leading coalition partner, the ÖVP could and, indeed, did block any pro-LGBT legal reform with reference to the party's Christian basis and ideology.

However, over the last 30 years, tremendous change has been observed, both in the attitudes of society in general and the media in particular. The change in public opinion is obviously more significant than change at the political level. While homosexuality was a complete taboo up to the 1980s, and was only mentioned in the media in the context of crime—homosexuals had been considered criminals who were topped only by murderers on the hit list of abominable outcasts of society—this has completely changed. Today, the topic of homosexuality is covered and mainstreamed in its many aspects and facets by the mass media. Gays and lesbians are represented in a positive, supportive, or at least neutral and objective way. Hostile media coverage has become an exception.

The change in society's attitudes has coincided with the emergence and growth of a lesbian and gay liberation and emancipation movement and, of course, has been an international phenomenon.

EDUCATION

Austria has a free and public school system, and nine years of education are mandatory. Schools offer a series of vocational-technical and university preparatory

tracks, involving one to four additional years of education beyond the minimum mandatory level. Private schools providing primary and secondary education are run mainly, but not exclusively, by the Roman Catholic Church, and account for approximately 10 percent of the 6,800 schools and 120,000 teachers.

There is no tradition of private university education in Austria. Therefore, the state has a quasi monopoly on higher education. This has only been changing slowly in recent years with the establishment of a few private universities.

The positive or at least neutral portrayal of LGBT people and issues in the mass media has actually been the main source of unbiased information for the population at large. In schools, although sexual education is part of the curriculum, homosexuality is not addressed in a systematic and standardized format. In most cases, the topic is ignored by teachers, or at best taken up in a superficial way.

EMPLOYMENT AND ECONOMICS

Austria is one of the 10 richest countries in the world in terms of gross domestic product (GDP) per capita, and has a well-developed social market economy, as well as a very high standard of living. It is a welfare state based on the Scandinavian model. In 2008, the unemployment rate was 4 percent, which, according to the definition of the European Union, is equivalent to full employment.

SOCIAL/GOVERNMENT PROGRAMS

There are no government-funded social programs targeted specifically at LGBT people, but many LGBT initiatives and projects have received subsidies by federal, state, and local governments during the last 25 years.

FAMILY

Traditional family patterns continue to be promoted, although today's reality already paints quite a different picture, illustrated by the following features:

- The divorce rate is 40 percent, meaning that 40 out of 100 marriages are dissolved sooner or later;
- The absolute number of marriages is in decline. While 50,000 couples got married in 1950, only 40,000 couples tied the knot 50 years later, in 2000;
- A third of all children in Austria are born out of wedlock;
- A quarter of all families are single parent families.

COMMUNITY

The first informal gay groups appeared in Austria in the mid-1970s. At that time, lesbians were more likely to be involved in the feminist women's movement. The first gay organization, Homosexuelle Initiative (HOSI) Wien, was founded in 1979, at a time when article 221 of the criminal code (see below) still prohibited the founding of and membership in an association facilitating or promoting homosexuality. In talks between the proponents of the new organization and the competent ministries, it was agreed that article 221 is open to different interpretations: Such an organization would only be illegal if it caused public offence. That is why

HOSI Wien was able to register as the first gay association in January 1980. Today, it is still Austria's largest and leading gay and lesbian organization.

After this precedent, independent regional gay organizations were founded in other cities such as Salzburg, Linz, Graz, and Innsbruck. Soon, the LGBT movement started to diversify. Many informal groups and associations popped up, dealing with specific interests and issues, such as religion and belief, leisure activities, and so on. They also organized around party politics (there are LGBT caucuses within both the Green Party and the SPÖ), cultural activities (film festivals, etc.), and professional interests (for example, gays and lesbians in the medical professions or, most recently, in the police force).

There has also been a growing LGBT community both in Vienna and other major cities, which provides all kinds of services, including free counseling for young lesbians and gays or those who have coming-out problems. More and more commercial businesses serving the LGBT community have sprung up.

Several highlights in the annual calendar of events have been established, attracting more and more participants, including both LGBT people and their heterosexual friends and supporters. The biggest of these events is the annual Rainbow Parade organized by HOSI Wien. This pride parade, along the spectacular scenery of the world famous Ringstrasse in Vienna, attracts more than 100,000 people marching and watching—which is a huge crowd in a city of 1.6 million inhabitants.

Other events of that kind include the Life Ball, the largest HIV/AIDS charity event in Europe, which takes place in the Vienna City Hall every May. Although presented as a mainstream event, it is very much linked to the LGBT community.

HEALTH

Paradoxically, the development regarding the more positive portrayal of homosexuality by the mass media started with the emergence of the AIDS crisis in the mid-1980s. In the context of this disease, the media began to shed light on gay lifestyles and, for the first time, the public was confronted with the fact that homosexuality and homosexuals do exist in society, and not only on its edges.

The AIDS crisis in the 1980s was also the first big probation test for the young LGBT movement that, indeed, passed this test with great bravura. HOSI Wien used the crisis to establish itself as an important player in the fight against AIDS and, together with physicians and other experts, co-founded Austria's first AIDS service organization, offering free and anonymous HIV testing and counseling, as well as doing large-scale prevention campaigns. This turned out to be a great success story. In this context, homosexuality was finally and officially deleted as a diagnosis in Austria's version of the international classification of diseases in 1991.

POLITICS AND LAW

The lack of a democratic tradition, the domination of the Catholic Church, and the oppression of the Nazi years all account for why Austria has had an especially long history of criminalizing and oppressing lesbians and gay men. In 1971, Austria was one of the last countries in Europe to repeal the total ban on homosexuality that also included female homosexuality. The price of this reform, however, that had to be paid to the conservative forces in society and to the powerful Catholic

Church, was the introduction of four antihomosexual law provisions into the penal code in 1971:

- Article 210 (prohibition of male same-sex prostitution): this provision was abolished in 1989 in order to allow the health control of male-to-male prostitutes as part of HIV/AIDS prevention;
- Articles 220 and 221 (ban on positive information about homosexuality and on gay and lesbian associations): the repeal of these articles was voted on by parliament in November 1996 and came into force on March 1, 1997; and
- Article 209, which stipulated a higher age of consent for male-to-male relations (18 years) compared to heterosexual and lesbian relations (14 years) in case one of the partners was of age (18 years; this age of liability for breaches of article 209 was raised to 19 years in 1988; thus, sexual relations between young men were not punishable if both partners were between the ages of 14 and 19).

Contrary to articles 220 and 221, which were hardly ever applied in all the years of their existence and were considered dead law, article 209 had been enforced consistently until its abolition in 2002. Again, Austria was one of the last countries in Europe to equalize the age of consent for heterosexual and homosexual acts.

Antidiscrimination Legislation

Austria also has a very poor record of legal provisions protecting LGBT people from discrimination. It was only in 2004 that antidiscrimination legislation was adopted to ban discrimination based on sexual orientation in the workplace. However, this was not something that the Austrian government—at that time the infamous coalition between the ÖVP and Jörg Haider’s right-wing Freedom Party (FPÖ) and later its split-off, the Alliance for the Future of Austria (Bündnis Zukunft Österreich, BZÖ)—was eager to do of its own initiative. The Austrian government and parliament were basically forced to do so, as they had to implement a European Union directive.¹ And although pressured by many civil society organizations to introduce comprehensive antidiscrimination legislation on that occasion, they chose to transpose only the minimum provisions as prescribed by the EU. Thus, LGBT people still wait for efficient and effective legal protection from discrimination in all other areas, such as in access to goods and services.

Partnership Legislation

There is still no same-sex marriage or registered partnership legislation in Austria. However, same-sex couples have the same legal rights as unmarried opposite-sex couples (common-law couples) who, in fact, do already enjoy a wide range of legal rights (and duties), although not exactly the same ones as spouses.

The equal treatment in law of same-sex and opposite-sex domestic partners is owing to a landmark judgment of the European Court of Human Rights (ECtHR) in Strasbourg delivered in July 2003. The case—*Karner versus Austria*—which was supported by HOSI Wien, concerned a gay man who was evicted from the apartment of his deceased partner because, due to the jurisprudence of Austria’s supreme court, he was not entitled to take over the lease contract from his deceased partner. While the wording of the Austrian Rent Act is neutral and does not distinguish between same-sex and opposite-sex unmarried domestic partners,

the Austrian court argued that the neutral language was for linguistic, but not legal, reasons. The ECtHR, however, ruled that this decision was a violation of the European Human Rights Convention.² It also argued that a government must have convincing and weighty reasons to justify a different legal treatment of same-sex and opposite-sex domestic partners. There is hardly any legal area where such weighty reasons could be put forward to exclude same-sex couples from rights granted to opposite-sex unmarried couples.

Since this decision, Austrian courts, therefore, must interpret all laws stipulating rights for domestic partners to cover same-sex partners. And the few laws that explicitly restricted their application to different-sex domestic partners were later ordered to be amended by the Federal Constitutional Court, which indeed, had to change also its own jurisprudence in light of the ECtHR's judgment in *Karner versus Austria*.

In the absence of any registered partnership or marriage legislation for same-sex couples, they have still no access to a lot of rights reserved for spouses. Although many of these legal provisions do not play a significant role in the daily life of most couples, some of these rights are quite important and are highlighted here:

- Inheritance law discriminates against same-sex partners because, if no last will is made, the surviving partner has no right to inherit, as domestic partners, unlike spouses, do not have a legal right of succession;
- The immigration laws only allow privileged treatment for spouses of Austrian citizens or of aliens with legal permission to stay in Austria. Noncitizens, especially those from non-EU countries, have practically no chance of obtaining permission to legally stay and work in Austria by virtue of their same-sex relationship with an Austrian national;
- Widow(er) pension under the state pension schemes, which is the most common basis for retirement pensions in Austria, is restricted to spouses. In the absence of same-sex marriage or registered partnerships, same-sex partners have no legal entitlement to a widow(er) pension;
- There is also discrimination against same-sex partners in income tax provisions.

Adoption and Artificial Insemination

Same-sex partners cannot jointly adopt a child. In theory, a lesbian or a gay man could adopt a child as an individual; in practice, however, the few adoptable children in Austria would be given to couples only—there is a long waiting list of couples wanting to adopt. International adoption by single (homosexual) persons is an alternative, and there has recently been such a case: A man who is living in a same-sex relationship has adopted a black girl from the United States who is growing up with the couple. However, the partner of the adoptive father has no legal relationship to the child. It is also impossible to co-adopt the biological child of one's same-sex partner.

However, in some parts of Austria, children are placed with same-sex couples as foster parents. The city of Vienna, indeed, has run publicity campaigns geared at same-sex couples to enlist them as foster parents.

In some cases, divorcing partners would use the fact that the ex-wife or ex-husband is homosexual as a weapon in the fight for exclusive custody/parenting rights over the couple's children. This has also been used to restrict the right of the

divorced partner to visit and see the children on a regular basis, or even to completely deny him or her this right.

The 1992 Reproductive Medicine Act explicitly excludes lesbians (and all single women) from the benefit of artificial insemination or in vitro fertilization methods. These are restricted to married women or women in a long-term, heterosexual partnership.

Asylum Law

Austria has been one of the first countries to recognize gays and lesbians as potentially belonging to a distinct social group that, in case of persecution, would fall under one of the five asylum grounds listed in the Geneva Refugee Convention. In the explanatory notes to the 1991 Asylum Act, the legislator clearly stated that persecution based on sexual orientation could constitute a reason to flee, and thus a reason to be granted political asylum in Austria. Meanwhile, this interpretation of the Geneva Convention has become standard throughout the European Union due to a recent EU directive.³

There have been no (known) cases in which asylum was granted to gays and lesbians solely on the grounds of persecution because of their sexuality. However, at least six gay men (five Iranians and one Romanian) have been granted refugee status in the past (the first—Iranian—case dating back to 1984). None of the reasons given in the decisions mentioned persecution because of homosexuality, but this was the only additional reason put forward by those men in their appeals after their initial applications for asylum on other grounds had been rejected.

RELIGION AND SPIRITUALITY

Austria is a predominantly Catholic country. About 74 percent of the population is registered as Roman Catholics, while about 5 percent are Protestants. Both of these groups have been in decline for decades. About 12 percent of the population declares that they have no religion. Of the remaining people, about 180,000 are members of Eastern Orthodox churches and more than 8,000 are Jewish. The influx of people, especially from the former Yugoslav nations, Albania, and particularly from Turkey, have largely contributed to a substantial Muslim minority in Austria. The Muslim community is increasing, comprising around 340,000 people today. Muslims will soon outnumber Protestants. Buddhism, which was legally recognized as a religion in 1983, has around 20,000 followers.

The Roman Catholic Church has a long tradition of interfering in politics and society. Its bishops and its diverse institutions would publish hostile and negative statements on a regular basis regarding all relevant issues of LGBT equality, such as registered partnership.

VIOLENCE

There is no protection whatsoever against hate speech or incitement to hatred on the grounds of sexual orientation or gender identity. There are no legal provisions establishing aggravated circumstances in the case of crimes or violence motivated by homophobia or transphobia.

However, homophobic and transphobic hate speech and violence is no urgent or burning problem in Austria. Most homophobic hate speech originates from reactionary representatives of the Roman Catholic Church or right-wing parties, but is hardly echoed in the media. In most cases, these statements are not taken seriously, and are usually ignored or ridiculed by the mainstream media.

Of course, incidents of homophobic or transphobic violence do occur, but these seem to be single events. In addition, homophobic bullying certainly exists in school, but does not seem to be such a widespread phenomenon as it is in other countries.

Underreporting of cases of homophobic violence or ordinary crimes is certainly a problem, as victims who are not out as gay or lesbian may prefer not to report the crime to the police in order to avoid mentioning this. Such persons, of course, are especially vulnerable victims, and perpetrators may even consider their victims' reluctance to report to the police when choosing them as targets.

Normally, LGBT victims do not need to fear being badly treated or victimized by the police when reporting a crime. In 1993, the current Police Security Act (*Sicherheitspolizeigesetz*) was adopted. This regulates the competence of the police force and their lawful ways of acting. A decree issued in this context by the minister of the interior provides guidelines and instructions for police interventions, and the nondiscriminatory behavior prescribed by the decree also covers sexual orientation. It reads: "In performing their tasks, members of the police forces must refrain from doing anything that could create the impression of bias or could be perceived as discrimination on the grounds of sex, race or color, national or ethnic origin, religious belief, political conviction or sexual orientation." Moreover, LGBT organizations will also support crime victims when dealing with the police.

OUTLOOK FOR THE 21ST CENTURY

The improvements and progress made over the last 30 years are rooted in society's political awakening in the 1970s, once Bruno Kreisky took over the government in 1970, leading socialist governments until 1983. As one of his first landmark reforms, the total ban on male and female homosexuality was repealed in 1971.

This awakening caught hold of all walks of life and aired a society that had been completely fossilized in the rigidity of traditions and conventions. This development was accompanied by the rejection, to a certain degree, of the suffocating influence of the Catholic Church and its political arm, the conservative Christian Democratic Party, ÖVP.

Another important political element not to be underestimated was the appearance on the political scene of the Green Party. Voted into the national parliament for the first time in 1986, the Green Party has supported and pushed for LGBT rights ever since, keeping these issues unrelentingly on the political agenda.

However, when the ÖVP returned into government (as the junior partner in a coalition with the Social Democratic Party) in 1986, it started to try everything to slow down and completely stop this positive development.

Thus, the ÖVP has been vetoing and blocking any improvement for gays and lesbians over the past 20 years. It has been the clear ideological program of this party to make gays and lesbians second-class citizens and do everything to prevent them from obtaining full equal rights. The repeal in 1996 of the two penal

code provisions, articles 220 and 221, was only possible because the SPÖ/ÖVP coalition government had finally agreed on a free vote in parliament; members of parliament (MPs) from the Freedom Party voted in favor of repealing article 221 (ban on gay and lesbian associations), and two MPs missed the vote on article 220 (ban on positive information about homosexuality). While the Freedom Party only voted against the repeal of article 220, the ÖVP voted against the repeal of both provisions.

It is one of the great paradoxes of history that all significant progay reforms have happened during the coalition government between the conservative ÖVP and Jörg Haider's right-wing party at the beginning of the 21st century. In all these cases, the reforms have occurred due to European pressure and against the determination of the ÖVP.

In the case of the repeal of article 209, ÖVP Federal Chancellor Wolfgang Schüssel had defended, in a newspaper interview,⁴ the discriminatory age of consent for male homosexuality as late as two weeks before the Federal Constitutional Court declared this provision to be unconstitutional in June 2002. And again, the constitutional court had to correct its own jurisprudence because, in several applications in the 1980s and 1990s, it did not consider article 209 as unconstitutional. But in 1997, the European Human Rights Commission of the Council of Europe in Strasbourg finally found in *Sutherland versus the United Kingdom*⁵ that the British higher age of consent provision was in breach of the European Human Rights Convention. In June 2002, several Austrian applications were pending before the Strasbourg court, and it was clear that the ECtHR would rule in favor of the applicants. The Austrian constitutional court obviously did not want to risk being overruled by the Strasbourg court. Thus, it deviated from its previous rulings in article 209 applications and declared the provision to be unconstitutional. And indeed, in January 2003, the Strasbourg court condemned Austria for violating the convention in three article 209 cases.⁶

Granting equal rights to same-sex unmarried partners occurred due to a judgment of the Strasbourg court in July 2003, which was again a slap in the face for the conservative People's Party, which had always defended the different legal treatment of same-sex and opposite-sex domestic partners.

Furthermore, protection from discrimination in the workplace as stipulated in the 2004 Federal Equality Act was imposed on the Austrian government by the European Union. It can be concluded that all recent progress and positive developments for LGBT people in Austria were achieved through pressure from European institutions and against the declared will of the conservative government in Austria.

After its landslide defeat in the 2006 general elections—Wolfgang Schüssel lost the chancellery to the Social Democrats—the ÖVP was trying to determine the causes for their unexpected downfall as, for example, the economic situation was very good at that time. One conclusion that the ÖVP drew, along with many commentators, was that the ÖVP had simply taken a much too conservative course, especially in matters of societal relevance. In the pursuit to become the biggest political party again, a huge internal debate about new political perspectives began within the ÖVP. After a lengthy process, in October 2007, the party came up with some new ideas for a future program, including the proposal to introduce registered partnership for same-sex couples based on the Swiss model. At the same time, however, the ÖVP continued to insist that marriage was a distinct institution for

opposite-sex couples and would not be touched. The Swiss registered partnership legislation basically grants the same rights and obligations to same-sex couples as marriage grants to spouses—only adoption and services of reproductive health are excluded. The Swiss legislation, thus, is comparable with the legislation in the five Nordic countries and the United Kingdom. In Europe, only the Netherlands, Belgium, and Spain have gone further in opening up civil marriage for same-sex couples.

It is unclear and, indeed, still doubtful whether this project will become reality. While in April 2008, the federal minister of justice (SPÖ) presented a bill to introduce registered partnership, certain powerful fractions within the ÖVP are still trying to derail the project or water it down to the extent that the LGBT movement would finally say, “No, thanks. If we can only get that little, we prefer to wait and continue to fight for more.” In any case, partnership legislation is the last legal challenge of the LGBT movement in the country. The decision to pursue same-sex registered partnership based on the Swiss model was the first time the conservative ÖVP came up with a proactive proposal to improve the situation of LGBT people.

It is generally fair to say that in Austria, LGBT people have finally arrived from the edges to the center of society, although exclusion and discrimination still exist. And of course, there are the usual differences between bigger cities and smaller towns and rural areas, such as differences in terms of exposure to negative reactions in certain professions; these differences certainly make it difficult to generalize. However, on a general note, it can be stated that today, there is a climate in Austria that would allow every gay man and every lesbian woman to come out, provided she or he is equipped with some courage and the will to cope with possible negative reactions. Young gays and lesbians should have fewer and fewer problems when coming out.

RESOURCE GUIDE

Suggested Reading

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NOTES

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2. *Karner vs. Austria*, application 40016/98 [2003] ECHR 395 (July 24, 2003).

3. Council Directive (EC) 2004/83, *Official Journal of the European Union*, L 304 of September 30, 2004.

4. *Salzburger Nachrichten*, June 6, 2002.

5. Application 25186/94, opinion of the commission adopted on July 1, 1997.

6. *L. and V. v. Austria*, applications 39392/98 and 39829/98, and *S. L. v. Austria* application 45330/99 (January 9, 2003).

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BELARUS

Viachaslau Bortnik

OVERVIEW

Belarus is a landlocked republic located in eastern Europe. It borders Lithuania and Latvia in the north, the Ukraine in the south, the Russian Federation in the east, and Poland in the west. The capital of Belarus is Minsk. The position of the country is of strategic importance for communication between the CIS (Commonwealth of Independent States) member states and the countries of western Europe. It has an area of 80,154 square miles and a population of 9,689,700.¹

Belarus gained its independence from the Union of Soviet Socialist Republics (USSR) in 1991. It was one of the most affluent parts of the USSR, but since independence it has experienced economic decline. President Alyaksandr Lukashenka has been in power since 1994, and has preserved state control of the economy and civil society, along with all the symbols of Soviet power. This means that Belarus has been sheltered from the worst effects of the painful transition to a market economy that other post-Soviet countries have faced. At the same time, disregard for political freedoms and human rights has led to international condemnation and isolation of the country. Belarus has very close ties with Russia, but relations cooled recently when Russia raised the price of the gas it is supplying to Belarus.

Lukashenka's state-centered economic model is designed to perpetuate tight government control over the political and economic space of Belarus, and to prevent the destabilizing social unrest that he feels has marred the transition to a capitalist economy



in other post-Soviet countries. By ensuring high employment levels, widespread subsidies, and rising real wages, he has retained considerable popular support.²

Of all the former Soviet republics, Belarus has suffered the most from the consequences of the Chernobyl nuclear power station failure in 1986. Twenty-three percent of the territory of the country has suffered from radiation. As a result of the radiation release, agriculture was destroyed in a large part of the country, and many villages were abandoned. Resettlement and medical costs were substantial and long term.

Since 1993, the death rate in Belarus has exceeded the birth rate, resulting in the depopulation of urban as well as rural areas.³

OVERVIEW OF LGBT ISSUES

While homosexual activity is no longer considered a crime in Belarus, and the age of consent for heterosexual and homosexual relations is equal, LGBT rights still remains a marginal topic in public discourse and does not play any role in national or local politics.

Homophobia remains widespread throughout the country, and instances of harassment and discrimination occur regularly.⁴ Many Belarusians consider homosexuality a disease, and some see it as a sin, but few consider it a legitimate sexual orientation. President Lukashenka and members of parliament often make negative statements about homosexuals, strengthening the homophobia in society. Homosexuality is frowned upon in Belarusian society and condemned by the church. Belarus is conservative in this respect, with homosexuals generally being socially stigmatized. Gay life in Belarus remains largely underground, and only a few homosexuals openly declare their sexual orientation.

The government-controlled media often attempts to smear the domestic political opposition by associating it with homosexuality.⁵ This strategy is also used against foreign countries; in one two year period, three foreign diplomats were expelled from Belarus on claims of homosexuality.⁶ Homosexuality is often seen by the government as allied with Western paths to development.

While the Belarusian constitution says it forbids discrimination, this prohibition has not extended to discrimination based on sexual orientation. Belarusian law does not provide protection for LGBT people against discrimination with regard to employment, housing, or family relationships. Although many people live together outside of marriage, domestic partnership and cohabitation are not recognized by the government and LGBT Belarusian couples do not have any of the rights of heterosexual couples.⁷ Gay men are also not allowed to serve in the armed forces.⁸

Although hate crimes against homosexuals are not uncommon, homophobia is not recognized as an independent motive for crimes. LGBT people continue to face harassment and discrimination by the general population; they cannot count on police protection, as the police often refuse to protect the rights of LGBT citizens.⁹ There is evidence that LGBT people are targeted for violence; in 2001–2002, five LGBT people were tortured and killed in Minsk.¹⁰ Other countries have granted asylum to Belarusians who claimed discrimination based on sexual orientation.

There is no official recognition of LGBT organizations in Belarus, although many groups continue to operate without registering, which makes them illegal. These groups face difficulties such as armed militia storming into their meetings to threaten and arrest their members; LGBT individuals and groups are also the target

of hate crimes. Recent changes to Belarus's criminal code have given the authorities even more latitude to treat the activities of LGBT groups as illegal attempts to discredit or bring harm to Belarus.¹¹

Societal Homophobia

Homophobia remains strong within Belarusian society. In 2002, 47 percent of respondents to a survey by the Belarusian Lambda League for Sexual Equality (Lambda Belarus) believed that gay people should be imprisoned.¹² Attitudes such as this continue to keep LGBT people from revealing their sexual orientation.

But the situation is changing. A 2007 poll of young people within the Gomel region conducted by the Tema information center revealed that only 12 percent of respondents think of lesbians and gays as criminals. Forty-eight percent of respondents accept LGBT people.¹³ A younger generation is showing increased tolerance and an interest in gay culture, although many critics attribute this to their age and assume that this trend will ultimately be outgrown and forgotten. In spite of the attitudes of young people, common stereotypes and myths, as well as a lack of information on LGBT issues or firsthand experience with LGBT people, affect the general public's attitude toward them.

President Lukashenko has rarely addressed homosexuality. In September 2004, he made a statement about homosexuality at the consultation meeting with the Belarusian Security Council.¹⁴ In April 2005, a new attempt was made to criminalize homosexuality. Speaking in favor of this at a parliamentary session, member of parliament (MP) Viktor Kuchynski stated that "all 'queers' and others are to be punished to the maximum."¹⁵ The measure, to amend the criminal code, did not pass.

There is no serious discussion about LGBT issues in the media, 95 percent of which is controlled by the government. Pro-government media expresses negative views of LGBT people, and has so far served to foster negative attitudes toward LGBT people and issues in Belarusian society. Positive or objective information about homosexuality is often considered promotion of homosexuality. One example occurred with staged footage that purported to show a demonstration by sexual minorities at the Opposition Congress of October 2004. This footage included bystanders' comments that "gays are evil" and a suggestion from the broadcasters that homosexuality is tied to Western development theories.¹⁶ Homosexuality is often viewed as incompatible with the Belarusian identity and threatening to the nation.

Civil society does not provide support to LGBT groups in Belarus. The organizing committee of the First Belarusian Youth Congress voted against the inclusion of delegates from Lambda Belarus. One of the largest youth organizations, Young Front, issued a press release that contained extremely homophobic language. Pavel Severinets, Young Front's leader, directly referred to homosexuality as "a sin and perversion deserving death," and stated that the very existence of LGBT people was the "result of decay and sinfulness."¹⁷

EDUCATION

Homosexuality is still not dealt with adequately in the Belarusian education system, and is not presented as an equal alternative to the heterosexual lifestyle. No discussion of sexuality of any kind is included in the curriculum. Besides silencing and ignoring LGBT issues in the school curriculum, teachers and textbooks often

present LGBT issues in negative ways, including as a disease, a sin, or an unnatural way of being, which only strengthens old, well-known stereotypes.

School is a dangerous place for many LGBT students. No original publications with any scientific value on this topic are yet available, but some authors stress that homophobia is widespread and instances of harassment occur in public schools.¹⁸ Antibullying policies have not even been considered for discussion.

LGBT studies is still a marginal subject at Belarusian universities. Several students are interested in studies concerning sexual minorities, but the main problem they face is a lack of adequate professors and literature.

EMPLOYMENT AND ECONOMICS

Efforts of the Belarusian government, and some favorable factors such as the Union with Russia, which opened vast markets for Belarusian goods, and also allowed Belarus to buy oil and gas at Russia's internal price. This has allowed Belarus to bypass the severe economic hardships and crises that many former Soviet Union transition economies have encountered, and has resulted in the economic growth seen in recent years. According to the UN *World Economic Situation and Prospects 2006* report, Belarus registers major economic growth: the gross domestic product (GDP) growth rate, as low as 3 percent in 1999, was 11 percent (second place in the CIS) in 2004, and 8.5 percent (fourth place after Azerbaijan and Kazakhstan—oil and gas exporters—and Armenia) in 2005. In terms of the GDP growth rate, Belarus also outperforms neighboring Poland, Latvia, and Lithuania.¹⁹ About 80 percent of all industry remains in state hands.

The Belarusian labor market is highly regulated. Important elements of the central planning system are still in place. The government can affect the structure of wages through the tariff system, a type of centrally determined wage grid. The tariff system is binding in the budget sector, including enterprises and organizations mainly financed and subsidized within state and/or local budgets. The private sector, representing only a small share of employment, has little autonomy.

Current personnel in the armed forces number 72,940, although a reduction to 60,000 is planned. Most soldiers are conscripts serving for a period 12 months (with higher education) or 18 months (without).

The labor code of Belarus prohibits discrimination in employment and in the workplace, but excludes sexual orientation from the list of characteristics against which discrimination is prohibited. Therefore, employers are free to refuse employment to LGBT people, or to dismiss employees because of their sexual orientation or gender identity.

SOCIAL/GOVERNMENT PROGRAMS

Neither the state nor local governments provide funding for any programs specifically for lesbians, gay men, or transgender people in Belarus.

SEXUALITY/SEXUAL PRACTICES

Sexuality and sexual practices are not dealt with on a regular basis in the education system of Belarus. A number of pilot HIV prevention projects have been created by nongovernmental organizations (NGOs) in several public schools around

the country since the mid-1990s. Most of the programs, funded by foreign donors, have been designed to reduce risky sexual behavior through a strong peer-to-peer intervention component. Educational programs cited male-to-male sex as the most common transmission route of HIV and AIDS without further discussion. Implementers of programs often did not illustrate the proper use of condoms. In Belarus, the distribution of condoms at schools, colleges, and other educational institutions is illegal.

A 2007 poll of Web site visitors conducted by the Belarusian Web portal Gay. By revealed that 54 percent of respondents did not use condoms during their last sexual encounter. Fifteen percent of the visitors never use condoms. Fifty-eight percent of respondents tested for HIV and/or other sexually transmitted diseases. According to another poll by Gay. By, 17 percent of respondents have HIV-positive friends who are gays and lesbians.²⁰

FAMILY

The situation of families, women, and children has dramatically worsened during the process of political and economic reform in society. The reforms have affected the majority of families, reduced their ability to provide economically for those family members unable to work, had negative effects on consumption (particularly food), prevented their cultural and educational needs from being satisfied, and been detrimental to the health of children and adult family members. Against the background of ever-increasing complexities in family life, those hardest hit have been families with numerous children, single-parent families, and families with one or more members with physical or mental disabilities. New categories of families needing social support have also appeared, including evacuees, refugees, and the unemployed. The difficulties the family faces in fulfilling its functions are complicated by the radical stratification of society; the decreasing social mobility of the majority of citizens; the absence of a legislative base that would adequately and effectively regulate social relations; the break-up of conventional values, including those of marriage and family; and uncertainty in parents as to which personal qualities they should develop in their children to help them achieve success in life.

Lack of social success increases conflicts within the family and frequently leads to its destruction. Belarus has one of the highest divorce rates in the world. In the period from January to September 2007, Belarus had 64,410 registered marriages and 26,459 registered divorces. Compared to 2006 figures, the number of registered marriages had increased by 7.1 percent, but the number of divorces had increased by 14.8 percent.²¹ More than 15 percent of Belarusian families consist of single mothers with children.

Since the early 1990s the Belarusian family's function of bringing up children has been significantly distorted because of worsening socioeconomic conditions in the country. Statistics confirm that parental responsibility for bringing up children is insufficient. In 1996, parents had 3,600 children taken away from them, including the denial of parental rights in some cases. The term *social orphans* refers to children abandoned while their parents are still alive, and they are becoming a significant social problem. In 1996, there were 18,200 orphans left without parental care in the republic (there were 11,200 such children in 1990). Around 90 percent of these children are social orphans. The numbers of parents indulging in antisocial

behavior (alcoholism, drug abuse, and so on) have risen, as have the cases of especially dangerous violence against children.

The majority of the Belarusian LGBT population is involved in a heterosexual marriage, or had once been involved in a heterosexual marriage. Often, LGBT people hide their sexual orientation from spouses and family members. Many also have children. Very few same-sex couples dare to live together, and even fewer do so openly. Same-sex couples are frequently the targets of public condemnation, and sometimes become victims of hate crimes motivated by homophobia.

No information on Belarusian LGBT families is available. Marriage is inaccessible to same-sex couples. These issues are not discussed in public debate, and are not on the agenda of the Belarusian LGBT movement or any political force in Belarus.

COMMUNITY

During the 70 years of Communism, the Belarusian LGBT community existed in tight, discreet social networks that were absolutely invisible to the general public. The risk of criminal persecution united people in a secret brotherhood. In the 1990s, Belarus became the first former Soviet state where a popular magazine, *Vstrecha*, appeared with a special section on LGBT issues.²² A few years later, the first gay bars started to open in Minsk, where the first Belarusian gay activists began to gather. The emergence of the Belarusian LGBT movement has been connected with the birth of the nationwide LGBT rights group, Lambda Belarus, in 1998. Lambda Belarus was quite active between 1998 and 2002, organizing the first Belarusian gay pride events and conferences, and publishing an LGBT magazine. After four years of silence, in January 2007 the group came out with fresh initiatives, including the new bimonthly publication *Taboo*.

One of the oldest Belarusian gay groups, *Vstrecha* (Meeting), is exclusively involved in HIV prevention among men who have sex with men (MSM). They also serve as a support group for HIV-positive gay men. Funded by large grants from the Global Fund, *Vstrecha* operates offices in all regional centers of Belarus. Their publication of a bulletin for gays of the same name started in February 2007.

Amnesty International's Lesbian, Gay, Bisexual and Transgender Network-Belarus (AILGBT-Belarus) began its work in 1999 and focuses on advocacy, research, campaigning, and education initiatives. AILGBT-Belarus has co-organized gay pride events in Minsk in 1999 and 2000, prepared numerous publications on LGBT issues, run many workshops and seminars in Belarus and abroad, and represented the Belarusian LGBT movement at international conferences. The International Lesbian and Gay Cultural Network awarded the group its Grizzly Bear Award in 2004 for its attempts to organize an international LGBT conference in Minsk.

Two new organizations—BelQueer in Minsk, and Volunteers without Borders in Gomel, were created in 2006. BelQueer was devoted to building gay culture in Belarusian society. The goal of Volunteers without Borders is to increase the level of civic engagement within the LGBT population and promote volunteerism among the LGBT people in Gomel.

The Internet plays the most important role in building community for LGBT people in Belarus, especially outside of Minsk. For the greater part of the community, the Internet is the main source of information on LGBT life, and very often

the only way of finding a partner as well. Only one gay club exists in all of Belarus, and it is located in Minsk.

In February 2007, AILGBT-Belarus initiated the first meeting of Belarusian LGBT leaders in Minsk. Participants discussed the opportunities for joint projects, information exchange, working with state structures, promotion of LGBT culture, and many other issues. The participants came to some important agreements, including the necessity of maintaining the positive image of the Belarusian LGBT rights movement. In addition, the group discussed strategic approaches to advancing their common cause, including outreach to civil institutions, businesses, and other state structures. This was a historic moment in the movement for LGBT rights in Belarus, and AILGBT is planning more of these meetings in the future. It now works as a permanent forum and is open to newcomers.

HEALTH

The Belarusian health care system is a combination of public and commercial medical services. Basic medical services are provided by the state at no cost to Belarusian citizens. LGBT people do not face any problems in regard to medical care until they disclose their sexual orientation.

Despite the adoption of the 10th revision of the International Classification of Diseases in the late 1990s, Belarusian military doctors still maintain the outdated belief that homosexuality is a kind of personality disorder, and that gay men are unsuitable for military service. According to the list of diseases adopted by the Ministry of Health and Ministry of Defense, homosexuality (along with transsexuality and pedophilia) is classified as “a personality disorder of moderate degree.”²³ As a result, homosexuals may not serve in the army during peacetime, but may be enlisted in wartime as partially able. This provision is more than welcome to young gay men who would like to avoid compulsory military service. They are mostly afraid of the physical and psychological harassment they might endure in the army under homophobic military personnel.

AIDS has been a serious health concern for Belarus. The first case of HIV infection involved a foreign citizen, and was registered in 1986. The first HIV-positive Belarusian, who also happened to be the first HIV-positive citizen of the entire USSR, was identified in 1997 in the Gomel region. He happened to be gay. As of December 1, 2007, there were 8,631 cases of HIV infection registered in Belarus. Nearly 35 percent of them were women and over 65 percent were men. Eight hundred and eighty-four new cases of HIV infection were registered between January and November 2007. Intravenous drug use is the most common transmission route, followed by sexual contact. There are no official statistics on cases of HIV infection through same-sex activity in Belarus. According to the nationwide HIV-prevention gay group *Vstrecha*, 30 of such cases have been registered by the National Center for Public Health, and 14 of these people have already died. *Vstrecha* believes that real number of HIV-positive gays and lesbians may be higher, but many people hide their sexual orientation.²⁴

People suffering from HIV/AIDS still face significant societal discrimination. Reports of this type of discrimination continue, and many of those affected are afraid to disclose their status.

An alarming increase in other sexually transmitted diseases, such as syphilis, was recorded in Belarus in 1996. Although this is now decreasing, there is insufficient

data on STD (sexually transmitted disease) cases within MSM. Vstrecha provided approximately 250 MSM with medical treatment for sexually transmitted diseases.²⁵

Transsexuals need special attention from medical personnel. The first sex reassignment surgery in Belarus occurred at the National Center for Plastic and Reconstruction Surgeries in 1992. More than 100 surgeries have been performed since that time. As in other post-Soviet states, the number of people who request female-to-male (FTM) transition is five times higher than the number who request male-to-female (MTF) transition.²⁶ Researchers attribute this phenomenon to conditions imposed by the Soviet model of socialism, where Soviet men enjoyed greater economic opportunities and public respect. Soviet men had traditionally been war heroes, space conquerors, and famous politicians. Although the majority of transsexuals manage to create families, hold down a permanent job, and advance in their careers, Belarusian society at large does not tolerate openly transsexual and transgendered people. Besides experiencing hormone therapy and sex reassignment surgery, they are forced to change their entire lives—their names and surnames, their professions, their place of residence, or even their citizenship status.²⁷

No sufficient information is available on intersexual persons in Belarus.

POLITICS AND LAW

In 1994, male homosexual activity in Belarus was decriminalized for the first time under pressure from the Council of Europe and international human rights groups by repealing paragraph 1 of article 119 of the criminal code, which punished homosexual activity between consenting adults. According to the Ministry of Justice, 15 people were sentenced under article 119 during the first six months of 1993, but it was not revealed how many of these sentences were for adult consensual homosexual activity.²⁸ The current criminal code was passed in 1999, and the only homosexual acts that are still criminalized are those that violate consent.

Chapter 20 of the criminal code, which addresses crimes against sexual inviolability or sexual freedom, contains the sections pertaining to homosexuality. Article 167 addresses forced sexual activities and makes male homosexual behavior (*muzhelozhstvo*), lesbianism, and other forced nonheterosexual acts punishable by 3 to 7 years in prison. If the victim is underage, or if the incident is a repeat offence, the term can rise to 5 to 12 years. Nonconsensual sex with a person under 14 year old, or nonconsensual sex that causes death or serious damage to health, can be punished with a term of 8 to 15 years. Article 168 covers the same crimes, but establishes different penalties when the act is committed by a person over 18 years old on a person under 16 years old. Article 170 covers crimes of coercion, establishing sentences of up to 3 years for crimes committed with coercion by use of “blackmail, threat of destruction, damage or withdrawal of property, etc.”²⁹ When committed against an underage person, these same actions may be punished with sentences up to 4 years of house arrest or 5 years of imprisonment. In these sections, particular sexual acts are not listed, and there is no distinction made between same-sex and opposite-sex crimes. While rape laws specify female victims, all other defined sexual crimes recognize that the victim or perpetrator can be of either gender. The age of consent for participation in sexual activity is 16 years old for both men and women.³⁰

Although the Belarusian constitution claims to uphold equality of citizens as a fundamental principle, there is no antidiscrimination law that pertains to LGBT people. Theoretically, article 22 of the constitution provides protection to LGBT people, stating that “All are equal before the law,” but this protection is not elaborated upon. In practice, usage of the constitution for the protection of LGBT people is impossible.

Belarusian immigration law does not recognize persecution based on sexual orientation, nor does it recognize same-sex partnerships for immigration purposes. Belarus is a member of the Geneva Refugee Convention, however, and might potentially recognize LGBT people as members of a social group facing persecution. So far, there have been no recorded cases of LGBT people seeking asylum in Belarus on the grounds of persecution because of their sexual orientation or gender identity.

The Belarusian constitution and the marriage and family code affirm that marriage is a specific civil contract between a man and a woman. Belarus does not recognize domestic partnerships, whether homosexual or heterosexual, and confers no rights upon the partners of such relationships. Domestic partnership does not serve as a legal basis for changing one’s name or to any claim for material support. Commercial laws can be used when partners have a common business. If cohabitating partners separate, they have no rights similar to spousal rights, such as the right to alimony or other forms of financial support. Cohabitation does not lead to inheritance without a last will and testament. In such cases, the surviving partner will face higher taxes than would a legal spouse, and will not receive the right to claim the other half of the estate. Should cohabitating partners have children, a nonbiological partner has no parental rights unless he or she can legally adopt the biological child of the partner. The adopting partner must not be incapacitated, must be at least 16 years older than the child, and must not have lost parental rights in the past. Cohabitating couples may not adopt orphans, as this right is limited to legally married people.

Although the law in Belarus claims to provide freedom of speech and association, it is in fact severely restricted. Many restrictions attempt to prevent the formation of organizations that are likely to criticize the government. The law requires all NGOs, political parties, and trade unions to register with the government. Any activity on behalf of unregistered organizations is considered illegal. In order to register, applicants must go through a lengthy procedure that includes disclosing the names of the founder and members, a legal address in a nonresidential building, and the payment of a large fee. Activists are hesitant to list their names for fear of retribution. Many organizations cannot afford private space, and are blocked by the government from renting space before they are registered. Thus, organizations are forced to work out of residential spaces, leaving them open to action by the government. Applications for registration are reviewed by the government, which bases its decision largely on the political and ideological compatibility between the goals of the organization and the government’s own authoritarian philosophy.

Most LGBT groups in Belarus are unregistered and, therefore, operate illegally. There are a few exceptions to this rule. Yana is registered as an NGO for young women, but focuses its efforts on the needs of lesbians and its membership is primarily, if not entirely, lesbian. The organization organizes social and educational events in several Belarusian cities. The other exception is Vstrecha, a group that registered as an HIV prevention organization that focuses on young people.

In reality, they target men who have sex with men in their outreach, and face regular and ongoing resistance from the authorities. In 1999, Lambda Belarus, which was the most active LGBT group at that time, was denied the opportunity to officially register as an NGO. The government claimed there were technical reasons for denying the application, although it was believed that government rejection was due to their mission of promoting LGBT rights.

In 2002, the only Belarusian publication for sexual minorities, Forum Lambda, had its registration annulled by the State Press Committee. Since 1999, it has been impossible to hold public LGBT events. Earlier attempts to hold gay pride celebrations in 1999 and 2000 were broken up by police, as were attempted international conferences in 2004 and 2006.

Internet censorship is another way in which the government suppresses the LGBT rights movement. In 2002, the Belarusian State University banned access to all online LGBT resources in their computer labs. In 2003, Soyuz Online, the largest Internet café in Minsk, and which once had a significant LGBT customer base, blocked the Belarusian gay site Apagay. In 2004, the Belarusian National Anti-pornography and Violence Commission declared that three Russian LGBT Web sites contained obscene language and pornography, and blocked access to these sites as well.³¹ Online dating sites are also prohibited, and LGBT people have even been denied the opportunity to post messages on a televised dating chat room.

Recently, criminal penalties have been introduced to punish any suspended or liquidated organization still in operation. Given the illegal status of most Belarusian LGBT groups, this represents an even larger barrier. Penalties range from a fine and six months' imprisonment to imprisonment for two years for vaguely defined serious cases. Another new regulation prescribes penalties between six months and three years for organizing or funding mass demonstrations. Additionally, organizing group activities that "grossly violate public order" or financing such activities can also lead to a two-year prison term. Providing false information to a foreign organization or government, defined as "information intended to misrepresent or discredit Belarus," is punishable by sentences ranging from six months to two years.³²

Bisexuals are virtually invisible in Belarusian society, and are stigmatized as much as lesbians and gays.

Only people with the official diagnosis of *transsexualism* (or *sex denial syndrome*) are eligible for passport and biological sex change. A special interdepartmental commission makes decisions on passport sex change, hormonal therapy, and sex reassignment surgery. The commission consists of at least 16 leading specialists from the ministries of health, defense, internal affairs, justice, and education. It takes at least one year from the day of the initial appointment with the secretary of the commission, who serves as a sexologist, and the day of the meeting regarding the passport sex change decision. In the case of a positive decision, the person will receive a new passport, and six months later can apply for authorization of his or her hormone therapy or sex reassignment surgery. At the time of the first appointment with the secretary of the commission, a person who wants to change his or her biological sex should be at least 21 years of age. People with serious "deformation of social adaptation," such as the homeless or unemployed, homosexuals and cross-dressers, people who have their own biological children, and married people are not eligible for sex changes.³³

RELIGION AND SPIRITUALITY

Approximately 50 percent of Belarusians consider themselves religious. Of persons professing a religious faith, approximately 80 percent belong to the Belarusian Orthodox Church, 14 percent belong to the Catholic Church, 4 percent are members of Eastern religious groups, and 2 percent are Protestant.³⁴ The predominance of conservative Christians has had a significant impact on general public attitudes towards homosexuality.

None of the mainstream denominations demonstrate acceptance of homosexuality. The Belarusian Orthodox Church considers homosexuality “the gravest of sins,” and Lambda Belarus stated that church officials have called for the execution of LGBT people.³⁵ The European Humanities University prohibited an event sponsored by Amnesty International that included the screening of *Outlawed*, a documentary about discrimination against LGBT people worldwide.³⁶ The university pointed to pressure from the Orthodox Church as the reason for the ban.

VIOLENCE

The authorities in Belarus do not track data on hate crimes based on homophobia, which makes it difficult to determine the scope of the problem other than through NGO estimates or sporadic media reports. From January 2001 to January 2003, Lambda Belarus documented at least 33 hate crimes based on sexual orientation or gender identity.³⁷ These crimes ranged from burglary, destruction of property, and dissemination of hate material to threats, assaults, rape, and murder.

Despite the number of such crimes, the police most often refuse to investigate thoroughly, if they register the complaint in the first place. Incidents of police brutality against LGBT people have also been documented.³⁸ Homosexuals from the Brest region were being entered into a special database following the murder of a homosexual.³⁹ It is not uncommon for police to collect personal information of those who visit cruising areas, and they have been known to enter bars frequented by LGBT people for the purpose of harassing them. On various occasions, the police have invaded lesbian and gay discos and assaulted partygoers. LGBT persons fear contacting the police in cases of domestic violence, recognizing that they may be arrested and that the offending partner is also at great risk of serious mistreatment in police custody.

OUTLOOK FOR THE 21ST CENTURY

The Belarusian LGBT movement is one of the youngest in Europe. It operates in one of the most repressive political environments, nearly in full international isolation, without public support inside the country. Attempts at consolidation undertaken by LGBT groups in 2007 give vital hope for a growing movement to benefit the Belarusian LGBT community as a whole. The most important step in the near future is seen to be a public campaign to change the legislation affecting the relationship between NGOs and the government; this will allow LGBT groups to work openly and more effectively. The second step is the promotion of antidiscrimination legislation. The Belarusian LGBT movement can only achieve these goals by working in alliance with other organizations that fight for human rights, women’s rights, and other progressive causes in the country.

Undoubtedly, gradual change in the political regime and future integration within the European Union will play an important role in the improvement of the situation of LGBT people in Belarus.

RESOURCE GUIDE

Suggested Reading

- Viachaslau Bortnik, *Belarusian Legislation about Homosexuals* (Minsk: Belarusian Law Institute, 2003).
- Roman Kuhar, and Judit Takács, eds., *Beyond the Pink Curtain: Everyday Life of LGBT People in Eastern Europe* (Ljubljana: Peace Institute, 2007).
- Randy O. Solberg, ed., *Let Our Voices Be Heard: Christian Lesbians in Europe Telling Their Stories* (Hamburg: Mein Buch, 2004).
- Judit Takács, *Social Exclusion of Young Lesbian, Gay, Bisexual and Transgender (LGBT) People in Europe* (Brussels: ILGA-Europe, 2006).

Videos/Films

They Still Smile (17 min.; 2001). Directed by Irina Sizova. The only existing documentary on the situation of LGBT people in Belarus.

Web Site

Gay.By, <http://www.gay.by>, e-mail: gay@mail.by.
Gay.By is the best national LGBT news resource in Russian and English, and is updated daily.

Organizations

- Belarusian Lambda League for Sexual Equality (Lambda Belarus), <http://www.bllambda.org>.
Founded in 1998, Lambda Belarus is a national-level initiative acting in favor of mutually beneficial LGBT and straight communities' integration to overcome homophobia and to promote multiculturalism in Belarusian society.
- Belarusian LGBT Network, <http://pride.by>.
Formed in 2007, Belarusian LGBT Network serves multiple needs of the Belarusian LGBT community.
- Vstrecha (Meeting), <http://www.vstrecha.by>.
Formed in the early 1990s, Vstrecha provides information on HIV/AIDS, free testing, telephone support for MSM, and serves as an HIV+ support group.

NOTES

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5. Julie A. Corwin, "A Dirty Trick That Has Proved Exportable" 9, no. 194, part II (2005), Radio Free Europe/Radio Liberty.

6. See the following reports: ILGA, "State Homophobia in Belarus," January 7, 2005, http://www.ilga.org/news_results.asp?LanguageID=1&FileCategory=9&FileID=491 (accessed January 4, 2008); Radio Free Europe/Radio Liberty, "Analysis: Diplomacy and Debauchery in Belarusian-Czech Relations," January 25, 2005, <http://www.rferl.org/featuresarticle/2005/01/83701c0a-3289-404c-8677-10e1c72070ad.html> (accessed January 4, 2008); Radio Free Europe/Radio Liberty, "Latvia Accuses Belarus of 'Provocation' over Aired Sex Video," August 1, 2006, <http://www.rferl.org/newsline/2006/08/3-ccc/ccc-010806.asp> (accessed January 4, 2008).
7. Viachaslau Bortnik, *Belarusian Legislation about Homosexuals* (Minsk: Belarusian Law Institute, 2003).
8. Vanessa Baird, *The No-Nonsense Guide to Sexual Diversity* (Oxford: New Internationalist Publications, 2001).
9. Roman Kuhar and Judit Takács, eds., *Beyond the Pink Curtain: Everyday Life of LGBT People in Eastern Europe* (Ljubljana: Peace Institute, 2007), 373.
10. Immigration and Refugee Board of Canada, *Belarus: Attitude towards Homosexuals and Lesbians in Belarus; State Protection Available to Non-heterosexuals in Belarus with Special Attention to Minsk (2000–2005)*, Immigration and Refugee Board of Canada, January 16, 2006, <http://www.irb-cisr.gc.ca/en/research/rir/?action=record.viewrec&gotorec=449808> (accessed January 4, 2008).
11. Kuhar and Takács, *Beyond the Pink Curtain*, 366.
12. Randi O. Solberg, *Let Our Voices Be Heard: Christian Lesbians in Europe Telling their Stories* (Hamburg: Mein Buch, 2004), 46.
13. Sonja Dudek, Richard Harnisch, Rupert Haag, Kerstin Hanenkamp, Claudia Körner, and Colin de la Motte-Sherman, *Das Recht, anders zu sein. Menschenrechtsverletzungen an Lesben, Schwulen und Transgender* (Berlin: Querverlag, 2007), 143.
14. "We have to show our society in the near future, what they [European Union and United States] are doing here, how they are trying to turn our girls into prostitutes, how they are feeding our citizens with illicit drugs, how they are spreading disseminating gayness here, which methods they are employing," said President Lukashenka. From Viachaslau Bortnik's report presented at the OSCE Human Dimension Implementation Meeting, Warsaw, October 4–15, 2004; side event "Intolerance, Discrimination and Hate Crimes Based on Sexual Orientation and Gender Identity in the OSCE region."
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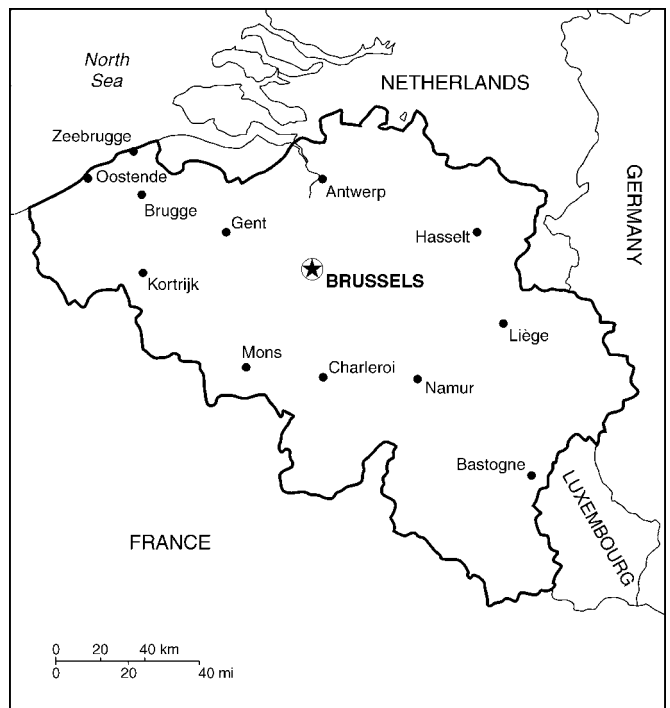
BELGIUM

David Paternotte and Alexis Dewaele

OVERVIEW

Belgium is a small constitutional monarchy that was founded in 1830. It is situated in the west of Europe, between the North Sea, the Netherlands, Germany, the Grand Duchy of Luxembourg, and France. It covers 12,570 square miles and has about 10 million inhabitants. The main cities are Brussels, Antwerp, Ghent, Charleroi, and Liège. There are three official languages: Dutch, French, and German. Belgium also hosts most of the European Union (EU) institutions (the European Commission, the European Council, and the European Parliament) and the NATO headquarters. The International Lesbian and Gay Association (ILGA) and ILGA-Europe are located in Brussels.

For historical reasons, Belgium is divided along cultural, linguistic, religious, and philosophical lines. However, culture and language are the most relevant cleavages, and the opposition between Dutch-speaking people (60% of the population) and French-speaking people (40%) is one of the main keys to understanding the functioning of the country. In 1993, cultural conflicts and regional disparities led to the federalization of the state, which is now composed of three regions (the Flemish Region, the Walloon Region, and the Brussels Capital Region) and three communities (the Flemish Community, the French Community, and the German Community). Because of a complex distribution of powers, the federal state, communities, regions, and local authorities are all considered relevant actors concerning LGBT policies.



OVERVIEW OF LGBT ISSUES

After many decades of liberal tolerance and moral conservatism, the situation of LGBT people has changed dramatically. In recent years, legal reforms, including those related to same-sex marriage and adoption, have been passed, and public policies dealing with LGBT matters are being implemented. However, LGBT themes remain poorly explored in university, which explains a lack of knowledge about many aspects of the history and the situation of LGBTs in the country.¹

LGBs are a difficult research population with specific characteristics.² They are called a hidden population because of their optional coming out.³ Only those who choose to come out as gay, lesbian, or bisexual (and thus identify themselves as an LGB) are visible, and the authorities hardly register sexual orientation in research or population surveys, which explicates a scarcity of information. However, several efforts have been recently made to get a better view of the social status of this minority. Transgendered Belgians are even less visible. They have recently begun to organize, and the trans issue is brand new on the political agenda.⁴ The first research project investigating the social situation of transgendered people in Belgium has started recently.

EDUCATION

In 1980, a French-speaking lesbian teacher, Eliane Morrissens, was fired because she revealed the professional problems caused by her sexual orientation on television.⁵ Since then, the situation of homosexuality and bisexuality at school has noticeably changed, especially in Flanders, where ambitious public policies have been implemented to tackle this issue. However, recent data concerning teenagers' attitudes remain worrying, as many of them do not support equal rights for LGBs.⁶

In Flanders, LGBs appear to be less educated than heterosexuals, even after controlling for age and the educational level of the father. Twice the proportion of LGBs (12%) have no current job compared to heterosexuals (5%).⁷ Although it is always difficult to compare a relatively large group of heterosexuals with a small subsample of LGBs, these data might indicate the vulnerability of LGBs at school, as well as during their educational trajectories. It comes as no surprise that several reports refer to the school environment as one dominated by heteronormativity, and point out the invisibility of LGBs. One-fifth of LGB teachers stay closeted within the school environment, and most pupils and LGB teachers do not receive LGB-relevant information and training at school.⁸ Although two-thirds of Flemish pupils consider that homosexuality can be discussed at school, they still would not come out if they were homo- or bisexual. Girls appear more tolerant of homo- and bisexuality than boys. The type of schooling also plays a significant role concerning attitudes: art- and theoretical-oriented school environments are more tolerant than technical and professional-oriented schools.⁹ Thus, the mental well-being of LGB youth is precarious,¹⁰ and more efforts are required to make them feel secure and accepted.

Notwithstanding these difficulties, several initiatives have been taken by the Flemish community since 1995 to supply helpful information and make educational material available to parents, teachers, and training experts. These efforts encompass the development and distribution of educational brochures, awareness-raising methodologies, and guidelines for LGB volunteers who visit schools.

Methodologies are also aimed at tackling LGB issues with challenging groups (like youngsters with a Muslim background) and within associations for adult education. Finally, lists of LGB-oriented literature and video material are made available.

Fewer initiatives have been taken in French-speaking Belgium, where homophobia at school is a new political issue. In 2003, a survey on health promotion and suicide prevention for LGB youngsters at school, financed by the health minister of the French Community, was published.¹¹ In 2006, the education minister of the French Community published an educational guidebook on homophobia at school, which has been sent to every primary and high school in French-speaking Belgium.

EMPLOYMENT AND ECONOMICS

Belgium is a modern and open economy, in which services represent more than 65 percent of economic activities. In 2000, the country's gross domestic product (GDP) was approximately 250 billion euros (US\$349 billion, almost 3% of the EU total GDP), and productivity is higher than the European average. Per capita income was 62,560 euros (US\$87,280, 20% above the EU average). However, public finances are still characterized by a high public debt/GDP ratio (which is now decreasing), and the unemployment rate remains elevated (about 8.6% of the active population in 2000). Belgium is a modern welfare state. The national social security system was established in 1944, and includes retirement pensions and obligatory health insurance.¹²

Diversity at work is becoming an issue in both public and private companies, and is being expanded so that it includes gays and lesbians. In April 2005, the SERV (the socioeconomic board of Flanders) published a note on LGBs and the labor market. It stressed the lack of quantitative data and the invisibility of LGBs, making it impossible to evaluate their participation in the labor market.¹³ Although several reports reveal some LGB-specific problems within the work environment (e.g., discrimination, fear of coming out, etc.), little is known about the representation and experiences of LGBs within different sectors and employment segments in Belgium.

In recent years, some reports have provided insight into the barriers experienced by LGBs at work. In 2004, almost 3,000 Flemish LGBs were surveyed about a diverse range of topics (sexual identity, mental well being, experiences of discrimination, etc.), and compared with a representative sample of the Flemish population. On average, LGBs appear to work more hours per week and they more often fulfill a management role. However, even though they have a higher educational level, homo- and bisexual men earn less than heterosexual men. No income difference has been found between lesbian/bisexual and heterosexual women. The same survey results point out that approximately three percent of the respondents were fired, missed a promotion, or did not get a job because of their sexual orientation. Another seven percent think this has been the case, but are not sure. One-fifth of the respondents experienced negative reactions from colleagues or superiors because of their sexual orientation.¹⁴ Finally, compared to Flemish workers in general, LGBs feel less committed to their colleagues.¹⁵

Another recent survey shows that the attitudes towards LGBs within the federal civil service are quite negative.¹⁶ One-third of roughly 800 surveyed civil servants report that it is rather difficult to come out at work (compared with only 1 out of 10

who think it is not). Forty-six percent state that mocking LGBs is common, and more than one-third have heard their colleagues talking about LGBs in negative terms (e.g., using words such as faggot, sissy, etc.). Ultimately, 31 percent think that talking openly about being LGB at work can damage one's career. These elements might explain why two-thirds of the LGBs surveyed (9% of the total sample) do not come out at work.

This latter study was financed by the Federal Minister of Equal Opportunities. Until now, no initiative has been taken by public authorities to improve the situation of LGBs at work, even though there is a growing awareness that something should be done. A new study concerning discrimination against LGBs in the labor market has been ordered by the Federal Center of Equal Opportunities and Opposition to Racism. This focuses on the specific situation of LGB workers with a low level of education. The results should lead to an adjusted policy within the work environment.

SOCIAL/GOVERNMENT PROGRAMS

Social and government programs that aim to eradicate homophobia and support LGBT people have been implemented in Belgium for more than a decade. A federal minister is responsible for equal opportunity policies, including sexual preferences and gender identity. Furthermore, two specialized bodies, the Center for Equal Opportunities and Opposition to Racism and the Institute for Equality of Women and Men, are in charge of promoting equal opportunities and combating discrimination.

The Flemish government has developed ambitious policies on LGBT matters. Since 1995, there has been a minister for equal opportunities, with a whole administration devoted to these policies. Inspired by the model of gender mainstreaming, sexual orientation is being mainstreamed into all Flemish policies, and an academic study center, the Policy Research Centre on Equal Opportunities, which includes researchers on LGBT issues, has been set up at the universities of Antwerp and Hasselt. This investigates topics related to discrimination and equal opportunities, and gives advice to the minister. There have been fewer initiatives in French-speaking Belgium, even though a dramatic change has been observed in recent years. The minister-president of the French Community is also responsible for equal opportunities, and has taken some measures to combat homophobia at school. The Walloon minister of equal opportunities is explicitly in charge of LGBT issues, and has supported the creation of new LGBT organizations. Up until now, in the region of Brussels Capital, equal opportunity policies have been restricted to gender equality. City councils are increasingly involved in such policies, even in small towns or villages.

SEXUALITY/SEXUAL PRACTICES

No systematic survey of LGBT sexuality has been conducted in Belgium. However, research on HIV/AIDS has revealed some features of Dutch¹⁷ and French-speaking¹⁸ gay male sexuality (no research has been done on lesbian sexuality).

Research on the knowledge and behavior concerning HIV/AIDS of men who have sex with men (MSM) in French-speaking Belgium shows that a huge majority of respondents (88%) consider themselves homosexuals, seven percent as

bisexuals, and five percent do not define themselves. Most of the Belgian MSM are sexually active (96–98%),¹⁹ and most have declared that they have sexual intercourse more than once a month. Only four percent of them have had no sex during the last 12 months. Seven percent have had sexual intercourse with a female partner during the last year. Nineteen percent of the respondents declare 1 male sexual partner in the last year, 57 percent 6 partners or more, and 23 percent more than 20 partners. Most of the French-speaking respondents meet their partners on the Internet, which is followed by meetings at saunas and bars/discos. Seventy-five percent have had a stable relationship with a man in the last 12 months, and half of the respondents were in a stable relationship with a man at the time of the survey. Anal penetration is more common with a stable partner than with casual ones. From the Flemish research, we learn that 42 percent of MSM have never had anal sex, 41 percent have had anal sex with one partner, and 17 percent with several partners. Some data are available on the risky behavior of Flemish MSM. Seventy-five percent of them have had sex while taking some drug (e.g., XTC, cocaine, poppers) in the last three months, and 16 percent have done so a few times. Half of the Flemish MSM with several sex partners (17% of the total sample) do not always use a condom. The same number do not know the serostatus of their sex partners.

Two recent sexual scandals are telling when it comes to sexual morality and the frontiers of legitimate sexual behaviors in Belgium. In 1984, the owners of the main Belgian saunas, Macho I and II, were arrested and charged with incitement to debauchery. They spent several weeks in jail and faced a three-year trial. They were discharged in 1987 because of a lack of evidence. This affair has publicized what is legally considered as debauchery. (Homo)sexual intercourse is only allowed if they involve no more than two consenting adults who share an affective or love bond. Therefore, debauchery includes sexual acts with minors, and those considered promiscuous and/or perverse.²⁰ Even though it has not been used to penalize homosexual encounters for years, this definition has never been challenged until now.²¹

In 1996, another scandal highlighted some of the frontiers of contemporary Belgian sexual morality. In the context of the Dutroux case, an instance of pedophilia that shook Belgian society, two closeted gay ministers were accused of having sexual intercourse with minors. They were finally discharged, leading to a clear dissociation between pedophilia and homosexuality in public discourse. Nonetheless, by the same token, this affair has contributed to making pedophilia the main sexual taboo in contemporary Belgium.

FAMILY

In recent years, family has become a crucial issue for the Belgian LGBT movement, which mirrors a new social reality. A large quantitative Flemish research project²² shows that 42 percent of the respondents would like to have a child (36% of the men and 55% of the women). Twelve percent of those who do not want to have a child explain that their choice is due to the lack of a suitable partner, and 11 percent of the sample is already raising a child. More than 80 percent of these children come from a former heterosexual relationship, 16 percent were conceived by in vitro fertilization, 8 percent were adopted, and 3 percent have other origins, such as coparenting or surrogacy.

Most of the children raised by LGBTs in Belgium come from former heterosexual relationships. However, an increasing number of children are being born within an LGBT family.²³ Most of them are raised by a lesbian couple, with one of the partners having been inseminated by an anonymous donor. Indeed, this technique is not restricted to married heterosexual couples, and the Vrije Universiteit Brussel (VUB), the Flemish Free University of Brussels, has developed pioneering and internationally renowned research on assisted reproductive technologies. It has been inseminating lesbians since the early 1980s. All of these medical innovations have been accompanied by a psychological follow-up of these children, which has demonstrated the absence of difference in the psychological development of children raised by same-sex and different-sex partners.²⁴

Eight percent of the children raised by LGB parents in Belgium have been adopted. Until 2006, same-sex couples were not allowed to adopt a child jointly. However, a single person could, and some gay men (chiefly) used this legal opportunity to become fathers. It was more common in Flanders, where sexual orientation was not an impediment to adopt, than in French-speaking Belgium, where LGBs were obliged to hide their sexual preference during the adoption process. However, there was no legal bond between the child and the partner of the adoptive parent until 2006. With the new adoption law, same-sex couples are now allowed to adopt as a couple, and an LGB can also adopt his or her partner's child.

Three percent of these children were born in other contexts, such as coparenting or surrogacy. Coparenting projects arise from the decision of nonconjugal couples to conceive together. They may involve more than two persons, as partners may be part of the initial project and also bring up the child. Therefore, coparenting raises the issue of the legal recognition of parenting (which is called *parenté sociale*). Indeed, the two biological parents are the only ones who enjoy rights and obligations towards the offspring, and the introduction of a legal status for non-biological parents is being discussed in parliament.²⁵ Surrogacy is characterized by a legal vacuum. As it is not explicitly banned, some gay couples appeal to a surrogate mother. Nonetheless, this reproductive technique does not grant full parental rights over the child.

The paternity or maternity of transgender persons is another burning issue. Some Belgian hospitals have developed techniques that allow transgendered individuals to have children after their sex reassignment operation.²⁶ However, the new law on transsexuality prevents them from procreating in their former sex, and this might lead to legal controversies in the near future.

Finally, LGBT families cannot be restricted to legal and institutional debates about same-sex partnership and the possibility for same-sex partners to raise children. Families of choice, or chosen families,²⁷ must also be taken into account. These families reflect the risk for LGBs of having disturbed or broken family relationships because of their sexuality, and are characterized by the significance of friendship ties (friends as family). Flemish research shows that LGBs feel less committed to their family members than average Flemish people. Almost half (48%) of the supportive network of Flemish people (without a partner) is composed of family members, compared to only 17 percent of LGBs (without a partner). Furthermore, the latter group has a support network, which is composed of friends for 64 percent. For the average Flemish (without a partner), only 39 percent of his or her network is composed of friendship relations. Hence, these data prove the importance of friendship networks for LGBs. Nonetheless, these networks do not

offer LGBs an equal amount of support when comparing them with the average Flemish: 8 percent of LGBs have no confidants, compared to only 2 percent of Flemish people.²⁸

COMMUNITY

The first reliable traces of a gay life in Belgium date back to Antwerp in 1781. At the end of the 19th century and the beginning of the 20th, Brussels, Antwerp, and Liège functioned as venues for Belgians, Dutch, and Germans.²⁹ Nonetheless, as in many Western countries, a real gay life only emerged after World War II. Nowadays, the Belgian commercial scene is mainly concentrated in Brussels and Antwerp, even though there are some bars, saunas, and discos in Liège, Ghent, Ostend, and Charleroi.

The first Belgian gay and lesbian organization was founded by a woman, Suzan Daniel, in Brussels in 1953. Created after the third Conference of the International Committee for Sexual Equality (ICSE), it was called Centre Culturel Belge—Cultuur Centrum België (CCB) and included both men and women, Flemish and Francophones. Nevertheless, sexual and cultural divisions quickly emerged. A couple of men founded the Centre de Culture et Loisirs—Cultuur- en Ontspanning-sentrum (CCL—COC) in 1954, which became Infor Homo a few years later. Like many other Belgian organizations, this group rapidly split up because of linguistic conflicts, and evolved into a French-speaking association.

In the 1960s and '70s, the Flemish gay and lesbian movement gained its autonomy. In 1968, the first Belgian community services center was launched in Antwerp (the Gesprekscentrum, later Gespreks- en Onthaalcentrum). The first student groups emerged during the same period in Leuven and Ghent. In 1972, the first LGBT coordination, Infoma (Informatie—(Homofilie)—Maatschappij), was set up. Sjaloom, another federation gathered around Christian groups, became the first group to get public funding in 1976. A leftist group, the Rooie Vlinder, was also created in 1976. It later became the Roze Aktie Front. In 1977, Infoma and Sjaloom were obliged to join in a new Flemish federation, the FWH (Federatie Werkgroepen Homofilie/Homoseksualiteit). The FWH, which competed with the Homoliga between 1990 and 2006, quickly became a relevant actor in Flemish civil society. In 2002, it changed its name into Holebifederatie. In 2009, it became Çavaria. Currently, it employs 15 people, has a budget of \$1,100,000, and is responsible for more than 100 groups. It was joined by transgendered people in 2005. Moreover, the years 1990 and 2000 were characterized by a tremendous explosion and diversification of LGB groups, which came out in almost every Flemish town. Some are now focused on women, youngsters, the elderly, or migrants. The youth LGBT federation, Wel Jong Niet Hetero, has more than 15 groups and community services centers in Antwerp, Ghent, Hasselt, and Brussels.

In French-speaking Belgium, the CCL, later called Infor Homo, became the main organization of the 1960s and '70s. A more radical group strongly influenced by the French MHAR (Movement Homosexuel d'Action Révolutionnaire) and connected to Flemish groups, the MHAR, appeared in the '70s, but rapidly vanished. At the end of the '70s, a new group called Antenne Rose emerged in Brussels. This became Tels Quels a few years later, and grew into the most important French-speaking association of the '80s and '90s. As in Flanders, the second half of the '90s and first years of the new millennium were characterized by a diversification

of the associative landscape. In 1999, a new federation, the *Fédération des Associations Gayes et Lesbiennes (FAGL)*, was founded. Community service centers developed in Brussels, Liège, and Namur. In 2005, the first French-speaking trans group, *Trans-Action*, was set up, and *Arc-en-Ciel Wallonie*, the first Walloon LGBT Federation, was constituted in 2007.

The first Belgian lesbian and gay marches, called *Roze Zaterdag* (Pink Saturdays), were organized in Flanders by the *Rooie Vlinders* from 1979 until 1982. After a break of eight years, the *Roze Aktie Front* revived this tradition in 1990, and LGBT marches occurred every two years in a different Flemish town. Since 1996, Flemish and French-speaking LGBT federations have jointly organized the Belgian lesbian and gay pride parade, which takes place in Brussels every year.

HEALTH

The health of LGBs has mainly been investigated in terms of HIV/AIDS and safe sex-related behavior, as research shows that gay and bisexual men are primarily affected by HIV/AIDS.³⁰ On the other hand, investigation has focused on the stigmatized status of LGBs.³¹ Indeed, the stigma of belonging to a sexual minority goes hand in hand with internal stressors (e.g., internalized homophobia, anxiety, feelings of depression) and external stressors (e.g., experiences of discrimination, bullying). Hence, LGBs who experience a heteronormative or stigmatizing environment suffer from stigma consciousness and internalized homonegativity.³² Young homosexuals are also more susceptible to depression and suicidal ideation than young heterosexuals.

HIV/AIDS

The first AIDS case was registered in Belgium in 1982. The gay community was the first to be struck by aids, before its spread amongst heterosexuals, African migrants, and drug addicts. Nonetheless, the epidemic has not been as serious as in some other Western countries. From 1982 to December 31, 2005, 19,070 people were diagnosed HIV positive. Among men who have sex with men, an important increase in the number of contaminations has been reported for the period 1997–2005. In 2002, 23.1 percent of the HIV cases were due to homosexual contact. In 2005, this proportion had risen to 32.9 percent.³³

These recent statistics show a worrying evolution. As in most western European countries, the incidence of HIV and the number of unsafe sex contacts between gay or bisexual men are increasing.³⁴ Some even speak of a second major health crisis.³⁵ In 2005, 85 percent of the new HIV positive diagnoses were men, and 75 percent of them were probably infected through homosexual contact.³⁶ Recently, a new research project has been launched at Ghent University to map the important determinants of risky sex behavior.

Mental Health

In 1999, the results of the first large-scale quantitative and qualitative research project concerning LGBs in Flanders revealed that almost one-fifth of the roughly 1,500 surveyed LGBs had consulted a physician or psychotherapist for a problem related to their sexual orientation at least once in their lifetime. Another groundbreaking study highlighted young LGBs' vulnerable position. LGB youngsters

(from 15 to 27 years) have twice the risk of suicidal ideation, and four times the risk for suicide attempts compared to heterosexual youngsters. Young lesbian and bisexual girls seem even more fragile, as they have a six-fold increased risk of suicide attempts.³⁷ These results and others have opened the eyes of LGB associations and policy actors in Flanders.

A second large-scale quantitative project was ordered by the Flemish Minister of Equal Opportunities in 2003 to explore the impediments that LGBs encounter in their lives. It revealed that one-fifth of the 2,931 respondents feel quite powerless in solving their personal problems, and that more than one-tenth, especially young or less educated respondents, think they have so many problems that they are unable to solve them. Furthermore, twice as many LGB youngsters report severely depressive symptoms compared to heterosexual youngsters, and lesbian and bisexual women score higher than homo- and bisexual men in every age group. However, 77 percent of LGBs perceive their health as good to excellent, a result that does not differ from that of the average Flemish population.³⁸ Finally, few objective physical health measures are available. Only one Flemish study comparing homo- and bisexuals with heterosexuals indicates that being LGB more than doubles the odds of having a chronic disease.³⁹

The health situation of other minorities within the LGBT group remains unclear. Elderly LGBs, for example, are an almost completely invisible group with their own specific health needs.⁴⁰ However, the perspective of a future in which an increasing part of the population will be above 60 raises the question of LGBT-friendly health and care facilities. On the other hand, transgendered people constitute an overmedicalized population, as they have mainly been studied from a medical and pathological perspective.⁴¹ At the same time, some empowering initiatives have emerged within medical studies. For instance, the academic hospital of Ghent has had a multidisciplinary *genderteam* since 1985, which helps transsexuals to cope with the process of sex reassignment.

POLITICS AND LAW

Little is known about the legal history of homosexuality in Belgium. Following the research conducted in other European countries, the repression of homosexuality during the ancien régime likely occurred within a broader prohibition of counter-natural, nonmarital, and nonreproductive sexual acts. However, some cases have been documented. The first death and execution on the grounds of sodomy in Europe took place in Ghent in 1292. In 1654, the renowned sculptor Hieronymus Duquesnoy was garroted in the same town, also because of sodomy. In 1618, two women were charged of lesbianism in Bruges and several trials against tribadism occurred in the 18th century.⁴²

After the victories of Jemappes (1792) and Fleurus (1794), the French annexed the Belgian territories in 1795. During the French period (1795–1815) and following the 1791 *Code penal révolutionnaire*, the *Code des délits et peines of the 3ème brumaire an IV*, and the 1810 *Code imperial*, the crime of sodomy was abolished. This decision has never been challenged, neither during the Dutch period (1815–1830), nor under the Belgian State (founded in 1830). Moreover, male homosexuals have never been formally banned from the military. However, the absence of explicit criminalization does not imply the disappearance of police molestation and legal prosecution, which occurred under the charges of debauchery,

prostitution and procuring, outrage to public decency, or corruption of minors. In 1965, clause 372bis was added to the legal arsenal against homosexuality. Inspired by a French law introduced by the Vichy regime, it increased the legal age of consent for homosexual contact (18 years instead of 16) and attempted to prevent the seduction of boys by homosexual men. This was suppressed in 1985.

The suppression of clause 372bis marked the beginning of a new period in the legal history of homosexuality, characterized by the advocacy and the gaining of new rights. During the second half of the 1980s and the '90s, LGBT associations asked for the removal of legal discrimination against homosexuality, legal protection of sexual orientation, and the recognition of same-sex couples and LGB families. After more than 10 years of political and social debate, most of these requests have been turned into law.

In 1998, the first kind of legal recognition, the *Contrat de Cohabitation légale*, was offered to same-sex couples. It was not specifically designed for same-sex unions, but was accessible to every cohabiting couple regardless of the sexual orientation of its members and the nature of their ties. Hence, it could also be invoked by gay and lesbian couples. This recognizes fewer rights than marriage or civil partnership laws (it mainly concerns property law), and incorporates few obligations (excluding, among others, marital fidelity and consummation). However, it was improved in 2006.

In 2003, an antidiscrimination law, which explicitly mentions sexual orientation as a potential ground to be discriminated on, was passed by the Belgian parliament. This attempts to prevent any form of direct and indirect discrimination in the access to employment and working conditions, the provision of goods and services, and the participation in every economic, social, cultural, and political public activity. The Federal Center for Equal Opportunities and Opposition to Racism is in charge of watching over the application of the law, helping victims of discrimination, engaging legal proceedings on their behalf (like some habilitated LGBT organizations), and advising the Federal Minister of Equal Opportunities on possible improvements. The Federal Institute for the Equality of Women and Men deals with discrimination based on gender identity. In 2007, the 2003 antidiscrimination law was reformed because of a judgment of the constitutional court, and split into three different laws (one dealing with ethnicity, one with gender and transgender, and one with other grounds of discrimination, including sexual orientation).

In 2003, civil marriage was opened up to same-sex couples. Nonetheless, this law did not offer exactly the same rights as are available to different-sex couples. Gay and lesbian unions were denied filiation and adoption rights, and only Belgian or Dutch citizens could marry in Belgium. Since 2003, several legal reforms have been undertaken, and same-sex marriage is now almost identical to different-sex marriage. In 2004, the principle of residence was applied, allowing marriages between a Belgian and a foreigner, as well as the marriage of two foreigners who are Belgian residents. Since 2006, same-sex couples, regardless of their marital status, are also entitled to adopt a child jointly or to adopt their partner's child. Even though the presumption of paternity does not apply to same-sex unions, they have access to filiation law and may thus be recognized as the legal parents of their child.

In 2007, the Belgian parliament passed a law on transsexuality. This allows transsexuals to modify their first name and their picture on their identity card under the condition of hormonal therapy. To change their legal sex, a sex reassignment

operation is required. Even if this law improves transsexuals' situation, it attempts to prevent any blurring between sex and gender. It also imposes an implicit obligation of sterilization. Indeed, this law subordinates the change of one's legal sex to the incapability to reproduce in one's biological sex.

These legal reforms have been supported by socialists (Parti Socialiste [PS] and Socialistische Partij Anders [SPA]) and Greens (Ecolo and Agalev/Groen) from both sides of the country, as well as by most Flemish Liberals (Vlaamse Liberalen en Democraten [VLD]) and some Flemish and French-speaking nationalists. French-speaking Liberals (Mouvement Réformateur [MR]), who are composed of both a historic secular and freemason branch and a more recent strong Christian group, are highly divided on LGBT issues. Christian Democrats (Christen-Democratisch en Vlaams [CD&V] and Centre Démocrate Humaniste [CDH]) have historically opposed such rights. However, since 2000, a dramatic shift has occurred in Flanders, where the CD&V, the Flemish Christian Democratic Party, has become more LGBT-friendly. Most of its MPs (members of parliament) voted in favor of same-sex marriage, and some of them wanted to back the opening-up of adoption to same-sex couples. Far-right parties (the French-speaking Front National [FN] and the well-organized Flemish Vlaams Belang) firmly oppose LGBT rights. Even though they are not yet numerous, some prominent politicians are openly gay or lesbian. Among them, the most renowned is Elio Di Rupo, the current president of the French-speaking Socialist Party (PS) and a former federal minister and minister-president of Wallonia.

RELIGION AND SPIRITUALITY

Belgium is a secular state that recognizes and supports the following denominations/faiths: Catholicism, Anglicanism, Protestantism, the Orthodox Churches, Judaism, Islam, Buddhism and the organized *laïcité* (i.e., a very secularized type of religion).

Although Belgium is a widely secularized country, Catholicism remains the main religion (about 75% of the population). Indeed, most Belgians consider themselves Roman Catholic, and the country has still a wide network of Catholic institutions (e.g., education, the health care sector, etc.). However, only a minority practices its religious beliefs, and religion does not seem to play an important part in the day to day attitudes of Belgians. Confirming this trend, research in different Flemish schools shows that there is no difference in attitudes towards homosexuality between pupils in a Catholic and a non-Catholic school.⁴³

Historically, the Catholic Church has always considered homosexuality to oppose its doctrine. In Belgium, too, there has been some commotion about the declarations of some Catholic officials concerning homosexuality. Nonetheless, there seems to be a discrepancy between the more gentle attitudes of the Belgian Catholic Church, which has been comparatively silent on same-sex marriage and adoption, and those of the Vatican hierarchy. The public funding of ministers of religion is probably part of the explanation for this.

Within the Belgian Catholic Church, some homosexual groups have been active for decades, and are among the oldest gay and lesbian associations in the country. Some of the founders of the Flemish gay and lesbian movement were priests, or did not hide being influenced by their Catholic faith. Today, there still is an organized group of LGB priests called *holebipastores* in Flanders. In the French-speaking part,

a Christian gay and lesbian group, La Communauté du Christ Libérateur, was founded in 1974 by a Protestant man, and defends an ecumenical approach.

The organized *laïcité*, which originates from the historical struggles of the secular freemason bourgeoisie and the socialist movement against the Catholic Church, has historically backed LGBT claims. These were regarded as steps towards a more secular society, comparable with issues such as divorce, abortion, or euthanasia (which are all allowed in Belgium).

As in other European countries confronted with immigration by people with a Muslim belief, the question of the compatibility between the Islamic faith and LGBT rights has become a burning issue. Research on the attitudes of 16-year-old Belgian pupils has shown that homonegative attitudes (concerning equal rights for LGBs) are the most widespread amongst boys and pupils with a Muslim background. The latter feel very threatened by homosexuality, and often use religious arguments to motivate their rejection of it.⁴⁴

Combined with increasing Islamophobia, such information sustains the idea that Islam is incompatible with sexual equality, and that the Muslim minorities in western Europe threaten LGBT rights. At least until now, the climate between Muslim and sexual minorities has not polarized. On the contrary, at least in Flanders, action has been undertaken to stimulate the debate between both minorities, and to consult the Muslim community about this issue. The documentary *My Sister Zahra*, about the coming out of LGBs from an ethnic minority, was produced and disseminated successfully by Saddy Choua, someone from within the Muslim community. Other initiatives are promoted by the Flemish equal opportunities policy and executed by LGBT organizations. The Mazumgumzo project aims to make homosexuality debatable within different ethnic communities. The Wadi project is aimed to give educational training related to the specific needs of LGBs from an ethnic minority for social workers and other professionals within the health sector. At the same time, the specific psychotherapeutic needs of LGBs from ethnic minorities are being documented.

VIOLENCE

Homophobic violent acts have rarely been studied in Belgium. The annual report of the Center for Equal Opportunities and Opposition to Racism shows that 7 percent of all the complaints registered in 2006 concerned sexual orientation. Most of them (111 in total) were related to social problems (e.g., fights with neighbors), the denial of access to goods and services, representations of homosexuality in the media, and discrimination in the labor market. Seven complaints also referred to hate crimes.⁴⁵

The first research on violence against LGBs was recently published, and focuses on Brussels. A limited sample of 377 respondents (predominantly male, young, and highly educated) divulges that verbal homophobic aggression is the most commonly experienced crime act (60% of the respondents have experienced this once or several times in their lives). Furthermore, 19 percent have been threatened, 10 percent have been physically attacked, nine percent have been robbed or have had their belongings damaged, and three percent have been raped or assaulted. The offenders were often young (between 18 and 30 years), male, acted in a group (with three or more other offenders) and were unknown to the victim. Ninety percent of the victims have identified the crimes as homophobic because of the

language used by the offenders. Few victims have reported these acts to the police because of a lack of confidence in police and justice, the fear of coming out, and/or bad experiences with the police in the past. The consequences of these aggressions (physical and verbal) can be severe: many felt shocked, reported low levels of perceived personal safety, and started to avoid certain places and intimate behavior in public spaces.⁴⁶ Several initiatives have been taken to tackle this problem. A few years ago, the Ministry of Justice started to register homophobic violence, and training is provided for police officers and magistrates.

OUTLOOK FOR THE 21ST CENTURY

In recent years, Belgium has almost achieved complete legal equality for gays, lesbians, and bisexuals. However, LGBs are still discriminated against, and social equality is not yet a reality. Hence, along with an increasing interest in solidarity with LGBs worldwide, the attainment of social equality has become the main target of LGBT organizations and public authorities. This new aim implies a thorough transformation of their strategies, modes of action, and time expectations, as they are confronted with new interlocutors; changing minds requires more time than changing laws.

Diversity within LGBT groups constitutes another emerging issue, as the motto of the 2008 Belgian Lesbian and Gay Pride officially claims (Celebrate Diversity. United Minorities are the Majority). This involves paying more attention to gender, race, disability, faith, or age. It also means considering the political and social significance of sexual diversity—that is, the wide variety of sexual desires, behaviors, and fantasies—a topic that has been left aside over recent years because of the quest for civil rights. Finally, it entails giving more space to transgender issues, as they are barely visible in Belgian society and LGBT organizations' statements.

RESOURCE GUIDE

Organizations

- Arc-en-ciel Wallonie, <http://www.arcenciel-wallonie.be>.
Walloon LGBT federation.
- Fédération des Associations Gayes et Lesbiennes, <http://www.fagl.be>.
French-speaking LGBT federation.
- Holebifederatie, <http://www.holebifederatie.be>.
Flemish LGBT federation.
- Tels Quels, <http://www.telsquels.be>.
French-speaking LGBT organization.
- Wel Jong Niet Hetero, <http://www.weljongniethetero.be>.
Flemish LGBT youth federation.

Web Sites

- Center for Equal Opportunities and Opposition to Racism, <http://www.diversite.be>.
- Flemish Ministry for Equal Opportunities (*Combattre l'homophobie, pour une école ouverte à la diversité*), <http://www.enseignement.be/respel/RespelRech/jd/detailfiche.asp?id=4851>. Educational guide on homosexuality and homophobia produced by the French community of Belgium.
- Gelijke Kansen Vlaanderen, <http://www.gelijkekansen.be/>.

Institute for Equality of Women and Men, <http://www.iefh.fgov.be>.

Research

Atelier Genre(s) et Sexualité(s) (Université libre de Bruxelles), <http://www.ulb.ac.be/is/ags/>.
Fonds Suzan Daniel, <http://www.fondssuzandaniel.be/>.

Belgian LGBT archives.

Observatoire du sida et des sexualités (Facultés universitaires Saint-Louis), http://centres.fusl.ac.be/OBSERVATOIRE/document/Nouveau_site/Home.html.

Steunpunt Gelijkekansbeleid (Universiteiten Antwerpen & Hasselt), <http://www.steunpuntgelijkekansen.be/>.

NOTES

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2. Issues concerning sexual orientation and transgender people are sometimes related but also to be distinguished from one another. The literature we refer to, often only deals with LGB issues. In that case we use the LGB acronym. Also, when we are not sure if a statement applies to transgender people, we will use the LGB acronym instead of the LGBT acronym.

3. John Vincke and Peter Stevens, *Een beleidsgerichte algemene survey van Vlaamse homoseksuele mannen en vrouwen. Basisrapport* (Brussel/Gent: Ministerie van de Vlaamse Gemeenschap–Cel Gelijke Kansen/Universiteit Gent–Vakgroep Sociologie, 1999).

4. Annemie Joz Motmans and Joke Denekens, *De transgenderbeweging in Vlaanderen en Brussel in kaart gebracht: organisatietekenen, netwerken en strijdpunten* (Antwerpen: Steunpunt Gelijkekansbeleid, UA–UHasselt, 2006).

5. Bart Hellinck, *Een halve eeuw (in) beweging. Een kroniek van de Vlaamse holebibe-weging* (Gent: Federatie Werkgroepen Homoseksualiteit, 2002).

6. M. Hooghe, E. Quintelier, E. Claes, Y. Dejaeghere, and A. Harrell, *De houding van jongeren ten aanzien van holebi-rechten. Een kwantitatieve en kwalitatieve analyse* (Leuven: Center for Citizenship and Democracy, 2007).

7. Steven Lenaers, *Kansen en onkansen in Vlaanderen: Resultaten van de Survey Gelijke Kansen 2004* (Antwerpen: Steunpunt Gelijkekansbeleid UA–UHasselt, 2006).

8. See the following reports: Greet De Brauwere, *Onderzoek naar de situatie van Vlaamse holebi-leerkrachten* (Gent: Hogeschool Gent–Departement Sociaal-Pedagogisch Werk, Steunpunt Onderzoek en Dienstverlening, 2002); Koen Pelleriaux and Jeff Van Ouytsel, *De houding van Vlaamse scholieren tegenover holebiseksualiteit* (Antwerpen: Universiteit Antwerpen–Onderzoeksgroep Cultuur & Welzijn/Holebifabriek vzw, 2003).

9. Pelleriaux and Van Ouytsel, *De houding van Vlaamse scholieren tegenover holebiseksualiteit*.

10. John Vincke and Kees van Heeringen, “Confident Support and the Mental Well-being of Lesbian and Gay Young Adults: A Longitudinal Analysis,” *Journal of Community and Applied Social Psychology* 12 (2002): 181–93.

11. Fédération des Associations Gayes et Lesbiennes (FAGL)—Magenta. *Promotion de la santé concernant les jeunes d’orientation sexuelle minoritaire (homosexuelle, bisexuelle): éducation sexuelle et affective en milieu scolaire et prévention du suicide: Recherche exploratoire et état des lieux au sujet des ESA. Proposition d’un canevas de contenu de formation. Pistes de travail et recommandations, Étude commanditée par la Ministre de l’Intégration sociale de la Communauté Française, Nicole Maréchal* (Bruxelles: FAGL, 2003).

12. See <http://www.belgium.be/en/index.jsp> (accessed July 13, 2009).
13. SERV, "Holebi's en de arbeidsmarkt. Nota van de Sociaal-Economische Raad van Vlaanderen, in opdracht van de Vlaamse Minister van Tewerkstelling en Toerisme," SERV, 2005, <http://www.serv.be/Actueel/SERV-nota%20holebis%20en%20de%20arbeidsmarkt.pdf> (accessed May 26, 2008).
14. J. Vincke, A. Dewaele, W. Van den Berghe, and N. Cox, *Zzzip—een statistisch onderzoek met het oog op het verzamelen van basismateriaal over de doelgroep holebi's* (Gent: Ugent–Steunpunt Gelijkekansenbeleid [UA–Uhasselt], in opdracht van het Ministerie van de Vlaamse Gemeenschap, Gelijke Kansen in Vlaanderen, 2006).
15. A. Dewaele, N. Cox, W. Van den Berghe, and J. Vincke, *De maatschappelijke positie van holebi's en hun sociale netwerken: over vriendschap en andere bloedbanden* (Antwerpen en Hasselt: Steunpunt Gelijkekansenbeleid, 2006).
16. Inès De Biolley, Melda Aslan, Alexis Dewaele, and Marie-Jo Bonnet, *Recherche exploratoire sur les représentations de l'homosexualité dans la fonction publique*, (Louvain: Cap sciences Humaines, Asbl Associée à l'Université Catholique de Louvain, 2007).
17. John Vincke and Rudi Bleys, *Vitale Vragen 2001: eindrapport* (Antwerpen: Sensoa, 2003).
18. Based on the Flemish or Walloon sample.
19. Vladimir Martens and P. Huynen, "Connaissances et comportements des hommes qui ont des rapports sexuels avec des hommes à l'égard du VIH/SIDA en Communauté Française de Belgique," *Archives of Public Health* 64 (2006):13–26.
20. The following are considered perversions: narcissism, pedophilia, bestiality, incest, necrophilia, fetishism, sadomasochism, exhibitionism, prostitution, public sex.
21. Nicolas Thirion, "Foucault, le droit et la question gay," *Le Banquet* 19 (2004).
22. Vincke, Dewaele, Van den Berghe, and Cox, *Zzzip*.
23. Cathy Herbrand, "La parenté sociale: une réponse à la diversité familiale?" in *Familles plurielles, politique familiale sur mesure?* ed. Marie-Thérèse Casman, Caroline Simaÿs, Riet Bulckens, and Dimitri Mortelmans (Brussels: Luc Pire, 2007), 183–89.
24. Katrien Vanfraussen, "The Childrearing Process in Lesbian Families with Children Created by Means of Donor Insemination," doctoral dissertation, Vrije Universiteit Brussel, 2003.
25. Cathy Herbrand, "La parenté sociale."
26. Petra De Sutter, "Les transparentalités," in *Homoparentalités. Approches scientifiques et politiques*, ed. Anne Cadoret, Martine Gross, Caroline Mécary, and Bruno Perreau (Paris: Presses universitaires de France, 2006).
27. See the following books: Peter M. Nardi, *Gay Men's Friendships—Invincible Communities* (Chicago: University of Chicago Press, 1999); and Kate Weston, *Families We Choose: Lesbians, Gays, Kinship* (New York: Columbia University Press, 1991).
28. Dewaele, Cox, Van den Berghe, and Vincke, *De maatschappelijke positie van holebi's en hun sociale netwerken*.
29. Hellinck, *Een halve eeuw (in) beweging*.
30. See the following: J. Vincke, R. Bolton, and P. De Vleeschouwer, "The Cognitive Structure of the Domain of Safe and Unsafe Gay Sexual Behaviour in Belgium," *AIDS Care* 13, no. 1 (2001): 57–70; François Delor, *Séropositif. Trajectoires identitaires et rencontres du risque* (Paris: L'Harmattan, 1997); John Vincke and Rudi Bleys, *Vitale Vragen 2001: eindrapport* (Antwerpen: Sensoa, 2003).
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32. Dewaele, Cox, Van den Berghe, and Vincke, *De maatschappelijke positie van holebi's en hun sociale netwerken*.
33. A. Sasse and A. Defraye, *Epidémiologie du sida et de l'infection à VIH en Belgique. Situation arrêtée au 31 décembre 2005*, IPH/EPI Reports (33) (Brussels: Institut scientifique de santé publique, 2006).

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35. Rudi Bleys, *Een nieuwe 'gezondheids crisis' bij homomannen: feit of fictie?* unpublished document, 2006.
36. Sensoa, "Nieuwe hiv diagnoses in 2005, 2007," http://www.sensoa.be/pdf/HIV/HIV-diagnose_in_2005.pdf (accessed May 26, 2008).
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39. Steven Lenaers, *Kansen en onkansen in Vlaanderen: Resultaten van de Survey Gelijke Kansen 2004* (Antwerpen: Steunpunt Gelijkekansenbeleid UA–UHasselt, 2006).
40. Jozefien Godemont, Alexis Dewaele, and Jef Breda, *Geen roos zonder doornen: Oudere holebi's, hun sociale omgeving en specifieke behoeften* (Antwerpen: Steunpunt Gelijkekansenbeleid, UA-LUC, 2004).
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42. Hellinck, *Een halve eeuw (in) beweging*.
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45. Jozef De Witte, *Jaarverslag 2006* (Brussels: Centrum voor gelijkheid van kansen en voor racismebestrijding, 2007).
46. Marcia Poelman and Dirk Smits, *Agressie tegen holebi's in Brussel-Stad* (Antwerpen/Apeldoorn: Maklu, 2007).

BULGARIA

Monika Pisankanewa

OVERVIEW

Bulgaria is situated on the Balkan Peninsula of southeastern Europe. Its territory of 42,822 square miles is bordered by Romania to the north, Serbia and Macedonia to the west, Greece and Turkey to the south, and the Black Sea to the east.

Bulgaria is one of the oldest states in Europe. It was formed when migrating central Asian Turkic tribes merged with Slavic inhabitants of the Balkans in the 7th century. Historians often describe Bulgaria as a country developing on the periphery of strong empires. In the early centuries of its existence, the Bulgarian state managed to assert its place in the Balkans in spite of constant fighting with the Byzantine Empire. In the 14th century, the country was invaded by the Ottoman Empire and remained under its rule until the end of 19th century. Christianity was introduced to Bulgaria in the 8th century, and historians claim that the preservation of the Christian faith helped Bulgaria to preserve its national identity during the five centuries of Ottoman domination. Today, the largest percentage of the population is Eastern Orthodox Christian (estimated about 82.6%) followed by Muslim (12.2%), other Christian (1.2%), and other religious minorities (about 4%). The country's main ethnic groups are Bulgarians (about 83%), Turks (about 10%), and Roma (about 5%). The remaining estimated 4 percent of the population includes Macedonians, Armenians, Tatars, and other minorities.¹

At the beginning of 20th century, Bulgaria began developing as a



capitalist country, but its economic development was interrupted by the World War I and II. In both wars, Bulgaria was an ally of Germany. The lost wars caused national catastrophes, which steered the country into the sphere of Soviet influence after a socialist revolution in 1944. From September 1944 to November 1989, Bulgaria functioned as a socialist country, a close ally of the Soviet Union, and a member of the Eastern Bloc. In 1989, there was a political turnover, which led towards gradual democratization, the reintroduction of a multiparty political system, and embracing the goals of a free market economy.

The transition from socialism to capitalism was not an easy one for Bulgaria. There was a prolonged period of economic stagnation that led to hyperinflation in the winter of 1996, and the overturning of the pro-socialist government. In July 1997, the country introduced a currency board, which helped to control the inflation. The reforms after 1997 gradually led to economic stabilization, and a relatively high rate of economic growth (over 5% since 2000; 6.1% for 2006). The country joined NATO in 2004 and the European Union (EU) in January 2007. The gross domestic product (GDP) per capita was \$10,700 in 2006.² As of 2007, Bulgaria occupied the last position among the EU member states in regard to population income. Today, the main obstacles to Bulgaria's progress are corruption in the public administration, a weak judiciary, and organized crime. Low productivity of labor is often cited as the main economic reason for slow improvement of the standard of living.

Economic and political trends in Bulgaria after 1989 led to a growing gap between the new rich and the poor, as well as an increase in the number of socially marginalized people such as the elderly, the disabled, and the Roma, who were economically segregated for physical or cultural reasons.

OVERVIEW OF LGBT ISSUES

LGBT people are among the least tolerated groups according to the 2007 survey, "Attitude towards Minority Groups and Discriminative Outlook in Bulgarian Society," ordered by the national Commission for Protection from Discrimination, and conducted by Skala Research Agency.³ The survey involved 1,200 people from 100 different locations in Bulgaria. According to the report, over 50 percent of the respondents would not like to work in the same room with a homosexual person, and 78 percent would not enroll their children at a school where there is a homosexual teacher. Over 70 percent responded that they would never become friends with a homosexual person. At the same time, 53.3 percent of the respondents said that they had never had contact with a homosexual person, which indicates the high level of invisibility of the LGBT population in Bulgaria. The least tolerated group within the LGBT population is the group known as *transvestites*, the term used in Bulgaria to identify men who dress as women, regardless of sexual orientation or gender identity. Fifty-seven percent of all respondents expressed a radically negative attitude towards this group; 53.8 percent of the respondents expressed a total lack of tolerance toward gay men, while 52.8 percent expressed lack of tolerance toward lesbians.

LGBT people in Bulgaria have no restrictions on organizing movements, holding demonstrations, or establishing formal or informal organizations. The first nonprofit nongovernmental organization that openly identified as a "gay rights organization" in its by-laws and founding documents was Bulgarian Gay Organization Gemini

(BGO Gemini), legally registered in 1992. In the past few years, several other organizations that self-identify as LGBT support organizations have been formed: the Queer Bulgaria Foundation, Bilitis Lesbian and Bi-Women Resource Center, and Gay Sports Club Tangra in 2004, and LGBT Idea in 2006. There are also several informal hobby-based clubs for gay men. Most of these organizations and informal groups operate in Sofia, although some of them actively liaise with people from outside the capital.

LGBT issues entered public discourse and the mass media in the second half of the 1990s, when the first generation of gay and lesbian activists came of age. The majority of the activists were people with higher education who had lived or studied in the West, and maintained close contacts with activists from the western European LGBT movement (including the Dutch organization Cultuur en Ontspannings-Centrum [Centre for Culture and Leisure, COC] and the International Lesbian and Gay Association [ILGA]-Europe). They tried to promote LGBT rights in a country in which the double standard between public and private life was widely accepted from the time of socialism. The first media appearances of gay and lesbian activists took place in 1997–1998. They were associated with the work of the first gay organization in the country, BGO Gemini. In the first five years of its existence, this dealt mainly with safe sex among gay men. Towards the end of the 1990s, BGO Gemini developed a wider human rights agenda under the guidance of the Dutch peer organization, the COC.

EDUCATION

Bulgarian school curricula are centrally approved by the Ministry of Education. Primary and secondary education at public schools is fully subsidized by the state. Private schools exist only in the largest urban centers. They have greater freedom in introducing elective subjects and after-school activities, but first of all they need to cover all subjects in the compulsory curricula approved by the Ministry of Education. LGBT people and concerns are not discussed within the compulsory curriculum. Nongovernmental organization (NGO)-piloted programs, mainly those related to sexual health, sometimes touch upon the topic of sexual identities. The problem of such programs is that they last as long as the external funding lasts, and usually do not lead to significant changes in the content of the obligatory subjects.

A recent study conducted by BGO Gemini hints at the basis for homo-, bi-, and transphobia in the Bulgarian schools. It turns out that the diversity of sexual identities is not discussed within the compulsory secondary curriculum. LGBT people and concerns are not mentioned in several subjects dealing directly or indirectly with human sexuality, including psychology, ethics, world and personality, and philosophy. Homosexuality and bisexuality are also never mentioned when students learn about great historical personalities who were known to have same-sex relationships. BGO Gemini evaluated textbooks for 9th to 12th grade students in the subjects of literature, history, ethics, philosophy, world and personality, psychology, and logic. None of these textbooks discuss LGBT people or concerns. The specific chapter “Me and My Sexuality” in the psychology textbook for 9th grade students does not refer to LGBT identities at all; it discusses only heterosexuality. The textbook for the subject world and personality for 12th grade students briefly mentions homosexuality in one of its chapters, providing a neutral comment to the

effect that some people develop love relationships with same-sex partners. When differences in society are discussed within any of these subjects, the only differences mentioned are religious and ethnic differences.⁴

Research on discrimination against LGBT students in secondary schools is currently being carried out by BGO Gemini within the scope of the above-mentioned project, but the final report is not yet available. Preliminary findings indicate that students have no one to talk to at school about their sexual orientation. Students do not trust the school psychologists and do not want to reveal their sexual orientation to them. LGBT youth is largely invisible at school except for transvestites, who are often ridiculed by their classmates.

Psychology is a compulsory subject in secondary education, but the curriculum does not include discussion of LGBT people or their concerns. The curricula for psychology courses at universities, on the other hand, include a number of essentialist and constructivist theories of homosexuality, bisexuality, and transsexuality.

Reliable data about the treatment of LGBT students at schools in Bulgaria has not yet been collected. An indication of the lack of special support is the absence of LGBT support groups or LGBT centers at Bulgarian schools.

EMPLOYMENT AND ECONOMICS

Macroeconomic stability and growth have characterized the Bulgarian economy since 1997, when the currency board was introduced. The Bulgarian lev is currently fixed to the euro. The GDP (purchasing power parity) was estimated at \$79.05 billion in 2006.⁵ Raising the productivity of labor, the main reason for low income levels, is still considered a challenge. The public sector is relatively large in size and scope compared to the best performers among the EU member states. The regulatory environment for the economy is often characterized by analysts as one that relies too much on controls rather than on incentives.

The main law that protects the rights of LGBT people at the workplace is the antidiscrimination law of 2004, which bans discrimination at work on the basis of gender and sexual orientation (among other grounds). The law obliges employers to follow the principles of equal opportunity employment and to have written policies for a tolerant workplace, but no state monitoring of the implementation of this regulation has taken place so far.

In 2006, BGO Gemini implemented a project funded by the Democracy Commission of the U.S. Embassy in Sofia that analyzed employment practices with regards to tolerance in the workplace. Thirty companies and five nonprofit organizations from around the country participated in the project; fifteen of them agreed to be mentioned in the final report. This project had a twofold effect: it helped interested employers to create a tolerant workplace, and it gathered statistics on the current level of intolerance towards LGBT in the job market. The findings demonstrated that, up to this point, the antidiscrimination law has not exercised a considerable influence on employment practices. A survey of 951 employers and employees from around the country indicated that 79 percent of the homosexual employees are hiding their sexual orientation in the workplace. Sixty-seven percent of the homosexual respondents shared that they have occasionally felt subjected to psychological harassment at the workplace, and 34 percent of them have felt systematically harassed. Twenty-nine percent of the interviewed employers said that they would never employ an openly gay person, or one who is suspected by them

to be gay.⁶ One explanation for the lack of effect of the antidiscrimination law on employment practices could be sought in the low fines that employers have to pay if they are convicted of discrimination—the maximum amount of the fine is 2,000 lev (1,022 euros, or US\$1,430).

SOCIAL/GOVERNMENT PROGRAMS

There are a few well-known sexologists with private practices based in Sofia who offer support to LGBT clients. Reparative therapy for LGBT people is not practiced in Bulgaria.

FAMILY

There was a visible backlash of conservatism in Bulgaria after the arrival of democracy in 1990. Socialism could not destroy the traditional patriarchal values within the family, although it promoted equality between men and women. The woman of the socialist family was often overburdened with the roles and responsibilities of worker, mother, and housewife. The procreative nuclear family became a norm during socialism, and remaining single or living as a married couple without children was considered immoral or highly undesirable. Most LGBT people survived this period through marriages of convenience and leading a double life.

After 1990, increased hostility towards minorities, resulting from the growing poverty and insecurity, led to the reemergence and official promotion of conservative values. The double standard between public and private life maintained during socialism remained the main way of hiding personal preferences regarding love and the family. Although the number of unmarried couples and single parents raising children is growing, the nuclear family continues to be the norm.

Today, LGBT people are freer to choose a life with their partner, and are not forced into heterosexual marriages of convenience as frequently as in the socialist past. Nevertheless, most of them prefer to keep their private life a secret. The few visible nonheterosexual couples are pop stars and some leaders of LGBT groups. Sometimes, pop icons who are open about their homosexuality deliver messages to the general public that reinforce stereotypes about gay men. For example, the pop-folk singer Azis, one of the brightest stars of Bulgarian popular music in the early 2000s, appeared on a widely watched TV talk show and disclosed that he is “a woman inside,” and his partner is heterosexual. This reinforces the popular stereotype that the gay couple mimics the heterosexual couple and one of the partners plays the role of the husband, and the other one the role of the wife. The one who plays the role of the husband is not perceived to be 100 percent gay. This also reinforces the stereotype that gayness in a man implies femininity.

The availability of private clinics for artificial insemination in the last few years has allowed lesbian women who can afford to pay to get pregnant and give birth. Lesbian couples raising their children together were not a rarity in the recent past, but their children were usually conceived during previous heterosexual marriages. Today, lesbians have more freedom to choose whether to conceive through vaginal intercourse or in an artificial insemination clinic. There is still family pressure on women to have a heterosexual marriage, especially in provincial areas. Lesbians who wish to lead lives without men need to migrate away from their relatives, preferably to one of the largest urban centers, where they will be able to live anonymously

with their partners. To a large extent, this holds true for young gay men as well. Most gay men in Bulgaria feel much more comfortable sharing their sexual orientation with anyone other than their parents.

Gay couples involving at least one partner over 35 years old are now looking for informal partnerships with single women or with lesbian couples in order to raise children together, as adopting children is more difficult for single men than for single women as a rule. Although the adoption law does not enumerate restrictions on the gender of the parent, single men in Bulgaria have never successfully adopted children according to the official statistics. The reasons for that are purely moral and not legal. The members of the committees that approve adoption tend to share the patriarchal view that men are worse caregivers than women, and do not believe that a man is able to raise a child on his own. At the same time, there have not been many cases of single men applying to adopt children recorded, which means that the unwritten rules of adoption have largely been left unchallenged.

Second-parent adoption is not yet possible for children raised by lesbian or gay couples, because of the absence of state-recognized domestic partnership and gay marriage laws.

COMMUNITY

The only organized LGBT communities in Bulgaria are the hobby-based groups such as gay sports clubs. Internet-based communities are quite active, but they function mainly as an informal dating service. Leading activists from the existing LGBT rights organizations confess that there is very low interest in any form of political action among LGBT Bulgarians. Equality marches in the capital organized in the years 2005–2007 by BGO Gemini on May 17 (the International Day against Homophobia) have never had more than 20 people in attendance. These were usually the leading activists and the staff of the existing LGBT organizations coming together for the march. Police protection was provided, and there were no hostilities. Most of the people walking by either did not notice, or did not pay much attention to the march.

The first Gay Pride Parade was organized in 2008 by the Bulgarian Gay Organization Gemini and attracted 65 participants and many hate groups. The police arrested 60 people who tried to attack the pride rally. The event received strong media coverage and inspired heated debates about the need for a “public display of homosexuality.” Despite the strong opposition to the first gay pride event in 2008, a group of activists came together to organize the second pride parade in 2009. This time the event attracted over 350 people and there were no attacks due to very well-organized security measures. The street parade was protected by over 100 police officers and 70 private security guards. The gay pride event in 2009 marks a new enhanced level of self-organizing of the LGBT communities in Bulgaria. Activists of BGO Gemini and the Bilitis Resource Center for Lesbians and Bisexual Women came together with other active people who were not related to any LGBT organizations. For the first time community interests were well conceptualized and interorganizational tensions were overcome in the name of a common cause. The support from international embassies, including the Dutch, United Kingdom, French, and American, as well as from ILGA-Europe and the Intergroup on LGBT Rights at the European Parliament, helped to increase the political importance of the event. The increased number of participants in 2009 compared to the previous

year can be contributed to the better organization and popularization of the event, as well as to its greater commercialization. For the first time the Pride Parade was transformed from a purely political march to an open-air festivity celebrating the visibility and equal rights of LGBT people in Bulgaria.

LGBT night life is quite vigorous in the large urban centers, especially Sofia and Varna, but it is hard to define it as a community life. People go to clubs for pleasure, and are usually not interested in taking part in organized activities with a political purpose. In the last few years, there has been a visible trend of gay night clubs becoming more and more mixed, welcoming all kinds of chic personalities, including heterosexual clients. The same could not be said for the lesbian night clubs. Lesbian clubs demonstrate restrictive entry rules, and are not so open to newcomers unless the latter are introduced by a regular client.

Bisexual people do not form an easily identifiable group. They can travel in gay/lesbian and in straight circles. It is commonly believed that bisexuals are still experimenting with their sexuality, and will sooner or later assume a gay or straight identity. As of 2007, no special programs have been developed by the Bulgarian LGBT organizations oriented exclusively toward bisexuals, and neither have Bulgarian bisexuals organized themselves into an independent organization.

The most visible group among LGBT people is the group of male transvestites. The distinction between a cross-dresser, drag queen, and transgendered person is not usually made in Bulgaria, and all of them are referred to with the common term *transvestite*. Transvestites are the preferred entertainers at night clubs. Some of them are quite famous as pop divas, singers and dancers, or evening talk show hosts. Another visible group of transvestites exists among the street prostitutes in Sofia. They are active at night in one specific downtown area, and sometimes trouble the residents with their behavior.

At the moment, there is no community center operating during the day except for the office of BGO Gemini in Sofia. The staff was hired and equipped using the first large grant provided by the Dutch government program MATRA in 2001.⁷ Initially, BGO Gemini was meant to be a safe house for LGBT people, providing space for discussions, movie screenings, and readings. The number of people using this safe house, however, has gradually decreased over the last few years as BGO Gemini transformed from a community-based organization into a professional advocacy group. Today, there are rarely any people aside from professional staff and the board of BGO Gemini visiting this office. The irony of greater professionalization of community-based organizations is that they often lose the intimate contact with the community that created them. BGO Gemini has not escaped this fate. Today, it is the most visible LGBT rights advocacy organization in Bulgaria, with the greatest number of externally funded projects per year, but the number of people within the LGBT groups who actively and visibly support what Gemini is doing is small. The activities of the organization rely primarily on the involvement of the paid staff and occasional volunteers recruited primarily among university students who need to complete an internship at an NGO. At the same time, the nature of projects implemented by the organization has changed over time from ones that are predominantly oriented towards the LGBT people to others that address the society at large and aim to decrease homo-, bi-, and transphobia.

The support organization Bilitis for lesbian and bi women emerged in 2004. It operates on a small scale, predominantly in Sofia. Its work includes the organizing of lesbian leadership camps, lesbian amateur sports, and lesbian and bisexual

women's support groups. Occasionally, it supports events that benefit the larger LGBT community, such as the annual gay and lesbian cultural fest organized by the Sofia-based Center for Culture and Debate, the Red House. This was launched for the first time in 2005, and was once again staged in 2006, but with a decreasing audience. In 2007, it was reduced to the screening of a few LGBT-movies over two successive evenings.

Two other LGBT groups were started by former leaders of BGO Gemini after they had left the organization. The Queer Bulgaria Foundation, legally registered in 2004, started as an alternative to BGO Gemini, which many LGBT people criticized for being ineffective in addressing their concerns. However, the organization did not manage to become sustainable. It gradually decreased its activity and closed its office at the end of 2007 after implementing a few donor-driven projects.

LGBT Idea was legally registered in 2006. It operates a virtual cultural center, an online LGBT radio and maintains a detailed online bibliography of all existing publications in the Bulgarian language (articles and books) discussing LGBT people and concerns.

The reasons why LGBT people do not actively respond to the politically oriented initiatives proposed by formal LGBT organizations have often been debated in the circles of activists. The explanation is sought in the overall characteristics of Bulgarian civil society, which is described by social analysts as "a civil society without citizens."⁸ Low civic participation in important political processes is a common trend in countries with weak democracies. Civic action is not a major determinant of change in Bulgaria. Advocacy and consultative processes are carried out formally, with the help of small professional groups of experts (usually closely related to the government), and not in broad consultation with the citizens. LGBT Bulgarians are no more or less politically active than the average Bulgarian citizen. This lack of tradition of a mass-scale organized LGBT movement for equal rights seems impossible to comprehend at this stage of political development in the country.

HEALTH

Universal health care in Bulgaria exists only on paper today. The health care reform carried out after 1990 resulted in the deterioration of medical care for the vast majority of the population, especially for low-income groups.

The first empirical survey concerning the health status of LGBT people in Bulgaria was conducted by Queer Bulgaria in 2005, under the project called Improving Access to Health Care of LGBT People in Bulgaria, funded by the Open Society Institute New York.⁹ The survey included 280 people who identify as lesbian, gay, bisexual, or transgender from six major Bulgarian cities. The survey was based on in-depth structured interviews, which included not only questions regarding the health status of the people, but also general questions related to their self-identification, acceptance of their sexual identity from parents, colleagues, and friends, and their attitude to gay partnership. A limitation of the survey was that it reached out mainly to people between 19 and 40 years old with secondary or higher education, most of whom were employed. The study did not include the most socially disadvantaged groups. The survey also did not reach out to LGBT people living in small towns or villages. Out of the 280 people who were interviewed, 216 identified as men (gay or bisexual/MSM [men who have sex with men]), 57 as women (lesbian or bisexual) and 7 as transgender (gay, lesbian, or bisexual).

The survey indicated that there are no significant differences between the data gathered from LGBT people and that of heterosexuals in regard to physical activity, smoking, drinking, and general health care. The only difference was in the amount of drug use: the percentage of LGBT people using drugs turned out to be higher than the national average for people within the same age group, although most of the LGBT respondents indicated that their drug usage was a one-time trial usage.

Seventy-six percent of the interviewed women and 44 percent of the interviewed men in the Queer Bulgaria survey of LGBT health status indicated that they have a permanent sexual partner, while 20 percent of the women and 10 percent of the men shared that they have more than one permanent sexual partner. At the same time, 56 percent of the women and 76 percent of the men shared that they have casual sexual encounters. Only 5 percent of the women and 15 percent of the interviewed men disclosed that they have had or currently have a sexually transmitted disease (STD). Forty-six percent of the men and 22 percent of the women have always used STD protection such as condoms or medical gloves during all sexual intercourse, while 15 percent of the men and 2 percent of the women have used protection only with casual partners. For women, these percentages are similar to the national average for using protection during sexual intercourse, while for men—they are higher. None of those surveyed revealed that they are HIV positive.

The survey indicated that the majority of LGBT people are likely to avoid going to the doctor if they fear that they must disclose their sexual orientation. Only 11 percent of the women and 21 percent of the men believed that the medical workers have adequate understanding of the needs of LGBT patients.

Among all other sexual minorities, the needs of intersexual people are most overlooked. The dominant medical paradigm is still one that tries to convert the intersexual person into a man or a woman. The most common form of intersexuality, the androgen insensitivity syndrome among men, is treated by sex change operations, in which the doctors extract the gonads, which are usually hidden in the body, and modify the genitals to take the shape of female genitals. The patient is not given a choice of gender. No representative research of the situation of intersexual persons in Bulgaria has been carried out so far. Single cases can be detected on the Internet, when someone publishes a notice that he or she is looking for contacts with others like him or her.

Sex change operations and gender change at will are implemented in Bulgaria after a court decision to change the individual's personal identification, which is grounded on a supportive statement issued by a commission of psychiatrists and sexologists.

In Bulgaria, AIDS has never been considered a problem initiated by the gay minority. Official statistics of the Ministry of Health since 1986 consistently show that only a small percent of the total number of HIV-infected people in the country have had same-sex contacts.

According to information collected by the Joint United Nations Programme on HIV/AIDS (UNAIDS)-Bulgaria,¹⁰ 803 people infected with HIV lived in the country between 1986 and 2007. These people are officially registered as HIV positive with the Ministry of Health. A leading method of transmission of HIV infection in Bulgaria is sexual intercourse (83%), followed by intravenous use of drugs (13%), and blood transfusion (3%). About 1 percent of HIV-positive people in Bulgaria are born with the disease. The majority of HIV-positive people acquire the disease through heterosexual intercourse, but in the last two years the number

of infected men who had acquired HIV through same-sex contact has increased. The number of HIV-positive intravenous drug users has increased tremendously over the last two years as well. The last cases of infection through blood transfusion were detected in 1996. Most of the HIV-positive people live in the four largest Bulgarian cities: Sofia, Varna, Plovdiv, and Burgas. The total number of infected men is 3.5 times greater than the number of infected women.

A national-level HIV/AIDS prevention program has been implemented by the Ministry of Health, funded by the Global Fund for AIDS, and contracted out to NGOs from around the country. The target groups of the program are intravenous drug users, prostitutes, the Roma community, and youth of all backgrounds. Preventive measures for different target groups have been developed. Safe sex programs targeting young people focus on condom usage, and are implemented by youth organizations from around the country. Special safe sex programs for the LGBT groups have been implemented by BGO Gemini in the late 1990s, and in 2007 by the Queer Bulgaria Foundation. A recent project implemented by the Queer Bulgaria Foundation involved AIDS testing by a mobile medical unit at Sofia-based night clubs frequented by relatively affluent gay men. The main criticism of the safe sex and AIDS prevention programs implemented by LGBT organizations is that they do not usually reach out to the people who are really in need of safe sex education, free condoms, or free AIDS testing, such as Roma prostitutes and other low-income people. On the other hand, a number of non-LGBT organizations carry out safe sex and AIDS prevention programs in Roma communities, communities of intravenous drug users, and among young prostitutes. In theory, these programs should reach out to the LGBT members of those groups as well.

POLITICS AND LAW

The overall democratization of the Bulgarian legal and political system after 1990 led to increased freedom of speech and association. Today the Bulgarian laws are compliant with the universal standards for human rights and EU directives.

Until 2002, there was a discriminatory article in the Bulgarian penal code (article 157, paragraph 4) that envisioned sanctions and public censure for people displaying their homosexuality in public or in a scandalous way. Although that was a dead provision that had not been used for starting legal actions in the last few years, the mere existence of such an article in the penal code signaled a discriminatory treatment of homosexuality by the judiciary. The revision of the penal code conducted under the pressure from the European Commission as part of the EU-accession process of Bulgaria led to the abolition of this article.

Two years later, in January 2004, Bulgaria adopted a new antidiscrimination law, which is considered to be one of the best in Europe. Sexual orientation is mentioned among other grounds on which discrimination is prohibited, including race, sex, religion, disability, and age. The law bans discrimination on the grounds of sexual orientation in the fields of employment, health care, and education, recruitment to the military, housing, accommodation, and a range of services available to the public. It also provides protection against harassment and victimization. *Sexual orientation* is explicitly defined in the text of this law as heterosexual, bisexual, or homosexual orientation.

The antidiscrimination law consolidated into one legal text protection against discrimination, victimization, and harassment, which until then was scattered and

ineffective. In 2006, the Antidiscrimination Commission was formed as an independent public body guaranteeing maximum enforceability of the new law. This commission is reviewing complaints separately from the courts. It consists of experienced individuals dedicated to human rights.

Since January 2004, four legal cases have been initiated by individuals who have experienced discrimination on the grounds of sexual orientation. All of the cases were won by the claimants. One of the cases became emblematic for the effectiveness of the new law, because it attacked a case of discrimination on the grounds of sexual orientation in Sofia University Saint Kliment Ohridsky, one of the most respected public institutions in the country. The case was started by several gay men, supported by the Queer Bulgaria Foundation, who had been banned from using the university's sauna on the grounds that they were gay. The court compelled Sofia University to pay a fine to the gay claimants and to allow them to use the sauna on equal grounds with all other clients. The case was widely covered in the mass media.

In 2007, some changes to the penal code led to its complete modernization and the abandonment of language that was discriminatory to homosexuals. Texts that envisioned different penalties for the same crimes if committed by heterosexual and homosexual people were abolished (article 157). Sex crimes were no longer differentiated on the basis of the sexual orientation of the perpetrator. A definition of pedophilia was introduced, preventing the comparison of pedophilia with homosexuality. The only recommendation that could be made to the Bulgarian penal code at this stage would be to introduce a general definition of hate crimes instead of listing a few types of hate crimes.

There is still no registered domestic partnership or gay marriage law in Bulgaria. The Bulgarian family code has not been significantly revised since 1985. In 2007, a draft law for registered domestic partnership for only heterosexual couples was submitted, but it did not reach the voting stage in parliament. The introduction of a same sex partnership law will be possible either after a revision of the constitution, which states that marriage is a union between a man and a woman, or after a revision of the family code, which might be modernized to introduce partnership as a new legal form of union between two people (without referring to their gender). Promoters of revision of the family code insist that the gender of the partners should not be mentioned in an amendment referring to registered partnership. Thus, the interests of both heterosexual and homosexual couples will be met.

RELIGION AND SPIRITUALITY

The dominant Orthodox Church displays a lack of acceptance of homosexuality whenever it is called upon to comment on this topic in the mass media. Members of parliament have made use of religious arguments in a recent discussion of proposed changes in the family code that envisioned the introduction of registered partnership law, though only for heterosexual couples. The action of LGBT activists to promote the inclusion of homosexual couples in the new partnership law was confronted by an appeal to traditional Christian values, and not by purely secular judicial arguments. This, however, does not mean that religion plays a major role in forming social attitudes toward LGBT people. Rather, it is an example of the populist use of religious notions by politicians in a secular context to stay on the safe side when discussing a potentially controversial subject.

Some organizations with religious affiliations, such as the online bookstore and publishing house for Christian literature, Memra, recently began to tackle the topic of sexual orientation. As a result of their work, Bulgaria saw the first book on reparative therapy translated from English, *A Parent's Guide to Preventing Homosexuality*, authored by Joseph Nicolosi. Prompted by LGBT activists, the Association of Bulgarian Psychologists provided a critical view of the book and demonstrated that reparative therapy does not have supporters among the leading Bulgarian psychologists.

VIOLENCE

Military

Since January 2007, Bulgaria has had a professional army. Prior to this date, military service was obligatory for men over 18 years old. Before the introduction of the antidiscrimination law in 2004, the Bulgarian military openly discriminated against gay men by treating homosexuality as a psychological disorder. The military recruiting commissions used to ask the sexual orientation of the young men, and those who confessed that they were gay were considered ineligible for military service. In practice, many gay men took advantage of this fact to avoid compulsory military service, because it was widely known that the army could not guarantee protection for gay soldiers. However, a confession was sometimes not enough. The person was asked to prove that he was gay, and usually sent for a series of psychological tests. Eyewitnesses report that the appearance of the person was usually the decisive factor in determining whether he was telling the truth about his sexual orientation in front of the military commission. Many straight-looking gay men have passed their military service without any complications, while non-straight-looking men have had problems in the army regardless of their sexual orientation.

A letter from BGO Gemini certifying that the man is a member of the organization and self-identifies as gay could also serve as a tool for releasing someone from the army by the military doctors. Although BGO Gemini is against the medicalization of homosexuality, it used to provide this form of support to young gay men who wanted to avoid entering the army due to fear of harassment.

OUTLOOK FOR THE 21ST CENTURY

The legal situation of LGBT people in Bulgaria is expected to gradually improve in line with European Union directives. Registered domestic partnership law and same-sex marriage law may come to pass in the 2010s. At the same time, the social attitude towards gay people will not be expected to change for the better in conjunction with the new laws. Recent surveys show a very high level of intolerance among heterosexual Bulgarians towards LGBT groups. The relatively rare reports of LGBT-related violence can be explained by incomplete statistics on hate crimes, and by the low visibility of the groups in question. If the visibility of the average gay, lesbian, bisexual, and transsexual person increases in public places beyond the night clubs and the pop-star environment, violence against such people may also rise, as it has in countries with stronger LGBT movements.

“I have nothing against gay people as long as they do not demonstrate their gayness in front of everybody” is a common saying in Bulgaria these days, which

describes the most widespread attitude. Based on this, it could be expected that the LGBT population will remain invisible during the next few years, with occasional appearances of LGBT personalities, mainly in the spheres of art and pop culture.

RESOURCE GUIDE

Organizations/Web Sites

BG-Lesbian, <http://www.bg-lesbian.com>.

The only lesbian community Web site in Bulgaria, launched in 2002 by Patricia Vassileva-Elia. Provides enlightening and entertaining reading, forums, personal profiles, and so on.

Bilitis Lesbian and Bi-Women Resource Center, <http://www.bg-lesbian.com/bilitis>.

Legally registered in 2004, Bilitis organizes lesbian leadership camps, self-support groups, and some cultural events aimed to improve the visibility of lesbians and bisexual women in society.

Bulgarian Gay Organization Gemini, <http://www.bgogemini.org>.

The leading Bulgarian advocacy organization for LGBT rights.

Gay.Bg, <http://www.gay.bg>.

The most frequently visited commercial gay site in Bulgaria.

LGBT Idea, <http://www.lgbt-idea.org>.

The most recently formed LGBT support organization in Bulgaria, currently operating an online radio station and a virtual cultural center.

Q Files, <http://www.qfiles.net/bg/browse.php>.

The LGBT Idea Association's comprehensive bibliography of articles and books published in the Bulgarian language that discuss LGBT issues. The bibliography contains both articles by Bulgarian authors and that have been translated into Bulgarian.

Sports Group Tangra, <http://www.tangra-bulgaria.org>.

The best known gay sports group in Bulgaria, most active in organizing sports events and liaising with international LGBT sports organizations.

NOTES

1. CIA, "Bulgaria," *World Factbook*, <https://www.cia.gov/library/publications/the-world-factbook/geos/bu.html>.

2. Ibid.

3. Commission for Protection from Discrimination. As printed before its official publication at the Web site of the Commission. State Commission for Protection from Discrimination. Unpublished report used by permission, <http://kzd-nondiscrimination.com/>.

4. Aksinia Gencheva (director of BGO Gemini), interview conducted by BGO Gemini, November 21, 2007.

5. CIA, "Bulgaria."

6. Gencheva, interview.

7. The Ministry of Foreign Affairs of the Netherlands promotes the strengthening of civil society in Central and Eastern Europe. The name of the MATRA Programme derives from the Dutch for social transformation, "maatschappelijke transformatie." Projects are designed to help strengthen institutions and build the capacity of central government, local authorities, and, above all, civil society organizations. Programs also seek to improve interaction between national and local government and civil society, and to encourage consensus on measures to strengthen democracy and the rule of law. MATRA is based on the philosophy of institution-building by developing and strengthening twinning networks between the Netherlands and the MATRA target countries and encourages "matchmaking"

between Dutch organizations and like-minded “agents of transformation.” Dutch Ministry of Foreign Affairs, <http://www.minbuza.nl/en/europeancooperation/subsidies/The-Matra-Programme.html>.

8. Balkan Assist Association for Partnership and Citizen Activity Support, “Civil Society without the Citizens: An Assessment of the Bulgarian Civil Society 2003–2005,” report, [http://www.balkanassist.bg/Attachments/Doc_47/Civil%20Society%20Index%20report%20-%20part%201%20\(en\).pdf](http://www.balkanassist.bg/Attachments/Doc_47/Civil%20Society%20Index%20report%20-%20part%201%20(en).pdf) (accessed December 14, 2007).

9. Project Report, Queer Bulgaria Foundation, <http://www.q-net.or.at/img//004ae86ae45d6cd8.pdf> (accessed September 9, 2009).

10. UNAIDS-Bulgaria, <http://www.unaids-bulgaria.org/index.php?magic=1.40.0.0> (accessed December 14, 2007).

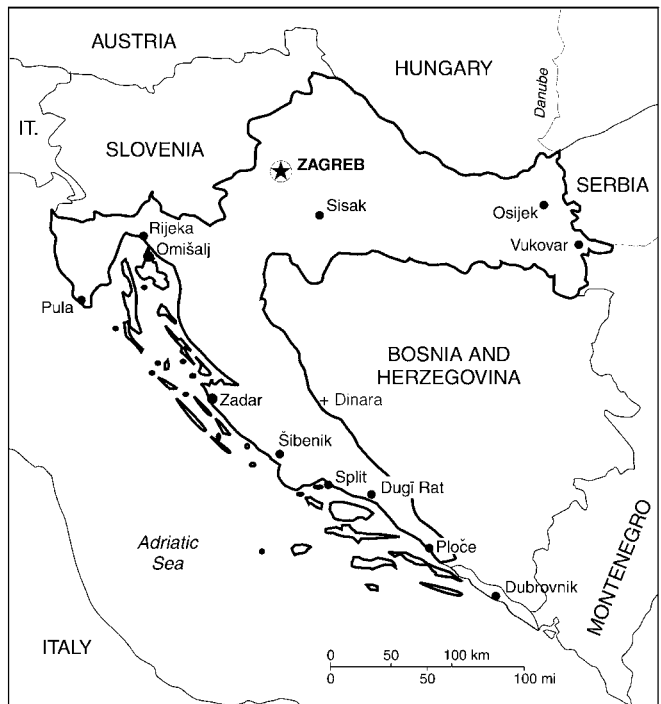
CROATIA

Sanja Juras and Kristijan Grđan

OVERVIEW

The Republic of Croatia is located in eastern Europe. It is bordered by the Adriatic Sea to the west, Slovenia and Hungary in the north, Serbia to the east, and Bosnia and Herzegovina to the south. The mainland covers 21,851 square miles, and the surface area of its territorial waters totals 11,995 square miles. According to national statistical data there are 4,437,460 inhabitants in the Republic of Croatia.¹ In the Republic of Croatia, 88 percent of citizens belong to Catholic religion. The Muslim religion is represented at 1.27 percent, and Greek-Catholic at 0.9 percent.² The national revenues for 2006 amounted in US\$17,972,425,660.³ According to Ministry of Defence data, the armed forces are composed of 32,886 regular soldiers and 32,360 reservists.

The first appearance of colonists at the geographical territory of Croatia dates from the 7th century. Under the Byzantine Empire, the colonists served in forces against the Avars; that in the first decades of the 7th century, Croats united to combat the Avars has been established. The first known Croatian duke was Duke Višeslav at the beginning of the 9th century. Croatia was divided into two parts—Pannonia and coastal Croatia. At the beginning of the 10th century, the Croatian Empire was established by Duke Tomislav of the Trpimirović Dynasty. Duke Tomislav unified Pannonia and coastal Croatia. In the year 925, Duke Tomislav became the first king of the Croatian Empire and was confirmed by Pope Ivan X. The history of the Croatian Empire involved a number of conflicts, leading to the



separation of the Dalmatian parts of the territory. In the 10th century, the feudal regime was established. At the end of the 11th century, the Hungarian king Koloman conquered the Croatian Empire and, at the beginning of the 12th century, he made an agreement with 12 elders of the Croatian tribes, who confirmed him as a king of Croatia and Dalmatia. Although Croatia lost its independence and became part of the Hungarian Empire, it still maintained some of its attributes. Croatian remained part of the Hungarian Empire until the 18th century.

From the beginning of the 19th to the beginning of the 20th century, Croatia attempted to establish its independence; however, after 1848, it joined the Habsburg Monarchy. Just before the end of World War I in 1918, the Croatian parliament ended its relationship with the Habsburg Monarchy. The National Council of the State decided to join Serbia and Montenegro. Therefore, the Kingdom of Serbs, Croats, and Slovenians was established. In 1929, King Aleksandar proclaimed a dictatorship and established the Kingdom of Yugoslavia. King Aleksandar died in 1934, and Croatia was granted some autonomy in 1939.

After obtaining support from Germany, Italy, and Japan, the Croatian Party of Radical Rightists took power and established the Independent Republic of Croatia in 1941, led by Ante Pavelić. His regime implemented the Nuremberg Laws, established eight concentration camps, and started a campaign to eliminate Serbs, Jews, and Roma.

After the end of World War I, Croatia joined the Federal Republic of Yugoslavia in 1945, led by Josip Broz Tito, who had established the Communist Yugoslav party in 1941. After Tito died in 1980, political, ethnic, and economic problems appeared.

In 1990, Croatia's first democratic elections were held and the Croatian Democrat Party, led by its president Franjo Tuđman, took power. The first session of the Croatian parliament was held on May 30, 1990, when the Croatian constitution passed. In 1991, after Croatia declared independence from Yugoslavia, the Great Serbian Forces (extremists that were located in Croatia), Yugoslavian National Army, Serbia, and Montenegro formed an alliance to wage war against Croatia.

Some parts of Croatia were occupied by the Yugoslavian National Army, and had to be reintegrated under Croatian authority by military force. The conflicts in the territory of the Republic of Croatia had tremendous impact on the Croatian, Serbian, and Bosnian peoples. As the war progressed, numerous Croatian cities, including Dubrovnik, Zagreb, Karlovac, and Vukovar were bombarded by Serbian military forces. Some sources show that about 550,000 Croats were internally displaced, 150,000 became refugees, 13,233 persons were killed, and 1,149 persons are still missing.

Ethnic cleansing had taken place on both sides. Genocide and other crimes against humanity marked recent Croatian history and influenced political disturbances in regard to the Croatian position in the war. While some considered war to be necessary for Croatian independence and believe that Croatia committed no crimes against humanity, others think that Croatia did commit war crimes and that they should be properly redressed. Such a political situation brought Croatia into conflict with international standards and procedures while considering full collaboration with the International Criminal Tribunal for Yugoslavia. This all had an impact on the international position of the Republic of Croatia, especially in relation to the European Union (EU).

Although Croatia seemed to be developing into a modern democracy, its first president, Franjo Tuđman, ruled by authority. He was head of the Croatian

Democratic Party and had very conservative attitudes. His government promoted Catholic fundamentalism, which made Croatia one of the countries with the strongest international contracts with the Holy See. After President Tuđman died in 1999, parliamentary elections brought in a more leftist-to-centre oriented government in 2001; at that point Croatia started actual democratic reform. This strongly influenced freedom of the press and the separation of the media from governing structures.

In its recent history, Croatia has established good relations with the international community and started the process of obtaining membership in the European Union. Many reforms have been undertaken to change the state administration, strengthen the efficiency of the judiciary, combat corruption, and develop the state economy. The majority of these reforms only exist on paper—while the fundamental legal documents have been drafted and provisions of the *Acquis Communautaire* for EU accession were followed, there are no efficient mechanisms to enforce the legal provisions. Despite these difficulties, Croatia is currently regarded as a potential member of the European Union.

OVERVIEW OF LGBT ISSUES

Homosexual relations between adults in Croatia were decriminalized in 1977. However, the Croatian penal system has still implemented the criminal offence of *unnatural fornication*, where the age of consent is not equal for heterosexual and homosexual relations. Therefore, the age of consent for heterosexual relations was 14 years, whereas for homosexual relations it was 18 years. Such practices were changed in 1998, when changes in the criminal code came into force.

The first positive legal changes toward the protection of LGBT people from discrimination came in 2003 when Gender Equality Act⁴ passed in the Croatian parliament. The Gender Equality Act prohibits discrimination on the grounds of sex, sexual orientation, and family or marital status. In the same year, the Same-Sex Civil Unions Act came in force—it recognizes same-sex union as a legal category, although the scope of rights assigned to same-sex partners is very narrow. From 2003 to the present, nondiscrimination provisions on the ground of sexual orientation were implemented in a number of legal documents—the Labour Act, Media Act, Civil Servants Act, Croatian Radio-Television Act, Electronic Media Act, and so on. In 2007, the Volunteers' Act, prohibiting discrimination on the grounds of gender identity and gender expression, came into force.

The issue of so-called gay marriages appeared mostly after 2002, especially during the procedure of adopting the Same-Sex Civil Unions Act. The passing of that legal document was opposed by the conservative political parties and the Catholic Church. Since this legal document recognized only 2 percent of the rights assigned to married and cohabitating opposite-sex partners, the civil society organizations Iskorak and Kontra initiated parliamentary discussion on a registered partnership act in 2006. However, this legal proposition induced a strong reaction by the leading conservative party, and did not pass in the parliament. The Same-Sex Civil Unions Act remained in force while civil society organizations that provide direct legal help to LGBT people count number of cases where same-sex partners were not treated equally as married couples in rights to inheritance, pension and health insurance, tax benefits, decision making in urgent medical situations, and so on.

In Croatia, there are no restrictions for gay and lesbian people in uniformed services (armed forces, police, and security). Current ordinances on health capability, according to the 10th revised edition of the International Classification of Diseases (ICD) of the World Health Organization (WHO), do not mention homosexuality as a mental disorder. Therefore, homosexuality does not represent a contraindication to working in uniformed services.

However, some Croatian psychiatrists do not follow principles set by the WHO. In 2003, the eminent Croatian psychiatrist, Vladimir Gruden said that homosexuality is a medical disorder; for this statement, he was reprimanded by the Croatian Medical Chamber. Scientific discussions as to whether homosexuality is a psychiatric disorder or not appear quite often in the Croatian academic community. While some accept modern scientific standards, others argue that removing homosexuality from the ICD was the result of political pressure by the homosexual lobby, and that this has no scientific value.

One of the most prominent issues in Croatia has been the debate on sex education. From 1997, Teen STAR, a comprehensive sex education program, has been implemented in public elementary and high schools. The program was negatively assessed by the Office of the Ombudswoman for Children and the Office of the Ombudswoman for Gender Equality because it was determined that the program is discriminatory on the grounds of sex, sexual orientation, and family status. The Ministry of Science, Education, and Sport never implemented comprehensive sex education in public schools, but rather shifted its responsibility to civil society organizations, mainly grounded on Christian principles of morality.

EDUCATION

The Croatian education system does not fulfill the basic conditions for educating children to respect human rights. School textbooks contain gender stereotypes and do not address the rights of sexual or any other minorities.

The Schoolbooks Rules were adopted on January 17, 2007. Under provision 2.4—“Ethical Demands,” it is stated that a schoolbook shall contain the richness of diversity of Croatian society, shall enable gaining knowledge on the equality of individuals and social groups, and promote the right to diversity.⁵

Also listed are demands in regard to national, ethnic, and religious minorities, as well as gender equality, but sexual minorities are not specially mentioned and there are no demands listed in regard to that subject. Having in mind that the previous Schoolbooks Rules from the year 2003 contained an antidiscrimination provision that explicitly referred to sexual orientation, this is certainly a step backwards.

Although the National Policy for Gender Equality 2006–2010 (NN, nr. 114/06) elaborates upon gender-sensitive education, but does not address sexual and gender minorities. Furthermore, the policy mentions a need for expanding health education to include human sexuality, with an emphasis on sexually transmitted diseases.

In 2003, the Ministry of Science, Education, and Sport prescribed the program of episcopal subjects, in which it was stated that homosexuality is a wrong aspect of sexuality; it was included in the same category as prostitution, incest, and pedophilia.⁶ After the intervention of the Team for Legal Changes, the gender equality ombudswoman advised the ministry to reevaluate such a program. The ministry followed the ombudswoman’s recommendation, in a way; it changed the description from wrong to sinful.

There is no sexual education in Croatian public schools as a separate subject. Some aspects of sexuality are discussed in different subjects, mainly biology and catechism. In the subject of biology, human sexuality is explained in relation to the anatomy and physiology of the human organism. Further insight into human sexuality from a biological perspective is given in eighth grade through the themes of the structure and function of reproductive organs, conception and prenatal child development, and responsible sexual behavior, according to the teaching plan and program for elementary school of the Ministry of Science, Education, and Sport. The same program includes elements of sexual education for seventh and eighth grades in catechism through the themes of the dignity of the human body and matrimonial purity, friendship and love, and marriage and celibacy.⁷

A few programs directed toward human sexuality were provided in public schools by nongovernmental organizations (NGOs) with the support of the Ministry of Science, Education, and Sport. The most important is the program Teen STAR, introduced into elementary and high schools on the recommendation of the Croatian Episcopal Conference. In mid-2004, the civil society organizations Iskorak and Kontra evaluated the Teen STAR program and concluded that it is discriminatory toward LGBT people, women, and single-parent families.⁸ Such a conclusion was also made by the ombudswoman for children, who found the program to be contrary to the Convention on the Rights of the Child. The same conclusion was made by the gender equality ombudswoman. Meanwhile, Teen STAR is still implemented in Croatian schools.

On September 15, 2006, the Ministry of Science, Education, and Sport introduced the Decision on the Educational Plan and Program for Primary Schools, which also regulates the content of the optional subject Catholic religious teaching.⁹ In this program, there is no explicit discriminatory content as there is in the Catholic religious teaching syllabus from 2003. However, the new program emphasizes heterosexuality, making its implementation questionable from the perspective of discrimination against sexual minorities.

The Ministry of Science, Education, and Sport shifted responsibility for creating the program of health education, including a module on human sexuality, to Civil Society Organizations (CSOs). On November 2, 2007, it signed a contract to purchase the proposal of an experimental program of health education from the CSO Citizens Initiative for Democratic Changes (GROZD). The program mentioned was judged by the Office of the Ombudswoman for Gender Equality and the Office of the Ombudswoman for Children to be discriminatory in regards to sexual identity, sexual orientation, and marital status, and therefore contrary to the Constitution of the Republic of Croatia and the Convention on the Rights of the Child. In spite of this, the program will be implemented in both primary and secondary schools. After negotiations with the ministry on November 26, the contract was also signed by the Forum for the Freedom of Education. This program is heteronormative, but it does not contain negative references to sexual minorities or masturbation, and therefore was evaluated as liberal. It will be implemented only in secondary schools, and parents can choose whether or not their child will attend the more liberal program. The program is being implemented in Croatian schools in the 2008–2009 school years.

About 35 percent of children in Croatian schools face some kind of bullying.¹⁰ There is only anecdotal evidence on homophobic bullying in public schools. In such cases, young students have reported abuse from their peers. There are many

measures aimed at the prevention of bullying among students; however, no special measures have been undertaken to address homophobic bullying.

EMPLOYMENT AND ECONOMICS

In 2007, the Croatian Institute for Employment recorded more than 250,000 unemployed persons. Generally, the problems of LGBT people do not arise from lack of employment opportunities, but rather from discrimination when it is discovered that the employee or person seeking employment is homosexual.

In 2003, provisions of the Labor Act had been changed in order to ensure protection from discrimination related to sexual orientation in the workplace. Discrimination on the basis of sexual orientation in the workplace was prohibited, and any mistreatment of an employee for that reason was also considered discrimination. The victim of discrimination in the workplace could request compensation for damages through a civil lawsuit. Such discrimination could also be criminally prosecuted.

Generally, victims lack the knowledge about legal mechanisms that could be used to protect their labor rights, and rarely engage in criminal prosecution or civil lawsuits against their employer.

In relation to legal regulations, there are no prohibitions for homosexuals to serve in the police or the army. The only exception is for posts within the organizational structure of the Catholic Church, where it is not illegal to discriminate against someone on the basis of sexual orientation. The person who is discriminated against on the basis of sexual orientation, or on some other grounds, where the Catholic Church is an employer, could not seek legal protection since Croatia has bilateral agreements with the Holy See that allows the Catholic Church to operate independently from national antidiscrimination legislation.

SOCIAL/GOVERNMENT PROGRAMS

There is no government program in Croatia specifically aimed at the protection of the rights of sexual and gender minorities. Some measures regarding the rights of sexual minorities have been implemented in the National Politic for Promotion of Gender Equality 2006–2010 (NN, nr. 114/06) and in the National Program for the Protection and Promotion of Human Rights 2008–2011.

The National Politic for Promotion of Gender Equality contains only two measures aimed at combating discrimination based on sexual orientation. The first measure prescribes conducting research into judicial practice and police conduct in regards to criminal offenses motivated by the sexual orientation of the injured party. The second measure prescribes that representatives of organizations for the rights of sexual and gender minorities will be included in working bodies for adopting laws, programs, and strategies connected to the rights of sexual minorities. Both measures were adopted by the government as a result of advocacy by Kontra, Iskorak, and the Women's Network of Croatia.

The two adopted measures were not implemented in 2007. Nothing in regard to the first measure was made public by implementing institutions, although the deadline for its implementation was 2007. That the second measure would never be implemented became clear during the creation of the proposal of the National Program for the Protection and Promotion of Human Rights, and also during

the creation of the proposal for the Anti-discrimination Act, when representatives of organizations for the rights of sexual minorities were not included in working groups, as prescribed in the measure.¹¹

The National Program for the Protection and Promotion of Human Rights 2008–2011 contains three measures aimed at the “improvement of legislation” and “increasing tolerance towards sexual and gender minorities.”¹² The prescribed measures are not in concordance with the aims. The only effect that can be achieved by the prescribed measures in regard to the first aim is the determination of the existing condition by analysis of the legislation, but without any actions for its improvement. From the government’s previous work, it is easy to conclude that the measures aimed at increasing tolerance will result in a few politically harmless events, focused at maintaining the existing conditions in legislation, with little media coverage. Therefore, the aim will not be achieved. Out of three measures, the Governmental Office for Human Rights took the role of the implementing body for only one measure, and that also happened after a critique from Iskorak and Kontra: “98th Aim: To raise tolerance towards sexual and gender minorities, Implementing bodies: The Governmental Office on Gender Equality and the Governmental Office for Human Rights.”¹³

One of the main critiques of Croatia by the European Commission was its failure to adopt a national strategic and action plan for combating discrimination. The European Commission, in its progress report on Croatia, notes homophobic incidents and lack of decisiveness of the state in combating the problem of discrimination.

SEXUALITY/SEXUAL PRACTICES

The majority of resources in relation to sexuality refer to young people and women. No research has been conducted to clarify the attitudes of general population in Croatia towards sexuality.

Between 2001 and 2003, the Centre for Education, Counselling, and Research conducted a two-year study on adolescent sexuality. The results showed that young men and women have similar expectations of sexual relationships. Of the respondents, 39.4 percent had had previous sexual experience—50.7 percent of them were young men and 27 percent of them were young women. The young women entered sexual relationships later than young men. While young women have their first sexual experience in a long-term relationship, young men have such an experience in a one-night-stand relationship, usually having consumed alcohol and drugs immediately before. However, more young men than young women responded that they used a condom when they first had sexual intercourse. Forty-eight percent of male respondents and 36 percent of female respondents declared that they always use condoms during sexual intercourse.¹⁴

In 2005 the Women’s Room, a CSO working for the sexual rights of women, conducted a study to determine the status these rights in Croatia (N = 1,491). The results showed that more than 50 percent of women have never participated in any education on sexuality, while the majority of them are actually informed on their sexual rights. More than 60 percent of women had three or fewer sexual partners, and 49 percent of women are generally satisfied with their sexual life. More than 30 percent of women had had sexual experiences involving one night stands. Eighty-four percent of respondents identified as heterosexual and

7 percent had had same-sex experience. In terms of contraception, 66 percent of women did not use any kind of protection the first time they had sexual intercourse. In everyday life, about 45 percent of respondents between the ages of 18 and 50 use contraception—52 percent use condoms and 18 percent use the pill or other hormonal therapies. More than 60 percent of respondents have children, and 31 percent of them have two children. Seventy-seven percent of women planned to become pregnant. In terms of sexual violence, women mostly recognized unwanted physical contact (94%) and forced sexual intercourse (91%). They tended to believe that, in a rape situation, a woman has to engage in strong physical resistance against the sexual perpetrator (36%), that she will have severe physical injuries (32%), and that perpetrator will be an unknown maniac (32%). In 40 percent of women who had experienced sexual violence, however, the perpetrator of sexual violence was partner, in 12 percent it was a family member, in 34 percent a superior at workplace, and in 67 percent an unknown person.¹⁵

In 2007 the faculties of law and humanities and social sciences, University of Zagreb, published the results of a study aimed to assess negative attitudes towards homosexuality in 31 European countries; the Republic of Croatia was among these. The results showed that, in Croatia, 52.8 percent of respondents would not like to have homosexual neighbor.¹⁶

In 2008, the Faculty of Humanities and Social Sciences, University of Zagreb, finished a study aimed at exploring a theoretical model relating to the effects of sexually explicit materials (SEM). A survey was conducted that included 650 young Croatian men, aged 15 to 25. The study suggested that “there may be important links between early SEM exposure, sexual socialization and sexual satisfaction—particularly among men with specific SEM preferences.” It concluded that “the importance of comprehensive sex education that would address the issue of contemporary pornography should not be disregarded. Inclusion of contents designed to improve media literacy among young people and help them to critically evaluate pornographic images, as well as fantasies and fears they produce, could be invaluable to advancing young people’s sexual well being. Neither moral accusations, nor uncritical glorification of contemporary pornography can do the job.”¹⁷

In the context of National Response to HIV/AIDS, a special prevention program for students in elementary and high-schools, MEMOIDS, has been implemented. The program was created with the support of the Global Fund for HIV/AIDS, Tuberculosis, and Malaria.¹⁸ At the beginning of 2004, the Croatian Episcopal Conference issued a statement against the program, arguing that it does not follow principles of Christian ethics.

FAMILY

There is no definition of family in Croatian legislation. The Family Act does not contain such a definition. According to article 1 of the act, it regulates marriage, relations between parents and children, adoption, guardianship, effects of the extramarital union between a man and a woman, and procedures of relevant institutions in regards to family relations and guardianship.

Provisions in other acts refer to certain members of the family in terms of prescribing rights and obligations (for example, the Inheritance Act, Asylum Act, Protection of Rights of Patients Act, etc.). Such provisions include married partners in all cases, include unmarried opposite-sex partner almost half of the time, and do not include same-sex partners at all.

The legal provisions follow a traditional perspective regarding family, which is usually recognized as the union of a man and a woman and their children. In 2005, there were 22,138 registered marriages and 4,883 divorces in total.¹⁹ There is evidence of a high prevalence of domestic violence. In the period from 2001 to 2006, 1,807 persons were convicted for domestic violence as a criminal offence, and 719 persons for domestic violence as a misdemeanor.²⁰

The Same-Sex Civil Unions Act provides same-sex partners with only two rights: the right to joint ownership of property and the right to financial support. In order to obtain those rights, partners have to prove the existence of their union within three years according to court procedure. There is only one case noted by CSOs Iskorak and Kontra in relation to implementation of the Same-Sex Civil Unions Act since it came into force in 2003. This was a case in which the partners wanted to move to another country and needed written evidence of the existence of their union for visa requirements. For that purpose, they used a contract for the regulation of property rights from the Same-Sex Civil Unions Act. The contract referred to a television and a watch.

According to the Family Act, married heterosexual partners can adopt a child together. A heterosexual partner can also adopt the child of their partner from a previous marriage, provided there is consent from the former partner. A single person can adopt a child only if it is of a special benefit for the child. The adoption procedure in Croatia is long and complicated, and there are few cases where a single person is able to adopt a child. It is not prescribed under the Family Act that same-sex partners can adopt a child. The ombudswoman for children in 2006 made homophobic statements advocating that same-sex couples be denied the right to adopt children.²¹

COMMUNITY

In the late 1970s and early 1980s, the first positive media articles on homosexuality appeared in Croatia. Those articles were written by women involved in the feminist movement. Articles on homosexuality were published in periodicals and student magazines. In Croatia, the lesbian movement emerged directly from the feminist movement. In feminist groups, lesbians first found safe places to gather and discuss specific issues. In 1989, the first lesbian group, Lila Initiative, was founded in Croatia and started with its work as a part of Trešnjevka Women's Group. The daily newspaper *Vjesnik* and two student magazines reported on their work. Their articles were written in an affirmative manner, and for the first time, the rights of lesbians were mentioned, as well as the positions of political parties on homosexuality.

Due to the first democratic elections and the war that lasted from 1990–1995, the 1990s involved great social change for Croatia; it was also a period of strong nationalism and great Catholic influence on state politics. The beginning of the war caused the termination of lesbian activism in 1990. Lila Initiative lost its work facilities. Public discussion was focused exclusively on the war and the political situation in the country.

A breakthrough came in 1992, when the first lesbian and gay group, LIGMA (Lesbian and Gay Men Action), was founded. Members of LIGMA appeared in the media, organized public panels, and published a brochure in the magazine for the Antiwar Campaign of Croatia (AWCC). Nevertheless, in 1993, LIGMA ceased its activities and its publicly known members moved abroad. Until the end of 1990s,

the subject of homosexuality was covered in the media in a sensationalistic manner, as something exotic and highly stereotyped.

In 1997, the lesbian group Kontra was founded. This group started the first lesbian emergency information hotline. Since there were no members willing to speak publicly, only the establishment of Kontra and a small number of its events were covered by the media.

In May 2002, Kontra, together with the newly founded group Iskorak started advocating for redrafting the Family Act to alter the definitions of marriage and cohabitation to include same-sex partners. For the first time in many years, representatives of CSOs for the rights of sexual and gender minorities came out in public and advocated for changes in legislation. Public discussion on sexual and gender minorities entered a political context. LORI (Lesbian Organization Rijeka, founded in 2001) also conducted the national awareness campaign Love is Love in 2002.

In June 2002, Kontra and Iskorak organized the first gay pride demonstration as a part of their advocacy activities. The name of the event combined both names of the organizations: Gay Pride 2002: Coming out/Stepping out Against Prejudices (Iskorak Kontra Predrasuda). The minister of the interior, MPs (members of parliament) from different parties, the UN human rights commissioner, and representatives of different human rights organizations from Croatia, the regions of the former Yugoslavia, and abroad, attended the first gay pride demonstration in Croatia on June 29, 2002. Approximately 200–300 people participated. To secure police protection, Kontra and Iskorak put media pressure on the police by publicly asking the minister of the interior how the event would be protected and stated how this would be a test of democracy for Croatia. Participants in Gay Pride 2002 were protected by specially trained police officers in shields and helmets. In fact, there were three policemen for every participant in the event! During the march through the center of Zagreb, citizens and skinheads were shouting and throwing rocks, watermelon, and ashtrays from the café bars at the participants. During political speeches held in Zrinjevac Square, a tear gas bomb was thrown. When the event came to an end, the police dispersed, and 27 people were physically attacked while returning home. This demonstration of violence against sexual and gender minorities at the first gay pride march in Croatia was crucial for public recognition of the oppression of sexual and gender minorities in Croatian society. The media reported on the first gay pride march in Croatia by condemning violence against sexual minorities and focusing on LGBT human rights.

Media attention to Gay Pride 2002 and public appearances of activists from Kontra and Iskorak demanding changes in Croatian legislation put pressure on the Croatian government. Cooperation between Iskorak and Kontra and the Ministry of Labor and Social Welfare on the issue of regulating of same-sex civil unions was established. As a result of that cooperation, the Same-Sex Partnerships Bill was drafted, and finally adopted by the Croatian parliament on July 14, 2003.

In the following years, more and more LGBT organizations evolved with different scopes of work.

HEALTH

The HIV/AIDS epidemic is not only a public health problem in Croatia but also the problem of global society. It may have great impact on the economy, especially in countries with a high rate of HIV prevalence among the general population.

People living with HIV and AIDS commonly face stigma and discrimination, and are often on the social margin; this is especially true for gay men who are living with HIV and AIDS.

In Croatia, there is a low prevalence of HIV in the general population. Data from the Croatian Institute of Public Health show that the first people living with HIV in Croatia were detected in 1985.²² From 1985 to 2006, 608 persons living with HIV and AIDS were registered in the Republic of Croatia, and 137 have since died. According to research conducted in 2006, the prevalence of HIV among gay men was 4.5 percent, therefore confirming the low prevalence of the epidemic in the Croatian gay community. Numbers will increase, however, with the increased ability of men to travel outside of the country, where HIV/AIDS is more widespread, for sexual encounters.

According to results of recent behavioral studies, gay men are inclined to practice risky sexual behavior. Out of 1,120 respondents, 75 percent considered the condom to be effective protection, but 39 percent of them did not use a condom the last time they had anal intercourse.²³

Unlike in the United States, where the HIV epidemic caused the development of civil organizations advocating for the rights and sexual health of sexual minorities, in Croatia, special preventive health programs for men who have sex with men (MSM) started after advocacy NGOs had been established. More resources and financial support are provided to establish health programs aimed at preventing the spread of HIV than for advocacy or other activities of CSOs dealing with sexual and gender minorities. The majority of preventive health programs for sexually transmitted diseases (STDs) are HIV/AIDS-specific and directed towards MSM, while in regard especially to other STDs lesbians are not covered. Therefore there is lack of reliable data on spread of syphilis, gonorrhea, and other STDs among lesbians.

In regards to MSM, recent studies showed a high prevalence of syphilis, indicating that there is a concentrated epidemic of this disease in this population. However, we have to be very careful while interpreting this data, since there is no accurate information on the prevalence of syphilis among the heterosexual population. Since the Croatian Institute of Public Health records about 20 syphilis cases from the general population annually, many cases might be underreported.

Reparative therapy to cure homosexuality in the Republic of Croatia existed during Soviet times, when homosexuality was considered to be a mental disorder. Although the Diagnostic and Statistical Manual (DSM) of the American Psychiatric Society excluded homosexuality as a mental disorder in 1973, Croatian psychiatrists still saw it as a mental illness. In 1973, homosexual sex was still considered as unnatural fornication and criminally persecuted in Croatia. Homosexuality and lesbianism were commonly treated as psychiatric disorders until 1992, when the WHO changed its ICD. Although homosexuality per se was no longer considered a mental disorder, many psychiatrists still considered it as such, viewing it as the cause of other mental disorders and pathological conditions. Therefore, many eminent Croatian scholars who published in the period after 1992 insisted that homosexuality was a mental disorder and could be effectively treated.

At the end of 2002, Vladimir Gruden, professor of psychiatry of the Faculty of Medicine at the University of Zagreb, publicly stated that homosexuality is a mental disorder.²⁴ Iskorak and Kontra asked the Croatian Psychologists' Association to issue an opinion as to whether it is or not. In 2003, the same organizations issued a complaint before the Croatian Medical Chamber, requesting disciplinary

proceedings against Gruden. The Croatian Psychologists' Association responded that psychologists do not consider homosexuality per se to be mental disorder. The Croatian Medical Chamber agreed with such an opinion, and stated that Gruden only expressed his personal opinion, and that he would emphasize that such an opinion is not in line with scientific truth. However, no disciplinary sanction was declared against Gruden.²⁵

In 2007, the eminent child psychology expert Dubravka Kocijan-Hercigonja of the Faculty of Medicine of the University of Zagreb was interviewed about homosexuality by a journalist from the Catholic newspaper *Glas Koncila*. Kocijan-Hercigonja stated that, according to the DSM and ICD classifications, homosexuality is considered a gender identity disorder and could be effectively treated. After Iskorak and Kontra issued a complaint to the Croatian Medical Chamber, the institution responded that they found no violation of the code of medical ethics and deontology.

Iskorak and Kontra's Team for Legal Changes also received some complaints from people who had undergone psychiatric treatment. They were usually minors who complained that their parents forced them to undergo such psychiatric treatment. After changes to the criminal code came into force in October 2006, medically unjustifiable intervention was considered a criminal offense, and the offender could be punished by imprisonment from six months to three years. Psychiatric treatment of the homosexuality of minors, however, was never challenged in that way.

In Croatia, transsexuality is treated as a gender identity disorder according to the ICD classification, and psychiatric treatment is provided for it. The process of transitioning from one gender to another through psychiatric and then surgical procedure remains unclear. It is known that transsexual persons can receive full treatment, including surgery, only after being diagnosed with gender identity disorder.

Transsexuality is usually mixed up with homosexuality, and one of the symptoms of gender identity disorder is so-called homosexual panic. Some public health institutions in Croatia argue that gender identity disorder is, in fact, a reflection of the incapability of a young person to find the ideal of his or her own gender in his or her parents. The similar situation could be applied to girls. Some professionals attribute the cause of homosexuality to the same theory. The national NGOs are not skilled, and have no resources to provide such evaluation and expertise. It can simply be concluded that the Croatian medical profession often perpetuates prejudices and that some basic standards are not generally followed, such as those provided by WHO.

Intersexuality is primarily considered in the Republic of Croatia to be a somatic medical disorder that can be treated by surgical intervention. General health insurance covers surgical correction for congenital anomalies. Following the standard practice in such cases, however, children born with ambiguous sex organs are usually surgically reassigned as females. There is common opinion that the decision to choose his or her sex is rarely left to the child, and usually is made immediately after birth. The exact statistical number of intersexual births is not known.

POLITICS AND LAW

Cooperation between Iskorak and Kontra and the Ministry of Labor and Social Welfare on the issue of regulating of same-sex civil unions has been established. As a result of this, the Same-Sex Partnerships Bill was drafted, and finally adopted by the Croatian parliament on July 14, 2003.

During the advocacy campaign for the Same-Sex Partnership Act, CSOs also advocated for the implementation of antidiscrimination provisions in Croatian legislation. After the success of the advocacy campaign, the majority of the proposed bills and amendments were adopted in July 2003 by the Croatian parliament. For the first time, sexual minorities were explicitly recognized as a group at risk for a specific kind of discrimination. Discrimination on the basis of the sexual orientation was prohibited in the Gender Equality Act, the penal code, the Labor Act, the Act on Scientific Work and Higher Education, and the Schoolbook Rules. Most of the mentioned laws were approved on the same day by the Croatian parliament, and became valid on July 16, 2003. Due to the appearance of CSO representatives in public, there was an increase of social awareness in Croatia, which led to a certain decrease in discrimination.

Cooperation from the Ministry of Work and Social Welfare was crucial for the success of the advocacy campaign. Regional cooperation, especially with Slovenian and Serbian lesbian and gay organizations, was also very helpful to the Croatian LGBT movement. The main opponents to the movement were the conservative parties and the Catholic Church. The only direct international pressure on the Croatian government came from International Lesbian and Gay Association (ILGA)-Europe, which petitioned the government and parliament just before the parliamentary session on the proposed laws, demanding the acceptance of the proposed LGBT-friendly bill. The campaign for the Same-Sex Partnership Act in Croatia was one of the examples of a successful policy change influenced by CSOs. It is practically impossible to imagine that any political party would propose changes in legislation with respect to the protection of sexual and gender minorities in Croatia at that point. There was no pressure from the EU, UN, or the Organization for Security and Co-operation in Europe (OSCE) on the Croatian government regarding the protection of sexual and gender minorities. After the bills were adopted by the Croatian parliament, CSOs continued monitoring further compliance of Croatian laws with EU standards. They immediately started to monitor the implementation of the new antidiscrimination laws.

After parliamentary elections in November 2003, HDZ (the right-wing Croatian Democratic Union) once again became the leading party in Croatia. This severely affected the advocacy efforts of sexual minorities, CSOs, and the implementation of the existing laws. State institutions had intentionally failed to implement the Same-Sex Partnership Act on every single occasion, and had consistently violated the prohibition of discrimination based on same-sex partnership, regulated by section 21 of the act. CSO amendments to draft acts were not adopted, and state institutions failed to provide same-sex partners with the same rights as heterosexual married and common-law partners while adopting the Act on Inheritance and the Act on Protection of the Rights of Patients in 2004, and the Act on State Officials in 2005.

Nevertheless, there were some breakthroughs in several areas of protection of the rights of sexual minorities in those years. The constitutional court of Croatia invalidated the Media Act and the amendment including sexual orientation in the antidiscrimination article of the act was voted on in parliament on May 10, 2004. The Media Act therefore prohibits discrimination on the grounds of sexual education in public reporting. The Croatian constitutional court also invalidated the new criminal code due to procedural mistakes. Iskorak and Kontra successfully advocated for the new article 20 to be included into the Changes to the Criminal Code Bill, which explicitly included sexual orientation in article 174, "Race and Other

Discrimination,” of the criminal code. The changes to the criminal code, including this new change, were voted on in parliament on July 13, 2004.

In 2006, after the successful advocacy of Iskorak and Kontra, with the support of the Women’s Network and the Serbian Democratic Forum, a definition of hate crime appeared in article 89 of the criminal code:

Hate crime is any criminal offence, described in this Act that is motivated by hate against the victim due to his/her race, skin colour, sex, sexual orientation, language, religion, political or other belief, national or social origin, property, birth, education, social status, age, medical status, or other characteristics.²⁶

There is no specific recognition of gender identity. Gender identity, however, can be interpreted from the term “other characteristics.” Also, if a hate crime is committed because a person was perceived to be gay due to his or her gender expression, it can be defined by the court as a hate crime based on the person’s perceived sexual orientation. This puts an obligation on the police and courts to document whether the criminal offense was motivated by hatred. Judges would then have the discretionary right to decide whether to increase the penalty due to that fact or not. Iskorak and Kontra also successfully advocated for an amendment to article 91 of the criminal code, which relates to aggravated murder. It now defines murder motivated by hatred as aggravated murder, and prescribes greater penalties for offenders in comparison to regular murder.

Events around the Registered Partnership Bill in 2006 once again revealed the homophobic attitudes of the Croatian government. On June 15, 2005, Iskorak and Kontra presented a registered partnership bill to the public for the first time at a round table discussion held at the European House in Zagreb, and started a new advocacy campaign for the rights of same-sex partners. The bill was supposed to expand the rights of same-sex partners to include all rights enjoyed by married heterosexual couples, except the right to adopt a child. The bill had support from the start from MPs from the Liberal Party, the Social Democratic Party, and the Croatian Social Liberal Party.

In September 2005, MPs Šime Lučin of the Social Democratic Party and Ivo Banac of the Liberal Party put the Registered Partnership Bill forward into parliamentary procedure. The media reported on these events with great interest. On February 15, 2006, the Parliamentary Committee on Gender Equality discussed the Registered Partnership Bill. Representatives of the Team for Legal Changes were present at the discussion and gave their recommendation to MPs Lucin and Banac to use the newly adopted Resolution on Homophobia in Europe as a part of its argumentation in favor of adoption of the bill. The committee adopted the bill and recommended that the Croatian parliament should adopt it as well. The next day, the Parliamentary Committee for Human Rights discussed the bill. This committee consisted mostly of MPs from the Croatian Democratic Union (HDZ), and they voted against the adoption of the bill. Some of the MPs from the HDZ used homophobic hate speech as an argument against the bill. Niko Rebić of HDZ said, “The main message from the Bible on the subject of homosexuality is that it is Sodom and Gomorra.”²⁷ He further stated that “AIDS is one of the signs of what happens in same-sex partnerships.”²⁸ The media reported on this event.

The government did not support the Partnership Bill in parliament. There was a great amount of inflammatory antigay speech during the debates, mostly from

representatives of the leading HDZ party. Lucija Čikeš of HDZ said: “The whole Universe is heterosexual, from the fly to the elephant, from atoms to planets. If it was not so, the Sun would not rotate around the earth, it would fall down and we would all burn!”²⁹ Some MPs from the leading party did not use such explicit hate speech in their argument against the Registered Partnership Bill. They mostly claimed that the bill is too similar to the Family Act, and that same-sex partners are not a family. They claimed that they would support the proposal if it were written in a form of amendments to the Same-Sex Civil Unions Act. This is why the LGBT movement is starting a new campaign for a proposal of amendments to the Same-Sex Civil Unions Act, containing the same rights as in the previous proposal.

Discrimination based on sexual orientation became explicitly prohibited for the first time in Croatia in July 2003, when a set of antidiscrimination laws was adopted by the parliament. The reason for adopting this new national legislation was to comply with the European Union. Prohibitions of discrimination on the basis of sexual orientation were implemented in the Gender Equality Act, the criminal code, the Labor Act, the Scientific Work and Higher Education Act, and the Schoolbooks Rules. In addition, the Same-Sex Civil Unions Act was passed in July 2003. Unfortunately, all of these acts were adopted by parliament according to the wrong procedure. The criminal code adopted in July 2003 was annulled by the constitutional court, and the new criminal code was voted on in 2004 by the correct procedure. The Gender Equality Act was annulled in 2008, and the new act has still not been adopted at the date of writing of this text.

In 2004, a new article was implemented into the Amendments and Modifications of the Criminal Code Act, which explicitly includes sexual orientation in article 174, “Race and Other Discrimination.” The Amendments and Modifications of the Criminal Code Act, including this new change, were adopted by the parliament on July 13, 2004. Parliament also adopted the amendment to the Media Act that referred to sexual orientation on May 10, 2004.

The Labour Act defines direct or indirect discrimination against a person seeking employment or a current employee, and in those definitions, sexual orientation is explicitly mentioned. Harassment, including sexual harassment, constitutes discrimination under the act. Shifting the burden of proof is also included as a measure to combat discrimination under the act.

As an exception to the prohibition of discrimination, it is prescribed that any distinction, exclusion, or preference in respect to a particular job will not be considered discrimination when the nature of the job or conditions in which it is performed are such that characteristics related to particular grounds constitute a genuine and determining occupational requirement.

The Act on Scientific Work and Higher Education prescribes that universities, two-year colleges, and other institutions of higher education must define the procedures of admittance of candidates in a manner that guarantees the equal rights of all candidates, regardless of their sexual orientation.

The Civil Servants Act was adopted in 2005. It includes provisions on the prohibition of discrimination and favoritism in the civil service, and explicitly includes sexual orientation in its enactment on equal treatment and equal opportunities.

The definition of a hate crime was included in article 89 of the criminal code in 2006. The definition explicitly mentions sexual orientation. Furthermore, an amendment was introduced into article 91 of the criminal code that relates to aggravated murder. It now defines murder motivated by hatred as aggravated murder

and prescribes greater penalties for offenders in comparison to regular murder. The above mentioned amendments were the result of the initiative of Kontra and Iskorak, as well as the Centre for the Rights of Sexual and Gender Minorities, with the support of the Women's Network of Croatia and the Serbian Democratic Forum.

Article 174, paragraph 3 of the criminal code provides sanctions for the criminal offence of racial or other discrimination in relation to identifying a certain characteristic or group affiliation of an individual as inferior, with the aim of spreading hatred. This article includes sanctions for hate speech. From the experience of Kontra and Iskorak with cases of hate speech, it is important to emphasize that all public attorneys considered the existence of direct intent to be crucial for the realization of this criminal offense, and that this interpretation is truly consistent with the formulation from Article 174, paragraph 3. From the point of view of the public attorneys, the existence of this criminal offense cannot be proven unless the suspect literally admits that he or she had the intention of spreading hatred. In all reported cases, the persons charged claimed that they did not intend to spread hatred, and the criminal proceedings were dropped because of that.³⁰

Members of parliament, government representatives, and other state officials consistently use hate speech against sexual minorities in public. For example, in 2006, this practice was noted at the session of the Committee for Human Rights and the session of the Croatian parliament during debates on the Registered Partnership Bill. Numerous MPs, mostly from the leading party Croatian Democratic Union (HDZ), and government representatives used homophobic hate speech while addressing the public and their colleagues. Such homophobic language was reported by the media, and therefore had the effect of stigmatizing same sex-couples and people who are living with HIV and AIDS.

On December 9, 2005, the Croatian parliament adopted the new Changes to Public Assembly Act. The amended act prohibited public assembly in an area of 100 meters (300 feet) from the headquarters of the state institutions at Saint Mark's Square. Anyone that approaches within 100 meters of the buildings housing the Croatian parliament, the president of the Republic of Croatia, and the government, regardless of the purpose and the method of the public assembly or number of participants, or anyone that wishes to forward some request, will be punished with a fine of 5,000 HRK–20,000 HRK (675–2,700 euros, US\$963–\$3850).

This permanent prohibition of public gatherings, regardless of the number of participants, does not satisfy conditions for restriction of the right to freedom of assembly under the Croatian constitution and international law. The provision does not have the purpose of protecting the public and legal order, but is rather meant to protect state officials from having encounters with citizens. This was proven when activists from Kontra and Iskorak faced misdemeanor proceedings for distributing flyers on the rights of same-sex partners under the campaign *We Are Not Homophobic, But...to MPs in front of the parliament*. Two days after receiving notification on the first hearing at the court, activists tested the implementation of the act. As a part of the organized action, two other activists were sent to distribute flyers under the same conditions at Saint Mark's Square, but this time the flyers contained an advertisement for a hair salon, and the activists were not disturbed. This clearly proved that the act was directed against the expression of political opinion by citizens and CSOs in front of state institutions.

Even if real danger existed in regard to such gatherings, it would be possible to avoid the danger using other security measures, rather than placing restrictions on

the right to peaceful assembly. According to the European Convention for Human Rights and Fundamental Freedoms and the practice of the European Court of Human Rights, the right to public assembly should be ensured even if it could represent some danger, because it is possible to prevent such danger by other measures.³¹

In order to be approved, each public assembly in Croatia has to be reported to the police. The application has to include the purpose, place, date, and time of the peaceful assembly or public protest, as well as the number of security guards and number of participants. Therefore, it should be possible to predict dangers and take measures to prevent possible danger, or to reject a public assembly that would present a danger that could not be prevented by other measures. The general prohibition of any peaceful assembly due to its proximity to state institutions, however, cannot be justified. In the last 15 years, there have been no serious incidents related to public gatherings at Saint Mark's Square. Justification of the measure, however, is explained in the act by global security measures against terrorism after the events of 9/11. The explanation of the act does not contain any indication or evidence that Croatia might become a victim of a terrorist attack. Therefore, the general prohibition of public assembly at Saint Mark's Square, regardless of the nature and circumstances of each individual assembly, represents a violation of the right to public assembly.

RELIGION AND SPIRITUALITY

In Croatia, the Catholic Church has great political influence. This is partially due to the international agreements between Croatia and the Holy See, but also to the attitude and religious identity of the majority. The relationship between Croatia and the Catholic Church has great financial value—the Catholic Church has special tax benefits and benefits from health and pension insurance. The international contracts put Catholic Church in a favorable position in relation to other religions.

The Croatian gay and lesbian community could be divided into nonbelievers and true Catholics. While some religious members of the gay and lesbian community practice sexual relationships, some do not. The religious members usually have conservative political attitudes, but as many of them remain in the closet, they do not organize themselves in civil organizations. Most LGBT NGOs in Croatia take a secular point of view in their work; only one of them has opened dialogue with Catholic Church. It is generally believed by Croatian LGBT organizations that the Catholic Church cannot play any role in political life, especially in regard to the human rights of sexual and gender minorities.

In regard to the rights of sexual and gender minorities, as well as the rights of women, the Catholic Church in Croatia has played an important role in creating the policies related to Catholic and sexual education.

In Croatia, episcopal teaching is a separate subject in public schools. It is a facultative program, and not mandatory for non-Catholic students. The classes are scheduled in the middle of the timetable and the majority of children attend episcopal teaching due to the fact that 90 percent of them are Catholics. Other children, regardless their religious views, attend episcopal teaching due to peer pressure. In 2003, the Ministry of Science, Education, and Sport issued the program of episcopal teaching, which made reference to homosexuality. There, it was clearly

stated that homosexuality is the wrong type of sexuality and that it is the same as prostitution, incest, and pedophilia. After national NGOs and the ombudswoman for gender equality stated that such provisions are illegal, the Ministry of Science, Education, and Sport changed the wording from wrong to sinful. Although the ombudswoman for gender equality was not satisfied with such intervention, the program has never been changed in an adequate manner.

At the end of 2003, the strong public debate on sexual education in public schools continued. This was due to the fact that the Ministry of Health and Social Welfare, in collaboration with the Zagreb Clinic for Children's Diseases, produced an HIV/AIDS prevention curriculum for elementary and high schools called MEMOAIDS, and implemented it in some public schools. The main resistance to this program came from the Croatian Episcopal Conference, which argued that MEMOAIDS "actually teaches how to use preventive methods while personality of students and educational dimension of school, which purpose is to bring the student in the integrity of life, is neglected. . . . The Episcopal Bishops argue that pressure towards students and teachers who are believers to implement programs that are strictly contrary to the principles of Christian morality is unacceptable."³² As an alternative, the Croatian Episcopal Conference recommended the Teen STAR program, which was developed by Sister Hanna Klaus in 1988 and implemented by local Croatian NGOs in 1997.

At the beginning of 2004, Iskorak and Kontra attended the Teen STAR training program and found that it has been implemented in some public elementary and high schools in Croatia since 1997. The program was full of discriminatory references. In the program, it was stated that full development of the personality and sexuality of the child is easier to achieve if the mother is unemployed: "the conclusion is that communication on sexuality is not so important as other qualities of family interactions: connectedness, living in family with both biological parents, mother's unemployment."³³ Furthermore, it was stated that one-parent families are not as valuable as families with a father and a mother. The program also put homosexuality in the same category as sexual abuse: "masturbation, homosexuality and sexual abuse." The NGOs issued a complaint before the ombudswoman for children and the ombudswoman for gender equality, arguing that the program is contrary to international and national legal standards. At the end of 2004, the ombudswoman for children warned the Ministry of Science, Education, and Sport that the program is contrary to the Convention on the Rights of the Child, the Croatian constitution, and numerous national legal regulations. She recommended that the ministry redesign the program to be compliant with mentioned legal standards or retract it from public schools. A similar recommendation was given by the ombudswoman for gender equality in 2005, but was never followed by the ministry. At present, the program is still unchanged and implemented in its original form in some public schools in Croatia.

Since public pressure created by national NGOs has been great, the Ministry decided to establish a national committee that would decide which program will be implemented in public schools. The committee consisted of eminent scholars in the field of sexuality, representatives of the Faculty of Law, the ombudswoman for gender equality, and other health experts. The president of this committee, however, was the very same Vladimir Gruden, who was warned in 2002 by the Croatian Medical Chamber for professing his belief that homosexuality is a mental disorder treatable with medical intervention. After a few months of discussion, the

committee concluded that the ministry should adopt a program of health education within which the module on human sexuality could be included.

One year after the conclusion of the committee, nothing was undertaken by the ministry in regards to sex education. In the middle of 2006, however, the ministry asked local NGOs to submit their own programs that could be used as experimental health programs in public schools. The promoters and supporters of the Teen STAR program established a new NGO called GROZD, and prepared a health education program based on the same principles as Teen STAR. In relation to masturbation, for example, it stated that masturbation is sinful and should be avoided. The program was prepared both for elementary and high schools. The second NGO was the Forum for Freedom in Education, which prepared a more liberal program, but only for high schools. Although such a program seemed to be liberal, it was rather neutral in relation to homosexuality. The Ministry of Science, Education, and Sport promised the national NGOs that it would buy the selected programs, then adapt them to conform to international and national standards, without homophobic attitudes. Furthermore, the ministry stated that it would ask for the approval of both Ombudswomen and of the Ministry of Health and Social Welfare before implementing such experimental programs.

At the end of 2006, the Ministry of Health and Social Welfare negatively assessed both programs and recommended that they should not be implemented as experimental programs in public schools if they were not changed to conform to professional standards. In terms of GROZD's program, the ombudswoman for children stated that it does not satisfy professional and legal standards and should not be implemented in public schools. A similar opinion was given by the ombudswoman for gender equality.

Although the Ministry of Science, Education, and Sport received negative comments from the mentioned institutions, at the end of 2007 it decided to implement both programs for the following semester.

The Catholic Church in the Republic of Croatia has great influence, not only in the political sphere, but also in other levels of society. Generally, the attitude of the Catholic Church toward LGBT people is negative. Although the church states that it accepts every person, in relation to homosexual people it was stated that they should not live in line with their sexuality if they want their souls to be safe from eternal condemnation.

VIOLENCE

According to the statistical data of the Ministry of the Interior, in 2007 there were 2,158 reported criminal offences against life and body. Of that number, there were 59 criminal offences of murder and 155 criminal offences of attempted murder.³⁴ There is no official information on the number of incarcerated persons in the Croatian prison system. According to the statistical data of the People's Ombudsman, 2,484 people were incarcerated in 2007.

The definition of a hate crime was implemented in the Croatian criminal code in 2006, as a result of the advocacy of Kontra and Iskorak, with the support of the Serbian Democratic Forum and the Croatian Women's Network. Information collected from the Ministry of the Interior showed that one year after provisions regarding hate crimes were enforced, police registered 32 cases of hate crimes. Two of the cases referred to hate crimes committed due to the sexual orientation of the victim.

In spite of this, numerous cases of violent attacks against members of the LGBT community have been reported in past years. After Iskorak and Kontra started to document any case of violence and discrimination reported to them, the numbers started to rise every year. In 2006, there were 16 criminal offenses allegedly committed on the basis of sexual behavior, and in 2007 there were 18 such cases. It is estimated that the exact number of such criminal offenses is much higher; many people do not report violence and other crimes because of fear that their sexual orientation will be publicly disclosed.

In 2002 and 2007, the majority of reported cases were linked to the Gay Pride event in Zagreb. Between 2002 and 2007, there were other cases of violence against members of the LGBT community. Perpetrators often remain unknown due to lack of police investigation and the general inability of the police to conduct criminal investigations in line with the provisions of the Criminal Procedure Act. Only one case has been successfully closed; the perpetrator was sanctioned by a probation sentence. This was the case when a young cadet sent threats by e-mail to Iskorak's official Web address in 2004. The criminal investigation was primarily conducted by the military police of the Ministry of Defense, and perpetrator was rapidly discovered. No such satisfaction has been granted for any victim in other cases of violence. Currently, at the criminal court of Zagreb, there is only one case being tried of a perpetrator who tried to throw a Molotov cocktail at the Zagreb pride march in 2007.

Police misconduct and improper handling of LGBT hate crimes is shown to be a general trend. In cases of violent behavior, the police do not collect evidence for criminal procedure and do not treat such behavior as criminal offenses at all. They only consider violence against members of the LGBT community as misdemeanors against public peace and order. Thus, if the perpetrator attacks the victim on the street, both the perpetrator and the victim will be accused by the police of disturbing public peace and order by fighting and yelling, and both could be punished by fine or imprisonment. Even in 2007, when someone tried to throw a Molotov cocktail at the Zagreb Pride march, the police did not recognize this as a criminal offense, and the head of the police headquarters in Zagreb publicly stated that the police did everything they could and if someone wished to bring criminal charges against the perpetrator they should do that by themselves.³⁵ Regardless of the police's conduct in this case, the state attorney in Zagreb decided to pursue criminal prosecution against the perpetrator after reading about the case in national newspapers.

RESOURCE GUIDE

Suggested Reading

- K. Grđan and S. Juras, *2006 Annual Report on the Status of Human Rights of Sexual and Gender Minorities in Croatia* (Team for Legal Changes of Iskorak and Kontra, 2007).
 K. Grđan and S. Juras, *2007 Annual Report on the Status of Human Rights of Sexual and Gender Minorities in Croatia* (Team for Legal Changes of Iskorak and Kontra, 2008).

Organizations/Web Sites

Inqueerzicija—the New Gay Scene, <http://www.inqueerzicija.hr>.

Provides space for gay persons to publicize social events and make connections and friendships.

Iskorak—Sexual and Gender Minorities' Rights Center, <http://www.iskorak.org>.

Nongovernmental organization established in 2002 to oppose any kind of discrimination and stigma against sexual and gender minorities and to affirm their human rights. Contains basic information on the organization, press releases, publications, telephone numbers, and so on.

Lesbian Group Kontra, <http://www.kontra.hr>.

Founded in the summer of 1997 in Zagreb, Kontra operates according to feminist and antimilitaristic principles, and opposes all forms of discrimination. The site contains basic information on the organization, press releases, publications, telephone numbers, and so on.

Lesbian Group Rijeka—LORI, <http://www.ori.hr>.

Contains basic information on the organization and its projects.

LGBTIQ Coordination, <http://www.lgbtiq-koordinacija.net>.

National LGBT portal, <http://www.gay.hr>.

First and major LGBTIQ portal, officially established in 2002, with an interactive portal, forum, and user profiles. It represents an active news service for CSO initiatives. It has more than 80,000 visitors per month, and more than 10,000 members.

Queer Zagreb, <http://www.queerzagreb.org>.

Nongovernmental, nonprofit organization whose mission is to challenge heteronormative social values through the presentation and production of art, and to raise awareness of and empower queer identity in the region and in the world.

Zagreb Pride, <http://www.zagreb-pride.net>.

NOTES

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5. *Official Gazette* no. 7/07.

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7. *Official Gazette* no. 102/06.

8. Program of Comprehensive Sexual Education—Teen STAR, 1997.

9. *Official Gazette* no. 102/06

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12. According to the data of the ombudswoman for children for 2005.

13. According to the data of the ombudswoman for children for 2005.

14. N. Bijelić, S. Cesar, and A. Hodžić, *Men, Women and Sexuality* (Zagreb, Croatia: Centre for Education, Counselling and Research, 2004).

15. M. Mamula, *Status of Sexual Rights of Women in Croatia—Results of the Research* (Zagreb, Croatia: Women's Room, 2006).

16. A. Štulhofer and I. Rimac, *Determinants of Homonegativity in Europe* (Zagreb, Croatia: University of Zagreb, 2007).

17. A. Štulhofer, V. Buško, and I. Landripet, *Pornography, Sexual Socialization and Satisfaction among Young Men* (Zagreb, Croatia: University of Zagreb, 2008).

18. The program was developed by the Centre for Reproductive Health of the Clinical Hospital Zagreb.

19. Central Bureau of Statistics, *Women and Men in Croatia in 2007*, Republic of Croatia.

20. Central Bureau of Statistics, *Domestic Violence 2001–2006*, Republic of Croatia.
21. S. Juras and K. Grđan, *2006 Annual Report on the Status of Human Rights of Sexual and Gender Minorities in Croatia* (Zagreb, Croatia: Team for Legal Changes of Iskorak and Kontra, 2007).
22. Croatian Institute of Public Health, statistical data, 2008.
23. K. Radić, D. Stanić, L. Bielen, and K. Branko, “Risk for HIV in Croatian Population of Men Having Sex with Men,” in *Second Generation of HIV Surveillance in the Republic of Croatia*, ed. I. Gjenero-Margan and B. Kolarić (Zagreb, Croatia: Croatian Institute of Public Health, 2006).
24. Croatian Episcopal Conference, November 20, 2002, Zagreb, Croatia.
25. Decision of the Committee on Medical Ethics and Deontology of the Croatian Medical Chamber no. 09–6/03, May 22, 2003.
26. *Official Gazette* 110/07.
27. Excerpts from the transcript of the meeting of the Parliamentary Meeting on Human Rights and Rights of National Minorities, February 15, 2006.
28. Central Bureau of Statistics, *Domestic Violence 2001–2006*.
29. Nineteenth Parliamentary Assembly, transcript (excerpts), March 19, 2006.
30. Bijelić and Hodžić, *Men, Women and Sexuality*.
31. *Rassemblement jurassien and Unité jurassienne v. Switzerland*, no. 8191/78, commission decision of October 10, 1979, DR 17, 93.
32. Glas Koncila no. 5(1545) of February 1, 2004.
33. *Teen Sexuality Teaching in the Context of Adult Responsibility*, 2004.
34. Ministry of Interiors, Department of Analytics and Development, 2007.
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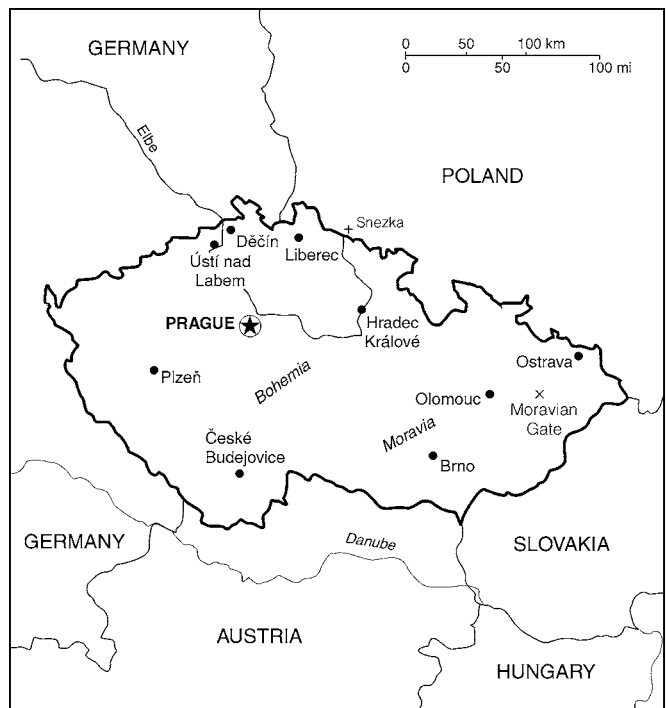
CZECH REPUBLIC

Eva Polášková and Kateřina Nedbálková

OVERVIEW

The Czech Republic is a land-locked country in Central Europe. It borders Poland in the north, Germany in the west, Austria in the south, and Slovakia in the east. The capital is Prague. The majority of the total area is at an altitude below 1,640 feet above sea level.¹ The Czech Republic has nearly 10.4 million inhabitants, and the average population density is 330 inhabitants per square mile. A large part of the population lives in urban areas (70% in municipalities with a town status). The population in the Czech Republic is nationally homogenous. The most numerous minorities are Ukrainians, Slovaks, Vietnamese, and Roma; however, their total number does not exceed five percent. The Czech Republic is regarded as an atheistic country. Two-thirds of the inhabitants refer to themselves as atheists, and the other third claim to be Christians.²

The Czech Republic has existed as an independent country since 1993, when the Federal Republic of Czechoslovakia disintegrated. Since its establishment in 1918 until World War II, Czechoslovakia had belonged to developed democratic countries. After World War II, the Communist party seized power for over 40 years, and Czechoslovakia ranked amongst the totalitarian countries of the Soviet Bloc. The 1989 Velvet Revolution restored parliamentary democracy, and Václav Havel was elected the first democratic president. The country joined the European Union in 2004.



OVERVIEW OF LGBT ISSUES

In comparison with other Central and Eastern European countries, the Czech Republic is relatively more tolerant to same-sex marriages and child adoption.³ Public perceptions of homosexuality have been associated with medicine and sexology. Homosexuality ceased to be punished by law as early as in the Socialist regime (1961), yet homosexuals were easy victims for the secret police to blackmail and persecute at that time. A significant change took place in 1989 when the first official institutions and organizations for gays and lesbians were founded. In 2006, the Czech Republic was the second of all post-Communist countries to legalize registered partnership for same-sex couples.

EDUCATION

In the Czech Republic, there is multilevel education (preschool, elementary, high school, university, postgraduate, and continuing education). Obligatory school attendance takes nine years. Educational institutions are public or private; public schools do not charge tuition.

The issue of homosexuality is rarely a part of the curriculum at elementary and high schools; whether to include these issues in their teaching is up to teachers or school management. Most frequently, it is discussed as a part of broader subjects, such as family education and civics at the elementary school level. In one of the family education textbooks available, homosexuality is introduced in a chapter on sexual deviations along with pedophilia and necrophilia. Even though the text mentions that homosexuality is not a deviation, it is still symbolically associated with it. At secondary schools, this topic occurs in the social sciences course; here, too, what materials will be used and if and how this topic will be dealt with depend on the skills and competency of the particular teacher. Occasionally, there are explicit homophobic statements on the part of teachers or school management. Concerning the issue of homosexuality, sexuality, or gender, obsolete materials are often used at this type of school. The insufficiency and the stereotypical nature of information is mitigated by occasional lectures and discussions provided by LGBT organizations. However, courses on gay and lesbian studies or queer theory are offered at universities in departments of English studies, as well as in literature and gender studies.

EMPLOYMENT AND ECONOMICS

In the 1990s, crucial changes of propriety ownership took place. State ownership, which made up nearly all ownership (97%) during Socialist rule, was 80 percent privatized 10 years after the Velvet Revolution. The Czech Republic is regarded as a country with a growing economy. The average level of unemployment recently has rested around 5 percent, but is gradually declining.

The Employment Act explicitly refers to and prohibits discrimination in the workplace because of sexual orientation, and a victim has the right to seek judicial protection in these cases. Due to the nonexistence of more extensive research, gay and lesbian discrimination at work is hard to estimate. Existing information suggests that 12 percent of respondents have been discriminated against at work.⁴

By 2004, the obligatory two-year military service in the Czech Republic was abolished, a term of service formerly compulsory for all healthy men. When

newcomers joined the armed forces, they were often bullied by soldiers who had been in service longer. If it were revealed, homosexuality was another reason for humiliation. In 2004, the media presented a case of a woman applying for a job in the Czech Army—a job she did not obtain even though she had met all the requirements. The reason for the decision against her was revealed to be a diagnosis of transsexualism.⁵

In 2006 and 2007, the parliament discussed an antidiscrimination law that would establish equal opportunity rights and protect against discrimination due to sexual orientation. The deadline for adopting EU antidiscrimination measurements into the legal system of the Czech Republic was the end of 2006. If there continues to be no redress, the Czech Republic will face negative sanctions, such as a complaint by the European Commission to the European Court of Justice for not meeting the obligations arising from its membership in the EU.

SOCIAL/GOVERNMENT PROGRAMS

As a part of the European Year of Equal Opportunities for All (2007), a Working Group for Sexual Minority Issues was established in the government, which aims at improving the LGBT minority status in the Czech Republic. The members of this team are both activists from nongovernmental, nonprofit organizations focused on the LGBT minority, and academic experts. In 2007, a prominent Czech gay activist became an advisor to the country's minister for human and national minority rights.

SEXUALITY/SEXUAL PRACTICES

Representative research shows that 5 percent of men and 6 percent of women have had sexual experience with the same sex. Ninety-seven percent of inhabitants regard themselves as heterosexuals. Three percent of women and three percent of men refer to themselves as homosexuals or are not sure about their orientation.

The number of people regarding homosexuality as a disease is in decline (22% of men and 27% of women in 2003, as opposed to 33% of men and 41% of women in 1994). Approximately one-third of the population perceives homosexuality as a natural part of life.⁶

As for AIDS, the Czech Republic is one of the least afflicted countries. Since the infection started to spread, the most frequent method of transmission has been via homosexual intercourse (52% of all reported cases). In parts of the gay community, there are still negative attitudes toward people with HIV, and hence it is necessary to promote the establishment of a nondiscriminatory environment.⁷

In Prague, there is a recurrent phenomenon of gay prostitution; in many cases, this is practiced by very young men who identify themselves as heterosexual. In 1995, a special prevention program helping sexually abused children and youth was launched.

FAMILY

The Czech family has undergone a major transformation since 1989. Society experienced changes in the political and economic systems, and began adopting trends characteristic of advanced democratic cultures. These tendencies are markedly

apparent in the structure and dynamics of family, marriage, and reproductive behavior. The marriage rate decreased by half, with people postponing it until their late twenties. Parents usually have only one child (the Czech Republic has a very low birth rate). The number of children in incomplete families is increasing—nearly 35 percent of children are born out of wedlock. The divorce rate has increased up to 50 percent. Nevertheless, these trends coexist with a preference for legal marriages if there are children, and an emphasis on the institution of the traditional family.⁸

The contemporary Czech family is represented by a broad range of family arrangements; however, it is the traditional model comprising a married heterosexual couple raising children that is being recognized and supported by government family policy. The existence of gay and lesbian families is not taken into consideration on either legal grounds or in public awareness. The issue of the prevalence of gay and lesbian families still lacks a detailed examination, yet there is evidence that such families do exist though they are not commonplace in society. These include both couples raising children from their previous heterosexual relationships and planned families.⁹ In the Czech Republic, there are rather limited official opportunities to establish a family for gay and lesbian people. Gays and lesbians with registered status are explicitly excluded from the adoption process. Some people decide to conceal their sexual identity in order to improve their chances in the adoption evaluation procedure; however, the chance of success is low due to long waiting lists and a preference for married couples. A similar arrangement also applies to adopting a same-sex partner's biological children; hence, the nonbiological parent-child relationship has little chance of becoming legal and including the duties and rights pertaining to official adoption. Foster care is available only to individuals, regardless of their registered status. Only opposite-sex (including unmarried) couples are granted access to assisted reproduction treatment, leaving out single women and lesbian couples. Based on the data from a pioneering study on lesbian motherhood, there is an increasing trend of having children within an already existing same-sex relationship via self-assisted donor insemination or insemination at a clinic (though this is illegal).¹⁰ Public debate over child-rearing by same-sex couples is affected by a large degree of prejudice; about two-thirds of the population are against same-sex parenting. In the Czech Republic, a large number of children are raised in institutional care.

COMMUNITY

Under Communist rule (before 1989), the gay and lesbian community existed illegally as private gatherings of invited friends. There is also evidence that gays and lesbians met in psychiatric wards when their situation resulted in hospitalization in such an institution. The transformation of the regime in late 1980s meant a crucial change in the extent and form of the gay and lesbian community.

Although there is no geographically concentrated gay and lesbian community in particular neighborhoods or cities, and there has never been a gay pride march, Prague tends to be described in LGBT guidebooks as the gay metropolis of the former Eastern Europe. The public space of the gay and lesbian community is represented by bars, cafes, restaurants, sex clubs, and saunas that are usually situated in larger cities such as Prague, Brno, and Olomouc. The private space of the subculture is represented by informal groups of friends who meet in private households and do not opt for official gay and lesbian clubs. A more formally organized part of

the community is represented by nonprofit LGBT organizations; there are several dozen of them in the Czech Republic. These organizations endeavored to put into law a Registered Partnership Act (accomplished in 2006) and organize discussion and support groups, film festivals or lectures, and sport or other leisure events.

Furthermore, the central platform for the formation of an LGBT community is the TV program *Queer* (formerly *Legato*), which has been regularly broadcasted by one state TV channel since 2004. In 2007, the first lesbian publishing house, *Le Press*, was established.

There is practically no bisexual community. Bisexual women very often take part in associations and events devoted primarily to lesbians. The transsexual community is concentrated predominantly in Prague around Transfórum, a single civic association representing trans people's interests. Given the fact that most transsexual individuals, after their sex reassignment, long for assimilation into everyday society, transsexual communities more likely exist online.

HEALTH

Health insurance is provided by law and applies compulsorily to all inhabitants with permanent residence in the Czech Republic. The country has a low incidence of HIV/AIDS. Since 1985, when the National HIV/AIDS Monitoring Program was launched, 1,248 cases have been recorded, with a steady increase of about 10 percent every year. Sexual contact remains the most frequent method of HIV transmission, and gay men are considered the most vulnerable group.

Regarding the incidence of sexually transmitted diseases (STDs) other than HIV, the Czech Republic is comparable with Western European nations. Nevertheless, research indicates that the Czech population's sexual behavior is risky. Research data shows that 9 percent of men and 7 percent of women reported having an STD at some time in their lives.¹¹ In the 1990s, there was a sudden increase in the prevalence of STDs; currently, the annual growth rate of these STDs is low. The most widespread diseases of this kind are syphilis and gonorrhea. Some STDs must legally be reported to the national registry.

The Czech Republic follows the International Classification of Diseases; as a part of its 10th revision (ICD-10) in 1992, homosexuality was excluded as a disease by the World Health Organization (WHO). Only the persistent rejection of a person's given sexual orientation in favor of heterosexuality is still considered a diagnostic category (ego-dystonic homosexuality).

The prevalence of transsexualism in the Czech Republic is comparable to that of other countries. Among postoperative transsexuals in the Czech Republic, female-to-male transsexuals prevail at a ratio of up to 5:1. This trend is also characteristic of other former Communist countries, while data from Western Europe reveal an opposite trend. Possible explanations for this difference are differing social conditions under socialism, and more difficult self-enforcement of male-to-female gender roles, or differences in diagnostic criteria.¹² The health care system, including health care legislation, is quite favorable to transsexual clients. Sex-reassignment applicants are allowed to change their identity documents and names in accordance with their gender identity as early as before the surgery, which is covered by the public health insurance system. The state officially acknowledges sex reassignment and legal continuity only in individuals who have had the surgery. Those who decide not to or cannot complete the surgery are excluded from this process.¹³

There is scarce data available about intersexuals and their life in the Czech Republic. The topic is discussed exclusively by experts. Related medical procedures are carried out at an early age, so no consent of intersexual individuals themselves is needed, despite the risk of future negative consequences. Parental consent is required; however, the sufficiency of the information offered to them is questionable.¹⁴

POLITICS AND LAW

In the area of the LGBT minority's rights provision and protection, the Czech Republic is subject to the requirements of the EU legal system. Legal culpability for homosexual behavior was abolished in 1961. In the late 1980s, the legislature cancelled the ban on personal ads aimed at same-sex persons. In a 1990 penal code amendment, the age limit for consensual homosexual intercourse was reduced to the age of 15 (originally it was 18 years for same-sex couples, 15 years for opposite-sex couples). Sexual practices of consenting adult partners are not subject to legal regulations.

Despite the fact that the Czech Republic passed an Act on Registered Partnership for the Same Sex in 2006, the civil status of same-sex couples is still far from being resolved in many aspects. The final form of the act lacks some fundamental partnership rights (e.g., joint property rights, tenancy rights, joint taxation, survivor pension rights) and parenting rights (e.g., the law explicitly excludes any individual with the registered status from the child adoption process).¹⁵ The Czech LGBT community perceives the registration procedure as a symbolic act rather than an opportunity to gain full-fledged partnership rights.

The Czech Republic still lacks unified antidiscrimination legislation; individual regulations are included in separate acts. Yet, the degree of legal protection from discrimination on the grounds of sexual orientation differs substantially within particular regulations. It is solved inadequately in, for example, the labor code, education, social benefits, and health care. Furthermore, new laws do not recognize discrimination based on gender identity, which is essential for the legal protection of transsexuals.

RELIGION AND SPIRITUALITY

Historically, the Czech Republic belongs to countries sharing the European Christian cultural heritage. However, the Communist regime period left indisputable traces on the social milieu of the country. The official ideology until the 1990s was based on an atheistic worldview. About two-thirds of the country's population holds no religious beliefs. Approximately 30 percent declare their membership in one of several faith groups; a prominent position is held by the Roman Catholic Church. Believers are especially prevalent among the older generation, but many of them do not actively practice their religion.

The official approach of the Catholic Church to LGBT issues is traditionally rigid and hostile. Protestant denominations are somewhat less strict; there are even Protestant associations intended for gays and lesbians believing in God. Regarding the passing of the Registered Partnership Act, there have been attempts to include in the wedding ceremony benediction for same-sex couples, which would

represent a full-fledged alternative to a the civil ceremony of entering a registered partnership.

Despite the greater openness of some churches, many faith-based organizations contradict their official proclamations, especially in the case of the Catholic Church. For example, it is still legal to treat LGBT individuals differently on the grounds of their sexual orientation (e.g., in the job application process).¹⁶

VIOLENCE

The 1989 fall of Communism and the change of the social regime had a significant impact on the perception and observance of human rights, which had been rather perfunctory up to then. Since 1989, there has been a crucial liberalization of attitudes toward sexual minorities; nonetheless, a lot of prejudice and stereotypes still remain deeply rooted in society.

The results of the only available research on the subject have shown that Czech sexual minority members are subject to a threat of violent and verbal attacks, and that they encounter discrimination in various areas of their lives.¹⁷ Many cases remain hidden, and they are hardly ever dealt with by court.

The Czech penal code does not distinguish between hate crimes based on sexual orientation and those based on gender identity (although neither qualify as aggravating circumstances). Therefore, there are no statistics available; however, research indicates that 15 percent of respondents have been victims of a violent attack and a third have experienced verbal harassment.¹⁸

Regarding verbal aggression, bullying at schools is a crucial though often neglected problem. Minorities' rights are guaranteed by the Education Act, yet the Act does not explicitly mention sexual orientation. Based on data from nongovernmental organizations working with children and adolescents, it is clear that bullying represents a serious issue for gay and lesbian youth. Despite the growing number of prevention projects, there is still no unifying policy for both teachers and students. This role is often taken over by NGOs within their peer-to-peer programs.

Very often, the rights of incarcerated LGBT persons are violated. Apart from to the fact that they become an easy target due to their visible distinctness, transsexuals serving their term are also denied proceeding with their medical treatment in order to undergo gender reassignment surgery.

Another problem for transsexuals is the fact that both the authorities and private institutions put postoperative transsexual citizens into a position when they are forced to prove their legal identity repeatedly. Revealing personal information about gender reassignment history interferes with their right to privacy and makes them more vulnerable to possible discrimination in everyday matters (dealing with government authorities, banks, schools, etc.). Another problem is transsexuals' parenting rights—a frequent condition of Czech health institutions is to give up or make contacts with children less frequent in order to obtain approval for the gender reassignment surgery, even though this practice is not a formal part of the legislature.¹⁹

OUTLOOK FOR THE 21ST CENTURY

One of the future challenges in the Czech Republic is establishing a high-quality network of LGBT-friendly experts (predominantly mental health professionals).

Existing research has shown that many experts are insufficiently educated on LGBT issues and lack experience in working with LGBT clients. However, the greatest insufficiencies in trying to accomplish the equal status of LGBT minorities in the Czech Republic are at the political and legal levels. One major problem is a lack of legal regulation concerning parenting and children's rights (including the possibility of adoption and foster care) for same-sex couples, access to assisted reproduction for lesbian women and couples, and a more comprehensive antidiscrimination law.

RESOURCE GUIDE

Suggested Reading

- Human Rights Committee, *The Status of Lesbian, Gay, Bisexual, Transgender and Intersex Rights in the Czech Republic—A Shadow Report* (Office of the United Nations High Commissioner for Human Rights, 2007), http://www.ohchr.org/english/bodies/hrc/docs/ngos/LGBTShadow_CzechRepublic.pdf.
- Kateřina Nedbálková, "The Changing Space of the Gay and Lesbian Community in the Czech Republic," in *Beyond the Pink Curtain. Everyday Life of LGBT in Eastern Europe*, ed. R. Kuhar and J. Takács (Ljubljana: Peace Institute, 2007).
- Eva Polášková, "The Czech Lesbian Family Study: Investigating Family Practices," in *Beyond the Pink Curtain. Everyday Life of LGBT in Eastern Europe*, ed. R. Kuhar and J. Takács (Ljubljana: Peace Institute, 2007).
- Ivo Procházka, David Janík, and Jiří Hromada, *Social Discrimination of Lesbians, Gay Men and Bisexuals in the Czech Republic* (Prague: Gay iniciativa v ČR, 2003), http://gay.iniciativa.cz/download/diskriminace_en.pdf.
- Věra Sokolová, "Representation of Gays and Lesbians in the Mainstream Visual Media," in *Media Image of Lesbians and Gays*, ed. J. Kout, A. Rumpel, and M. Strachon (Brno: STUD, 2006).
- Věra Sokolová, "Representations of Homosexuality and the Separation of Gender and Sexuality in the Czech Republic Before and after 1989," in *Political Systems and Definitions of Gender Roles*, ed. A. K. Isaacs (Pisa, Italy: Edizione Plus, Università di Pisa, 2001), http://www.stm.unipi.it/Clioh/tabs/libri/2/22-Sokolova_273-288.pdf.
- Working Group for the Issues of Sexual Minorities, *Analysis of the Situation of Lesbian, Gay, Bisexual and Transgender Minority in the Czech Republic* (Minister for Human Rights and National Minorities, 2007), http://www.vlada.cz/assets/cs/rvk/rlp/PracSk_sex_mensin/EN_analyza_web.pdf.

Video/Film

- S důvrou a láskou* [*In Trust and Love*] (52 min.; 2006). Directed and produced by Michal Herz.
A documentary about the private lives of a popular Czech gay couple and their journey toward registered partnership.
- Ted' jsem to konečně já* [*Now it's Finally Me*] (28 min.; 2006). Directed by Petr Kaňka. Czech TV, Centre of Musical and Documentary Production.
A documentary about the personal, health, and social aspects of transsexualism in the Czech Republic. Available online from <http://www.ceskatelevize.cz/vysilani/10095359176-ted-jsem-to-konecne-ja/306295350170003.html> (Czech version).
- Pusinky* [*Dolls*] (99 min.; 2007). Directed by Karin Babinská. Czech TV.
The first Czech feature film with a lesbian main character depicted without traditional stereotypes and clichés. This is an autobiographical film written by the screenwriter about the period of her late teens. Available with English subtitles.

Q: <http://www.ceskatelevize.cz/vysilani/10121061347-q.html>.

TV queer magazine. Offers a full range of reports and encounters with interesting people.

LeGato: <http://www.ceskatelevize.cz/vysilani/1126673688-legato.html>.

Q TV magazine predecessor. Available from Czech TV archive.

Andolé nejsou andolé [*Not Angels But Angels*] (77 min.; 1994). Directed by Wiktor Grodecki. MiroFilm.

Tolo bez duše [*Body without Soul*] (94 min.; 1996). Directed by Wiktor Grodecki. MiroFilm.

Mandragora (126 min.; 1997). Directed by Wiktor Grodecki. Prague Film Enterprises.

These three films are Polish director Grodecki's insight into the world of homosexual boy prostitution in Prague in the mid-1990s.

Web Sites

Bengales, <http://www.bengales.cz>.

DRBNA, <http://www.drbna.cz>.

This site focuses on parenting issues.

EXODUS, <http://www.homosexualita.cz>.

Local branch of Exodus International, a Christian organization offering to change homosexual orientation via therapy. In 2003, they sent all Czech elementary and secondary schools the publication (*Self*) *Therapy of Homosexuality* by the Dutch Catholic writer Gerard J. M. van den Aardweg. The book refers to homosexuality as a disease and to gays and lesbians as handicapped. It received a lot of publicity in the media and the Czech Ministry of Education, Youth, and Sports expressed disapproval of this action.

Gay and bisexual men, <http://www.004.cz>.

Gejt, <http://www.gejt.cz>.

This site focuses on teenage gays.

Kluci, <http://kluci.info/>.

Lesbian and bisexual women, <http://www.lesba.cz>.

LGBT film festival Mezipatra, <http://www.mezipatra.cz/>.

The greatest cultural event of the Czech LGBT community, aimed at the general public. The festival's additional program provides information and education.

Trans people (Translidé), <http://www.translide.cz>.

Information platform for transsexual and transgender people.

Organizations

Česká společnost AIDS pomoc (Czech AIDS Help Society), <http://www.aids-pomoc.cz/>.

Operating since 1989, it now focuses on school education and prevention and offers anonymous and free testing for HIV. It runs the *Dům svotla* (Home of Light), which also serves as an asylum centre for HIV-positive people in need.

Gay a lesbická liga (Gay and Lesbian League), <http://www.glliga.cz>.

The only association representing the gay and lesbian community at a political level. It has contributed considerably to the passing of the Registered Partnership Act.

LOGOS Praha, <http://www.logos.gl.cz>.

Ecumenical Christian community whose aim is to integrate homosexuals into society and churches.

Stejná rodina (The Same Family), Zemodolská 17, <http://www.stejnarodina.cz>.

The aim of the civic organization *Stejná rodina* is the legislative emancipation of Czech LGBT families. Above all, the organization wants to fight the legislative vacuum surrounding the rights of children born and/or brought up in gay and lesbian families and to help these families obtain the same rights and responsibilities afforded

to heterosexual couples. The organization is also trying to become a meeting platform for LGBT families and their children.

STUD Brno, <http://www.stud.cz>.

One of the most significant Czech LGBT organizations. It was founded in 1996 and is currently involved mainly in organizing the Mezipatra film festival. It has a large library at its disposal open to the public and an archive of material related to LGBT issues. It cooperates with and runs other smaller projects for gays and lesbians.

TransFórum, <http://www.transforum.cz>.

The only Czech organization representing transgender interests.

NOTES

1. Czech Republic, Ministry of Foreign Affairs, *Czech Republic*, <http://www.czech.cz/en/czech-republic/geography/> (accessed November 25, 2007).

2. *Statistical Yearbook of the Czech Republic 2007* (Prague: Czech Statistical Office, 2007), <http://www.czso.cz/csu/2007edicniplan.nsf/engpubl/10n1-07-2007> (accessed April 30, 2008).

3. Public Opinion Research Centre of the Institute of Sociology of the Academy of Sciences of the Czech Republic (CVVM), *Češi jsou vůči sňatkům a registrovanému partnerství homosexuálů vstřícnější než Poláci, Maďaři a Slováci*, news release, http://www.cvvm.cas.cz/upl/zpravy/100533s_ov51128.pdf (accessed November 11, 2006).

4. I. Procházka, D. Janík, and J. Hromada, *Společenská diskriminace lesbických žen, gay mužů a bisexuálů v ČR* (Prague: Gay iniciativa v ČR, 2003), http://gay.iniciativa.cz/download/diskriminace_en.pdf (accessed November 27, 2006).

5. Case of Jaroslava Brokešová (2004).

6. P. Weiss and J. Zvořina, *Sexuální chování v ČR—situace a trendy* (Prague: Portál, 2001).

7. I. Procházka, J. Novotný, P. Kaňka, and D. Janík, *HIV infekce a homosexualita* (Prague: Česká společnost AIDS pomoc, 2005).

8. *Statistical Yearbook of the Czech Republic 2007*.

9. E. Polášková, "The Czech Lesbian Family Study: Investigating Family Practices," in *Beyond the Pink Curtain: Everyday Life of LGBT in Eastern Europe*, ed. R. Kuhar and J. Takács (Ljubljana: Peace Institute, 2007).

10. E. Polášková, "The Czech Lesbian Family Study."

11. P. Weiss "Zmora sexuálního chování Čechů," *Vesmír* 85, no. 1 (2006): 29–32.

12. H. Fifková, P. Weiss, I. Procházka, J. Jarolím, J. Veselý, and V. Weiss, *Transsexualita: Diagnostika a léčba* (Prague: Grada Publishing, 2002).

13. Human Rights Committee, *The Status of Lesbian, Gay, Bisexual, Transgender and Intersex Rights in the Czech Republic—A Shadow Report* (Office of the United Nations High Commissioner for Human Rights, 2007), http://www.ohchr.org/english/bodies/hrc/docs/ngos/LGBTShadow_CzechRepublic.pdf (accessed October 28, 2007).

14. Ibid.

15. Ibid.

16. *Analýza situace lesbické, gay, bisexuální a transgender menšiny v ČR* (2007). Pracovní skupina pro otázky sexuálních menšin ministryno pro lidská práva a národnosti menšiny ČR, http://www.diskriminace.cz/dt-publikace/analiza_final.pdf (accessed November 8, 2007).

17. Procházka and Hromada, *Společenská diskriminace lesbických žen, gay mužů a bisexuálů v ČR*.

18. Ibid.

19. Human Rights Committee, *The Status of Lesbian, Gay, Bisexual, Transgender and Intersex Rights in the Czech Republic*.

DENMARK

Ann Kristin Lassen

OVERVIEW

Denmark is the smallest and southernmost of the Scandinavian countries. The country borders the North Sea to the west, the Baltic Sea to the east, and, to the south, the peninsula of Jutland is bordered by Germany. Since 1949, Denmark has been a member of NATO and in 1973 the country joined the European Union (EU). Greenland and the Faroe Islands are part of the Kingdom of Denmark. Both are governed by home rule and the Danish parliament has no influence on their domestic legislation. Neither of the two territories are members of the EU.

In 1849, Denmark became a constitutional monarchy, although the role of the monarch is only symbolic and representative. Folketinget, the Danish parliament, consists of 179 seats that are allocated by general elections based on proportional representation at least every fourth year. Greenland and the Faroe Islands have two seats each in the parliament. A liberal-conservative coalition government supported by the nationalist Danish People's Party currently governs Denmark. In total, eight parties won seats in the parliament during the general election in 2007.

Until the 1960s, the Danish population was rather homogenous, but the demand for more labor during the economic progress from the 1960s onward prompted the country to invite foreign nationals to join the labor force. The population of approximately 5.5 million people now consists of 8.8 percent immigrants and their descendants, primarily from Turkey, Iraq, and Poland.¹



OVERVIEW OF LGBT ISSUES

Since the 1970s, gay and lesbian lifestyles have gradually become more visible in the public space and debate, and the AIDS crisis in the 1980s effectively put homosexuality on the public agenda. The advances made during these years have not come easily, and gay and lesbian persons' ability to form families and enter into registered partnerships have been especially politically contentious issues.² These two areas have caused much debate both in society at large and within the gay and lesbian communities, but have nonetheless resulted in new legislation that makes gays and lesbians equal to heterosexuals in many aspects of the law.

In 1981, homosexuality was removed from the National Board of Health's list of diseases. This move has been reflected socially in that it is no longer unusual to see politicians or other public figures being openly gay or lesbian. In general, Denmark is perceived as a tolerant and liberal country when it comes to sexual practices and minorities. However, LGBT persons' rights to adopt or have their marriage blessed in church still meets opposition, primarily from political and religious conservative forces.

Recently, labor unions and employers have begun to focus on LGBT persons' conditions in the workplace, where discrimination still exists, although antidiscrimination legislation protecting the rights of LGBT persons has been passed by the EU and the Danish government.

EDUCATION

The Danish welfare system promises to take care of every citizen from cradle to grave. To a large extent, the educational system is publicly funded, and 88 percent of Danish school children are enrolled in the public primary and lower secondary school system. The central government decides on the general framework for primary and secondary education, thus providing municipal schools with common aims. Each municipality then decides how these should be administered and carried out in practice.

Since 1970, sex education has been a compulsory part of the curriculum. The subject is governed by a principle of neutrality to ensure that no moral judgments are passed in the teaching of the subject. The most recent guideline on how to teach sex education focuses on the positive aspects of sexuality, desire, and quality of life.³ This opens up the curriculum to include LGBT issues, but with each municipality deciding how to carry out sex education and which aspects to emphasize, the teaching of sex education across the country varies significantly. Teachers can choose to supplement the teaching of sex education with lectures or workshops held by other professionals or organizations. Furthermore, both the Danish Family Planning Association and the Danish National Association of Gays and Lesbians offer sex education programs and workshops to lower and upper secondary pupils. The neutrality principle in sex education thus allows for LGBT issues to be presented to students, but does not ensure that this will be the case in all schools.

EMPLOYMENT AND ECONOMICS

Denmark is a market economy regulated by an extended welfare state. Based on the ideals of universalism and egalitarianism the Danish state is, like the other Scandinavian welfare states, committed to economic redistribution and the provision

of extensive social services. With a GDP of \$34,207 per capita⁴ and a customarily low unemployment rate, Denmark enjoys a high standard of living.

Although labor unions have experienced a decrease in members over the past decades, the Danish market is still to a high degree organized through collective bargaining between labor unions and employers organizations. Collective agreements determine, among other things, the level of pay and access to paid parental leave and additional holidays, but the main pieces of legislation on antidiscrimination stem from the national parliament and the EU. The Act on prohibition against discrimination in respect of employment, passed by the national parliament in 1996, and the Principle of Equal Treatment in Employment and Occupation, passed by the European Union in 2000, protect the rights of nonheterosexuals in the labor market. These apply to employment in both the public and private sectors and make it possible to take legal action when an employee is discriminated against on the grounds of sexual orientation. Despite these laws, gay and lesbian employees still experience such discrimination. Four in 10 homosexuals report being discriminated against in the workplace in relation to lack of promotions, being bullied, receiving inappropriate comments about their sexuality, or being dismissed because of their sexuality.⁵ Labor unions have begun to include sexual orientation in their work on equality in the labor market, and provide their LGBT members with legal advice and the opportunity to have their cases tried in a tribunal when experiencing discrimination. Concurrently, employers are starting to address the need for inclusion in the workplace. The two main municipal employers, the Cities of Copenhagen and Aarhus, have now included sexual orientation in their employment policies.

SOCIAL/GOVERNMENT PROGRAMS

Both the central government and the municipalities provide funding to voluntary organizations accommodating a wide range of communities and their needs, including LGBT organizations, but there are no initiatives or programs funded exclusively by the state or municipalities.

SEXUALITY/SEXUAL PRACTICES

The first known case of AIDS in Denmark was identified in 1981. The gay community believed that the authorities responded too slowly to the problem, and that the media reacted too hysterically. This led to the formation of the STOP AIDS organization, which originated from the Danish National Association of Gays and Lesbians but is now an independent organization committed to the prevention of HIV/AIDS and support for those infected.

The central government responded to the AIDS crisis in 1987 by deciding that the national AIDS health care intervention in Denmark should be based on the voluntary corporation of clients, openness, straight and frank information, and antidiscrimination. As a result, safe sex programs and national information campaigns were launched that promoted sex as a good, healthy, and beautiful activity, but also one that called for responsible behavior in the form of safe sex practices.⁶

Gays and other men who have sex with men (MSM) are overrepresented in the figures on HIV infections and AIDS in Denmark.⁷ Although the infection rate experienced a decline in the 1990s, it went up again in 2003. The main reasons

for this are believed to be the cutback in public funding for information campaigns and the improved treatments for HIV that can give the impression that HIV is yet another treatable STD. As a consequence, new strategies to target groups displaying risky behavior have been implemented, and more municipalities are allocating funds to HIV/AIDS organizations and campaigns.

FAMILY

The idea of a culture of single households has become popular over the past 25 years or so. During this time, however, the composition of Danish households has not changed significantly, and it is estimated that 75 percent of all couples are married⁸ and approximately 32 percent of all adults live alone.⁹ The marriage rate has been stable over the past decade, with around 36,400 couples getting married every year; the divorce rate has decreased 6.3 percent from 2005 to 2006. There are now 13.3 divorced persons per 1,000 inhabitants¹⁰ and, in spite of this decrease, Denmark still has one of the highest divorce rates in the world.

Although sometimes far from reality, the ideal of the nuclear family has influenced aspects of Danish family law, with severe implications for LGBT persons. Public debate around changes in family laws has especially questioned gays and lesbians' suitability and abilities as parents.¹¹ No research has yet focused on LGBT families in Denmark, but research from other Scandinavian countries implies that gay and lesbian parents can raise children just as well as heterosexuals can.¹² Gays and lesbians have for a long time opposed the Danish family laws that favor heterosexual couples in this way. Alternative, nonheterosexual family arrangements and their access to adopting a child and receiving publicly funded assisted insemination monitored by doctors has been a politically contentious issue. Prior to 2007, lesbian and single women were not allowed assisted insemination performed by doctors. This restriction applied to public hospitals and private clinics alike, and was seen as an outright discriminatory legislation. Assisted insemination was limited to childless heterosexual couples and was seen by both the left and right political wings as a necessary restriction in the interest of the child. However, the law had a loophole that resulted in midwives setting up a private clinic to accommodate the needs of lesbian and single women who wanted children by the means of assisted insemination. At the same time, these circumstances kept the debate about LGBT parenthood alive.

Nonheterosexual women's right to receive assisted insemination by a doctor was a hotly debated issue throughout the 1990s and the early 21st century, and paved the way for a change in the law in 2006, which was put in effect on January 1, 2007. Thus, a woman's right to receive publicly funded assisted insemination by a qualified doctor thus no longer rests on her relationship with a man, and many alternative family arrangements are expected to benefit from changes in the law.

Despite these changes, gays and lesbians have not been given the same status as heterosexual couples when it comes to adopting a child. When adopting a child in Denmark, government officials need to approve the applicants and their suitability as parents before they can be added to a waiting list to be offered a child to adopt. Gays and lesbians are prohibited by law from adopting and therefore do not have the right to be even considered as adopters. The same argument that was initially used to prohibit lesbian and single women from assisted insemination is now also used to prohibit gays and lesbians from access to adoption, although single women

are granted this option. Furthermore, it is argued that most of the countries where children are put up for adoption do not wish to let gays and lesbians adopt, which complicates the matter, as it does not only relate to domestic Danish legislation. As a response to this, some politicians and LGBT interest groups have suggested that Denmark make separate agreements with the countries in question concerning gay and lesbian adopters.

Even though gays and lesbians do not have the right to adopt, LGBT families nevertheless exist in many forms. Some may have children from previous heterosexual relationships, others may have received assisted insemination in private clinics, and some children may have a gay father and a lesbian mother who have chosen to start a family together, with or without respective partners. In any of these cases, a child can only have two parents in a legal sense. In Denmark, LGBT persons are allowed to adopt their partner's child when they have been together for at least 2½ years, provided that the child's other parent is willing to give up his or her legal rights and obligations. However, lesbian couples that have become pregnant by assisted insemination with an anonymous sperm donor have the right to second-parent adoption when the child is three months old.

Family policy in the labor market has yet to adjust to new family arrangements. The legislation concerning the rights to parental leave in the labor market is still gender-specific. This creates problems for parents of the same sex because they lose out on the possibility of caring for their newborn child at home.

COMMUNITY

The Danish National Association of Gays and Lesbians was founded in 1948 (then the Circle of 1948) and, although it has undergone significant changes since its initial formation, it still exists today as the only national organization bringing together gays, lesbians, bisexuals, and transgender people. The organization was inspired by similar organizations in Germany, the Netherlands, and Switzerland, and was founded with the purpose of bringing together gays and lesbians living in isolation in Danish society. Later on, bisexuals were included, and in 2008 it was decided that transgender people would be included in the organization. After only a few years the organization had 1,600 members. During the widespread police harassment and negative public opinion surrounding especially gay men in the 1950s and 1960s, the membership fell to a mere 65 people when the situation for gay men was at its worst.¹³ The removal of some of the discriminatory legislation that had been used to target gay men, together with the turn in public opinion, helped change the situation, but radical change was brought about following the Stonewall riots in the United States in 1969. Inspired by the situation in the United States, a group of gay men formed the Gay Liberation Front, which launched a new confrontational style in their campaigning. A few years later, Lesbian Movement was formed by a group of lesbians who neither felt at home in the male-dominated Danish National Association of Gays and Lesbians nor in the heterosexually dominated new feminist movement. Although neither movement lasted more than 10–15 years, they marked a rebellion against what they saw as the older generation's conformity and invisibility in society, and paved the way for change in the campaigning style of the Danish National Association of Gays and Lesbians, who took on a more confrontational approach to bringing about change for gays, lesbians, and bisexuals.

Today, the organization continues to be one of the main platforms in Denmark for political campaigning and activism, as well as cultural activities, sex education workshops, guidance and advice services, and so on, and is also part of the International Lesbian and Gay Association (ILGA). Local grassroots associations and networks exist in all the major cities, organizing social and cultural activities and support groups for people living with HIV/AIDS. The Danish National Association of Gays and Lesbians was until recently the publisher of the longest-surviving magazine for gays, lesbians, and bisexuals, *PAN* magazine.

Immigration from the Middle East and North African countries over the past four decades has introduced ethnic minorities into Danish society. LGBT persons from minority backgrounds face distinct difficulties in Danish society as they struggle with the acceptance of both their sexuality and their ethnic, racial, or religious background. As a response to this situation, Sabaah, meaning *new beginning*, was formed in 2006 as an organization for LGBT persons from minority backgrounds in Denmark. The Danish National Association of Gays and Lesbians also has a branch catering for the needs of gays, lesbians, bisexuals, and transgender people from minority backgrounds.

Trans-Danmark, the National Association of Transvestites and Transsexuals, was initially a group of transgender people loosely connected on the Internet, but is now the main platform for transgender people in the country. The organization is campaigning to change the laws on gender-specific first names and the central person register number (CPR-Number). The organization is the only one representing transgender interests that has the right to attend hearings in the Danish parliament.

In general, the emergence and expansion of Internet use has made it possible for LGBT persons to get together in new ways by joining online networks, forums, or mailing lists. This means that it is no longer necessary to be in or near one of the bigger cities in the country to be a part of the different LGBT communities.

HEALTH

As an extended welfare state, Denmark provides universal health care to all its citizens. In 1983, it was made mandatory for health care personnel to report any incident of AIDS to a central register listing the person's name, CPR-number (which includes details of the persons age and gender), presumed method of transmission, immigration status, and date of first HIV-positive test. Since 1990, HIV infections have been registered as well, although this registration is made anonymously and only includes details of gender, age, presumed method of transmission, immigration status, and dates of previous HIV tests. On this basis, it is estimated that there are currently 5,000 people living with HIV and 550 people suffering from AIDS in Denmark.¹⁴

Transsexuals make up a small minority, comprising only a few hundred people in Danish society.¹⁵ Their health needs in relation to the alteration of their gender are catered to at the Sexological Clinic in Copenhagen. The clinic is part of a state hospital, and is the only place in the country where transsexuals can receive treatment. Transgender people in the Trans-Danmark organization have opposed the state monopoly on the treatment of transgender persons on several grounds: it is inflexible for those living outside the capital, but most importantly the clinic has a high proportion of interns/younger doctors and a high staff turnover, hindering professional expertise and specialization. Instead, transgender individuals wish to

be able to seek treatment and surgery at private clinics and in other hospitals within the EU's internal market, which allows for the free movement of goods, capital, people, and services within EU member states but does not apply to public services such as health provision.

POLITICS AND LAW

Sodomy

Until 1933, sexual relations between men were illegal. Prior to 1933, sodomy laws in which a range of offences against nature were criminalized had regulated men's sexual relations. As offences against nature involved the inappropriate use of the male genitals, women's sexual relations were not punishable and were therefore legal. In 1930, the age of consent for heterosexual relationships was raised from 12 to 15 years, and was set to 18 for homosexuals. This remained the case until 1976, when the age of consent was lowered to 15 for homosexuals as well.

Marriage

In 1989, Denmark became the first country in the world to pass a law making it possible to formally register same-sex partnerships.¹⁶ With few but important exceptions, the law on civil partnership gave same-sex relationships equal status to heterosexual marriages. Political debate on the legal status of other family arrangements than the heterosexual marriage was sparked in 1973, when the Socialist Party proposed a law granting alternative living and family arrangements legal rights in relation to inheritance, adoption, and so on. During the 1970s, members of the Danish Association of Gays and Lesbians debated internally whether or not to conform to heterosexual family life standards and campaign for equal rights to marry. The result was the establishment of a committee to draft a bill legalizing marriage between persons of the same sex. Although a government commission rejected such a bill in 1984, the Danish Association of Gays and Lesbians were successful in their lobbying and in 1989 the bill was proposed in parliament. Following traditional procedures when voting on an ethically delicate matter, all members of parliament were set free from the official party line to vote according to their personal beliefs. The law was passed with 71 votes in favor of and 47 against the bill and on October 1, 1989, cofounder of the Danish Association of Gays and Lesbians Axel Lundahl-Madsen was able to legally register his relationship of many years with Eigil Eskildsen.

Transsexuals

To transgender persons, the law regulating the CPR-number poses specific problems. The CPR-number includes a person's date of birth, but also gives information about the person's sex. People who wish to live as the opposite sex will have to reveal their sex at birth at public or private institutions. For example, libraries, pharmacies, and banks require the CPR-number. Transsexuals who wish to alter their body or change their first name and CPR-number and be recognized as their gender of choice must first undergo treatment at the only public sexological clinic in Denmark. The clinic adheres to the Standards of Care drawn up by the international World Professional Association for Transgender Health.¹⁷

In order for a transsexual person to change his or her sex, the person must undergo observation and treatment for two years. In this period of time, the person must undergo hormonal treatment for at least one year and live as the gender of choice most of the time. There is no bill specifically addressing transgender surgery; instead, the bill on sterilization and castration regulates this. Permission to undergo surgical procedure to change one's sex is granted by the National Board of Health, which then obtains a statement about the person's suitability for surgery. It is then in the hands of the Medico-Legal Council to decide whether a person is allowed the surgical procedure. Every year, five to ten persons are granted permission to surgically change their sex, most of them being male-to-female. It is commonly assumed that some transsexuals choose to finance surgery abroad, where access is easier and less restricted.¹⁸ A transsexual person who has undergone surgery abroad and afterwards wishes to change his or her gender in a legal sense and thus get a new CPR-number that reflects the new gender of choice can be granted this by applying to the National Board of Health. Applying to the Department of Family Affairs can change gender-specific first names.

Bisexuals

As is the case in many other countries, bisexuals are virtually invisible in Danish legislation. When with a partner of the same sex, bisexuals are viewed as homosexuals; with a partner of the opposite sex, they are perceived as heterosexuals. The only time in Danish legislation when bisexuality is mentioned is in relation to donating blood. MSMs cannot donate blood; neither can a woman who has had sex with a bisexual man. The Danish National Association of Gays and Lesbians has always had bisexual members and, since 2002, has made it a priority to work on increasing the visibility of bisexual people in both the law and society.

RELIGION AND SPIRITUALITY

Denmark enjoys freedom of religion, but the constitution privileges the Evangelical Lutheran church as the state church, and as such, matters of the church are regulated by the Ministry of Ecclesiastical Affairs. Eighty-three percent of the population belongs to the Church of Denmark, but only an estimated 2 percent of the members attend service on a regular basis.¹⁹ The Evangelical Lutheran Church of Denmark does not represent a unified organization, and therefore has no clear or coherent stance toward LGBT issues and people. Some clerics wish to allow for gays and lesbians to marry in their congregations, while others see homosexuality as a sin and therefore incompatible with Christianity.²⁰ The law on marriage currently prohibits clerics who wish to perform religious wedding ceremonies for same-sex couples from doing so. A change in this will allow for the Church, and not the state, to decide how to proceed in cases where a gay or lesbian couple wishes to marry in the Church of Denmark. Within the Church, this remains a much-debated issue, and the right-wing branch has threatened to leave the Church of Denmark if gays and lesbians are allowed a religious ceremony in the church.

Religious LGBT persons have found different ways to exercise their faith. The Universal Fellowship of Metropolitan Community Churches, which first originated in the United States, also has a congregation in Denmark, bringing together LGBT

people from various strands of Christianity to celebrate their faith. The national network Christian and Homosexual invites Christian gays and lesbians to meet likeminded people in an open environment, but does not function as a congregation or perform services.

VIOLENCE

Generally, Denmark has low crime rates, with only 53 homicides in 2005²¹ and 7.2 percent of the population reporting incidents or threats of violence in the same year.²² There are no official surveys documenting the experiences of LGBT persons in relation to hate crimes. Victims of offences who believe the violence to be motivated by bias or prejudice do not have the option to report the incident as a hate crime. Instead, the police decide whether the offence should be investigated as a crime motivated by bias or prejudice. However, bias or prejudice is seen as an aggravating circumstance for an offence, and will result in stricter penalties in cases ruled to be hate crimes. The issue of definitions of hate crime remains a politically contested question and LGBT organizations are lobbying for a change in the law that will make it possible for the victim to define whether he or she has been the victim of a hate crime.

OUTLOOK FOR THE 21ST CENTURY

Since the 1980s, LGBT persons have gained many of the rights that the heterosexual majority of the Danish population enjoys. In particular, gays and lesbians have become an integrated part of much legislation on antidiscrimination and equal rights. Many of the previous laws were changed as a result of extensive lobbying by LGBT interest groups that have put gays and lesbians' equal rights in society at the fore of their political agendas. The LGBT community in Denmark is now experiencing diversification over the issue of integration into the mainstream heterosexual society versus a separatist stance with a focus on difference and the distinct qualities of LGBT people. This may well lead to new subcultures and political debates within LGBT communities and society at large in the future.

RESOURCE GUIDE

Suggested Reading

- Henning Bech, *When Men Meet: Homosexuality and Modernity* (Cambridge: Polity Press, 1997).
- Nico Beger, Kurt Krickler, Jackie Lewis, and Maren Wuch, eds., *Equality for Lesbians and Gay Men: a Relevant Issue in the Civil and Social Dialogue* (Brussels: ILGA-Europe, 1998).
- Jan Löfström, *Scandinavian Homosexualities: Essays on Gay and Lesbian Studies* (New York: Haworth Press, 1998).
- Ken Plummer, ed., *Modern Homosexualities: Fragments of Lesbian and Gay Experience* (London: Routledge, 1992).
- Robert Wintemute and Mads Andenæs, eds., *Legal Recognition of Same-Sex Partnerships: A Study of National, European and International Law* (Portland: Hart Publishing, 2001).

Films

En Soap (104 min.; 2006). Directed by Pernille Fischer Christensen. Garage Film AB. A drama about the friendship between a transgender person and her neighbor.

En Kort, En Lang (98 min.; 2001). Directed by Hella Joof. Angel Films. A film about a gay man who finds himself falling in love with his partner's sister-in-law.

Web Sites

Gayguide, <http://www.gayguide.dk>.

Provides information on cultural activities for gays, lesbians, and bisexuals.

Kvinfo, <http://www.kvinfo.dk>.

Mainly a library and resource center for information on women and gender studies in Denmark; also has a section on LGBT issues in Denmark and other Nordic countries.

Mor og Far x 2 (Mom and Dad x 2), <http://www.morogfarx2.dk>.

Web-based network for nonheterosexual families.

Regnbuefamilier (Rainbow Families), www.regnbuefamilier.dk.

Online forum for rainbow families. The Web site provides information on legislation and news, as well as advice.

Organizations

AIDS, Phone: +45 39 27 14 40

Collects funding for patient support, research, and information for the general public on HIV/AIDS

HIV-Danmark, <http://www.hiv-danmark.dk>.

Organization for people suffering from HIV in Denmark. Provides support and lobbies in the interest of HIV patients and their relatives.

STOP AIDS—Bøssernes HIV Organisation (Stop AIDS—HIV Organization for HIV-positive Gays), <http://stopaids.dk>.

The first organization in Denmark to campaign on HIV/AIDS. Provides information on HIV/AIDS and safe sex in gay communities.

Minority Focus

Sabaah, <http://www.sabaah.dk>.

Salon Oriental, <http://www.salonoriental.dk>.

A forum for gays, lesbians, and bisexuals from minority backgrounds. The organization is a part of the Danish Association of Gays and Lesbians.

Political Action

Landsforeningen for Bøsser og Lesbiske (The Danish Association of Gays and Lesbians), <http://www.lbl.dk>.

The national political platform for gay, lesbian, and bisexual persons. Besides political campaigning, the organization has local branches organizing cultural activities, sex education workshops, and advice and guidance services.

Lambda, <http://www.lambda.dk>.

Organization for gays and lesbians on the island of Funen. The organization is engaged in political campaigning and also offers an advice service.

The Queer Committee of the Danish Red-Green Alliance, <http://www.queer.dk>.

Confronts the heterosexual norms within Danish legislation and politics. The committee also arranges cultural activities for anyone sympathizing with LGBT issues.

Students

BLUS, <http://www.blus.dk>.

Organization for gay, lesbian, and bisexual students in the Copenhagen area. Organizes GayDay every Tuesday evening at the Student's House.

Religious

Kristen og Homo (Christian and Homosexual), <http://www.kristenoghomo.dk>.

Online network for Christian gay, lesbian, and bisexual persons.

Markens Liljer, <http://www.markensliljer.dk>.

The Universal Fellowship of Metropolitan Community Churches branch in Denmark. Performs a ceremony every Sunday at 4 P.M.

Transgender

Alternative Maskuliniteter (Alternative Masculinities), <http://www.al-ma.dk>.

Network for alternative expressions of masculinity by persons born as female. Open for all sexual orientations.

Patientforeningen for Transseksuelle (Patient Organization for Transsexuals), <http://www.pft.dk>.

Organization that promotes the interests of transsexuals.

Trans-Danmark, Landsforeningen for Transvestitter og Transseksuelle (National Association of Transvestites and Transsexuals), <http://www.trans-danmark.dk>.

Internet-based interest group for transvestites and transsexuals. Lobbies for change in the laws on gender-specific first names and CPR-numbers.

NOTES

1. Danish Immigration Service, Ministry for Refugees, Immigration and Integration, *Tal og Fakta—Befolkningsstatistik om Udlendinge* [Numbers and Facts—Population Survey on Foreign Nationals] (June 2007), http://www.nyidanmark.dk/da-dk/Statistik/oversigt_statistik.htm (accessed November 27, 2007).

2. See, for example, the articles Mette Liv Mertz, "It Goes Without Saying—The Privilege of Commonplace," *Lambda Nordica* 10, no. 1–2 (2003): 33–38; and Karin Lützen, "Gay and Lesbian Politics: Assimilation or Subversion: A Danish Perspective," *Journal of Homosexuality* 35, no. 3/4 (1998): 233–43.

3. Danish Ministry of Education, *Undervisningsvejledning for Emnet Sundheds- og Seksualundervisning og Familiekundskab* [Guideline for Teaching the Subject Health, Family and Sex Education], <http://www.faellesmaal.uvm.dk/fag/Sundhed/vejledning.html> (accessed October 10, 2007).

4. Organisation for Economic Co-Operation and Development (OECD), *Statistical Profile of Denmark: Figures from 2005*, <http://stats.oecd.org/wbos/viewhtml.aspx?queryname=312&querytype=view&lang=zen> (accessed October 10, 2007).

5. *Ugebrevet A4* (A4), "Bøsser og Lesbiske Diskrimineres på Jobbet" ["Gays and Lesbians Are Discriminated Against in the Workplace"], news release, August 2005, <http://www.ugebreveta4.dk/Globals/Temaer/Ligestilling/Bosseroglesbiskediskriminerespajobbet.aspx> (accessed December 3, 2007).

6. Henry P. David, Janine M. Morgall, Mogens Osler, Niels K. Rasmussen, and Birgitte Jensen, "United States and Denmark: Different Approaches to Health Care and Family Planning," *Studies in Family Planning* 21, no. 1 (1990): 1–19.

7. Susan A. Cowan and Else Smith, "Forekomsten af HIV/AIDS i Danmark i perioden 1990–2005" ["The Occurrence of HIV/AIDS in Denmark in the Period 1990–2005"], *Ugeskrift for Læger* [Weekly Scientific Journal of the Danish Medical Association]

168, no. 23 (2006): 2247, http://www.ugeskriftet.dk/portal/page/portal/LAEGERDK/UGESKRIFT_FOR_LAEGER/TIDLIGERE_NUMRE/2006 (accessed December 13, 2007).

8. Mogens Nygaard Christoffersen, *Familiens Udvikling i det 20. Århundrede: Demografiske Strukturer og Processer* [*The Development of the Family in the 20th Century: Demographic Structures and Processes*], Danish National Centre for Social Research, Report 04:07, 2004, <http://www.sfi.dk/sw15159.asp> (accessed November 16, 2007).

9. Ibid.

10. Vielser og Skilsmisser [Marriages and Divorces]. Nyt fra Danmarks Statistik [News from Statistics Denmark] Nr. 205 (2006), <http://www.dst.dk/Statistik/Nyt/emneopdelt/nytsingle.aspx?countid=9050&ci=true&pti=1> (accessed December 13, 2007).

11. Christel Stormhøj, "Queering the Family—Critical Reflections on State-Regulated Heteronormativity in Scandinavian Countries," *Lambda Nordica* 9, no. 3–4 (2002): 38–56.

12. Barn i Homosexuella Familjer [Children in Homosexual Families], Statens Offentliga Utredningar [Public Research of the State] 2001:10. Regeringskansliet [Government Offices of Sweden], http://www.regeringen.se/sb/d/108/a/608;jsessionid=a_IhcHFwxdDb (accessed December 2, 2007).

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EUROPEAN UNION

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OVERVIEW

Made up of 27 member states (MS), the European Union (EU) is an international entity that has been created and expanded through a number of different international treaties, signed—over the years—by a growing number of European countries. The first signatories of the initial founding treaties were only six (Belgium, Germany, France, Italy, Luxembourg, and the Netherlands); Denmark, Ireland, and the United Kingdom joined in 1973; Greece in 1981; Portugal and Spain in 1986; Austria, Finland, and Sweden in 1995; Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, and Slovenia in 2004; and Bulgaria and Romania in 2007.

According to the official figures,¹ the majority of citizens in all EU countries believe membership in the EU is a good thing for their country, but the level of support presents remarkable differences throughout the EU, and it has changed over the years. According to the same opinion poll, a majority of people in the EU (54%) consider that their country has actually benefited from its membership in the EU. At present, there are three countries that are negotiating their future membership: Croatia, the former Yugoslav Republic of Macedonia, and Turkey.²

Today, the EU is a significant economic and commercial power, and claims to be the world's biggest donor of development aid to poorer countries. As of 2008, the territory of the EU covers more than 4 million square kilometers (approximately 2.5 million square miles). The EU's population is almost half a billion, and it shares a commitment to peace, democracy, the rule of law, and respect for human rights.

The EU is less than half the size of the United States, but its population is over 50 percent larger, the world's third largest after China and India. In terms of birth rates, by 2004 the total fertility rate had fallen to about 1.5 children per woman. The population of young people is lower and the workforce is shrinking; this means that fewer workers will have to support more and more pensioners. The number of people over 80 is forecasted to reach 6.3 percent of the population by 2025.

The EU is performing relatively well in the world's economy. Its gross domestic product (GDP) is steadily growing. As a consequence of the entry of new MS in 2004 and 2007, the EU's GDP is now greater than that of the United States. This is even more striking when one considers that the EU makes up only 7 percent of

the world's population, but its trade with the rest of the world accounts for approximately a fifth of global exports and imports.

Europeans seem to be well connected to Europe and to the rest of the world. By 2006, more than 90 percent of businesses and 49 percent of households in the EU-27 had access to the Internet. According to recent statistics, a clear majority of Europeans (56%) say they can hold a conversation in one foreign language. For some of these, it is not a problem to speak two or even three foreign languages. However, almost half of all Europeans have severe difficulties in speaking a language different from their own.

Originally, the Treaty of Rome of 1957 establishing the European Economic Community (EEC)—later the European Community (EC)—was aimed at creating an internal market where people, goods, services, and capital could circulate without barriers. Over time, several other treaties—starting with the European Single Act of 1986—partially changed the face and the substance of the EEC. The EU was formally born in 1992 with the Treaty of Maastricht, which introduced the economic and monetary union and European Union citizenship. Since the adoption of the Maastricht Treaty, every citizen of a MS automatically acquires EU citizenship and the benefits dependent thereon, such as the right to move and reside, the right of petition, the right to vote and stand as a candidate, and to diplomatic protection. Moreover, since 1999, 16 countries—with a total population of over 320 million—have now adopted a single currency, the euro. The Maastricht Treaty was also important because it expressly codified the duty of the EU to respect fundamental rights, a duty arising—up to that point—from the common constitutional traditions of the MS and the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).³

In 1997, the Amsterdam Treaty was signed in the attempt to reinforce the project of a political union. While the treaty did not address some of the most important challenges, including decision-making procedures, it did introduce competence of the EC in areas not strictly linked to the economic market, such as visas, asylum, immigration, and other policies concerning the free movement of persons, employment, and customs cooperation. The Treaty of Amsterdam was followed by the adoption of the Nice Treaty in 2000, which further contributed to the process of reforming the EU and was accompanied by the proclamation of the EU Charter of Fundamental Rights. In the following years, the debate over the future of the EU took place in the context of discussions around a draft treaty establishing a constitution for Europe. The entry into force of the new treaty, signed by all MS and ratified by a majority of them, was postponed following the negative outcome of two referenda held in France and the Netherlands. In December 2007, European political leaders launched a new, simplified treaty that should overcome the previous difficulties, the Treaty of Lisbon. This treaty is not yet in force, because not all MS have completed its ratification.

Through the adoption of the various treaties, the EU has acquired varying competencies to legislate and issue regulations in the different political, economic, social, and environmental areas in order to achieve its objectives. According to the recent Treaty of Lisbon, the division of powers and competences now in place in the EU (the three-pillar structure) should be modified. The treaty foresees a renewed division of powers between the EU and the MS: in some areas, the EU has exclusive competence, in some it has a shared competence, and in others it has only a supporting competence (it can only support, coordinate, or supplement the actions of the MS).

A central objective of the European Community, as set in article 14 of the EC treaty, was to establish an internal market, “an area without internal frontiers in which the free movement of goods, persons, services, and capitals is ensured.”⁴ To this end, many European Community measures are aimed at the approximation of national provisions and mainly address the establishment of a governance regime, rules of exchange, or property rights. Abolition of tariffs in trade, customs union, abolition of quantitative restrictions on imports, prohibition on discrimination against imports and exports, and on discriminatory taxation, were major steps towards an economic union. Since its origins, the EC treaty considered that the internal market should be a system where competition is not distorted. Thus, it provides rules forbidding agreements between undertakings that prevent, restrict, or distort competition, and rules against the abuse of dominant market positions. The EC also regulates both state involvement in business practices and (since 1990) mergers.

As the harmonization of national laws proceeded in these fields, it became increasingly clear that closer economic integration could not function properly without a monetary union. The turning point was the Maastricht Treaty of 1992, which amended the EC treaty to ensure that an economic and monetary union (EMU) could soon be realized. New competencies were added to the EC, such as the management of monetary affairs and the co-ordination and surveillance of national economic policies. These competencies were especially conceived to ensure the realization of one of the four treaty freedoms, the circulation of capital, which had been lagging behind.

Today, European Community policies foreseen by the EC treaty are no longer exclusively connected with the functioning of the common market, but rather testify to the European Community’s involvement in social, environmental, and development cooperation policies. In close partnership with MS, the EC can also act—through supporting measures—in such fields as employment, economic and social cohesion, competitiveness, research and technological development, health protection, education and training, and consumer protection. The Treaty of Maastricht also addressed aspects more closely related to the need to ensure more political integration. Alongside economic and monetary powers, new competences were granted to the EC in the fields of visas for third-country nationals, education, culture, public health, and consumer protection.

European Institutions

Apart from the treaties, European Community law takes the form of regulations, directives, and decisions, which are binding, as well as recommendations and opinions. Regulations are general acts directly applicable in the MS, without need of implementing measures. Directives are binding as to the result to be achieved, but MS are free to choose the most appropriate form and means. They need to be transposed by each MS through internal acts of parliament or governmental regulations. Decisions are individual acts that bind only the specific subject to whom they are directed. Recommendations and opinions can be considered instruments of indirect approximation of laws among MS.

The main institutions of the European Community are the European Parliament (EP), the Council of Ministers, the European Commission, and the Court of Justice of the European Communities (ECJ). Legislative power is exercised by the Council alone, or by the Council and the EP together in some matters (the

co-decision procedure). The European Commission has supervisory, decision making, and implementation powers: it is the guardian of the treaties, as it may bring actions against other European Community institutions and against MS that do not abide by EU laws and regulations. The European Commission also proposes new legislation, and implements the rules adopted by the Council. The EP is the elected body that represents the EU's citizens and takes part in the legislative process. The parliament has developed much since its birth in 1957 with the Treaty of Rome, from a simple assembly of appointed members to the only directly elected body of the EU, exercising powers similar to those of the national parliaments. As for the ECJ, it has the role of interpreting European Community law. It also delivers judgments on enforcement actions brought by the European Commission or MS against other MS. The European Council, made up the heads of state and government of the MS, has developed from an informal meeting to an influentially guiding and supervisory body.

POLITICS AND LAW

Fundamental Rights

Throughout the past two decades the EU has become increasingly committed to the active promotion of human rights. A significant manifestation of this commitment was the inclusion in the 1997 Treaty of Amsterdam of article 13, which empowered the European Community to “take appropriate action to combat discrimination based on sex, racial, or ethnic origin, religion or belief, disability, age, or sexual orientation.” Following from this article, the Employment Framework Directive was adopted in 2000⁵; this Directive obliges all MS to introduce legislation banning discrimination in employment on a number of grounds, including sexual orientation. Given the number of countries and the population affected, the Employment Directive is arguably the most important single legislative initiative in the history of European lesbian, gay, and bisexual rights. In 2000, the EU also adopted the European Union Charter of Fundamental Rights, which was signed by a majority of MS in December 2007, conferring the same legally binding character as the EU treaties themselves. The charter includes sexual orientation discrimination as a prohibited ground of discrimination in its nondiscrimination article 21, being the first international human rights charter to do so.

These developments, together with a series of resolutions of the European Parliament, are increasingly establishing a rule that discrimination on the grounds of sexual orientation is—so far as the EU is concerned—unacceptable. This opens up the possibility of making progress with eliminating discrimination in all areas of activity that lie within the competence of the European Community, and particularly in employment, access to goods and service, asylum, and immigration.

At the Nice Summit in 2000, the Charter of Fundamental Rights and Freedoms in the EU was proclaimed. This charter set out in a single text the whole range of civil, political, economic, and social rights of European citizens and all persons residing in the EU, defined as the EU's common values. Its purpose is to make those principles more visible in order to strengthen the protection of fundamental rights in the EU. From the point of view of LGBT rights, this is also an important document because it is the first international human rights instrument to explicitly include sexual orientation as a prohibited ground of discrimination (article 21).

While proclaimed in 2000, the Charter has still to come into force in the EU. Incorporated in the defunct constitutional treaty rejected by France and the Netherlands in 2005, the Charter's legal status remained unclear until the recent adoption of the most recent EU treaty. With the signature of the Treaty of Lisbon in December 2007, the Charter acquired the same legally binding character as the European treaties themselves. Once the Lisbon Treaty is ratified by MS, the Charter will have the same legal status.

Compliance with the Charter on Fundamental Rights as well as with the European Convention of Human Rights is monitored by the newly established EU Fundamental Rights Agency. The role of the agency, which opened in March 2007, is to provide information and data on fundamental rights in the EU MS in their implementation of EU law. As part of its work program for the first year, the agency conducted both a legal and a sociological study on homophobia and discrimination base on sexual orientation and gender identity in the EU.⁶

The Role of the European Parliament

From an LGBT perspective, the European Parliament has been a principal driving force in bringing LGBT rights onto the European political agenda. A cornerstone in the Parliament's works for LGBT rights was the Roth report and the subsequently adopted "Resolution on equal rights for homosexuals and lesbians in the EC" (February 8, 1994). Although not binding, this resolution was a far reaching text that called upon the European Commission and the MS to secure LGBT rights throughout the European Community.

Since then, the European Parliament's work for LGBT people has steadily increased. members of the European Parliament (MEPs) have been influencing the political agenda by amending Commission proposals to reflect the interests of LGBT people, by organizing public hearings to raise awareness and foster discussion and by drafting reports and resolutions that, although not legally binding, are nonetheless important tools in the EU's political context. In fact, since the Roth report, the Parliament has reiterated its views on LGBT rights in several resolutions on the situation as regards fundamental rights in the EU. Recently, the EP adopted a resolution on homophobia in Europe, where it condemns any discrimination on the basis of sexual orientation (January 18, 2006). The strong stance against homophobia was reiterated in the resolution on the increase in racist and homophobic violence in Europe of June 2006. Another resolution on homophobia in Europe was adopted on April 26, 2007, mainly with a view to expressing deep concern for the homophobic climate that had been escalating in Poland, an EU member state since May 1, 2004. In this resolution, the EP recalled that the EU is a community of values, "with respect for human rights and fundamental freedoms, democracy and the rule of law, equality and non-discrimination among its most cherished values." It also affirmed that "the EU institutions and Member States have a duty to ensure that the human rights of people living in Europe are respected, protected and promoted."⁷

The Parliament has only been partially able to put transgender rights on the European political agenda; much still remains to be done to increase awareness. With the exception of the Parliament's September 12, 1989, resolution on discrimination against transsexuals and the inclusion of gender identity as grounds for asylum, transgender issues continue to be underrepresented. The most groundbreaking

advances for transgender people in recent years have come through case law at the European courts, not from the Parliament or the other European institutions.

An important participant in the Parliament has been the Intergroup on Gay and Lesbian Rights. Intergroups bring together MEPs from different political parties who share similar interest on specific issues (e.g. bioethics, disability, etc.). The Intergroup on Gay and Lesbian Rights maintains a European-level watch on issues that affect the LGBT community and ensures that equal rights remain at the forefront of the parliamentary agenda. It also intervenes, whenever possible, in incidents of homophobia, both within the EU and beyond its borders.⁸

The Council of Europe and the European Convention on Human Rights

Created in 1949 in the aftermath of World War II, the Council of Europe (CoE) is an institution completely separated from the EU. It brings together 47 countries with a view to protecting human rights, pluralist democracy, and the rule of law; encouraging the development of Europe's cultural identity and diversity; finding common solutions to the challenges facing European society; and consolidating democratic stability. One of the most prominent achievements of the CoE is the adoption of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), opened for signature in Rome on November 4, 1950, and in force since September 1953. The ECHR lays down a catalogue of civil and political rights and freedoms and is supplemented by a number of additional protocols. One of its most innovative and useful traits is that it sets up specific enforcement bodies, although the European Court of Human Rights (ECtHR) is the only remaining one after a series of reforms. Decisions of the ECtHR are binding; if left unaddressed, they may trigger action by the Committee of Ministers of the CoE, the body responsible for overseeing that the general or specific obligations arising from the decision are executed.

Among other rights, the ECHR protects the right to respect for private and family life (article 8), freedom of assembly and association (article 11), and the right to marry (article 12). Furthermore, it states that the enjoyment of the rights and freedoms set forth in the European Convention should be secured without discrimination (article 14). In order to secure the prohibition of discrimination in the enjoyment of any right set forth by law, and not just European Convention rights, member countries adopted additional protocol 12, which entered into force on April 1, 2005, for the 10 countries that had ratified it by then. As of 2008, only 15 countries have ratified it.⁹

The ECtHR has built a record of decisions whereby it demonstrates increasing support for LGBT issues, albeit it has still to accept that same-sex couples fall within the ambit of the right of respect for family life under article 8. Only in *X, Y, Z v. the United Kingdom* did the ECtHR recognize that the family arrangement of a couple raising a child, where one partner was a female-to-male (FTM) transsexual, did fall within the ambit of family life, although it ruled against the claimant who was trying to have his social tie with the child legally recognized.¹⁰ As regards private life, the ECtHR has ruled that "the object of Article 8 is essentially that of protecting the individual against arbitrary interference by the public authorities," and it added that the provision "does not merely compel the State to abstain from such interference: in addition to this primarily negative undertaking, there may

be positive obligations inherent in an effective respect for private or family life” (*Marckx v. Belgium*). During the 1970s, the now defunct European Commission of Human Rights refused several times to accept that cases concerning either criminalizing of sexual conduct between consensual adults of the same sex, or discriminatory age of consent, could fall within the scope of the right of respect for private life; many applications were declared inadmissible or were considered ill-founded.¹¹ Only in 1981 did the ECtHR find in favor of an applicant who had challenged the criminal prohibition of homosexuality still in force in Northern Ireland (*Dudgeon v. U.K.*; see also *Norris v. Ireland* and *Modinos v. Cyprus*). With this decision, antisodomy laws were declared illegal throughout all Council of Europe countries, more than 20 years earlier than in the United States.

As far as differential age of consent is concerned, the first favorable case came in 1997 (*Sutherland v. U.K.*, decided by the European Commission) and it was confirmed several times by the ECtHR in subsequent cases on grounds that it was discriminatory and thus contrary to articles 8 and 14 of the ECHR.¹² The ECtHR also banned sexual orientation discrimination in (public) employment, by ruling in 1999 that dismissal of members of the armed forces on grounds of homosexuality infringes the right of respect for private life guaranteed by the European Convention.¹³

By now, it is established in case law that “differences based on sexual orientation require particularly serious reasons by way of justification.” The first time the prohibition of discrimination was applied by the ECtHR to a case concerning sexual orientation was in 1999 (*Salgueiro da Silva Mouta v. Portugal*); the case concerned custody of a gay father over his child and the ECtHR concluded that denial of custody on grounds of the father’s sexual orientation amounts to unacceptable discrimination. Subsequently, several other cases found a violation of article 14, in conjunction with article 8 (*S.L.; L. and V.; R.H.; Ladner; Wolfmeyer; H.G and G.B.; B.B.*).

In 2003, the Court found in favor of a surviving partner who had lost his tenancy rights over the apartment he used to share with his late same-sex partner because Austrian law only granted them to the spouse or the unmarried partner of different sex (*Karner v. Austria*; for a contrary precedent in the Commission, see *Simpson v. U.K.*). In other cases, however, article 8 of the convention did not assist LGBT couples in finding adequate redress: for instance, in *W.J. and D.P. v. the United Kingdom* and in *C. and L.M. v. the United Kingdom*, the Commission found that the deportation of a non-EU citizen without residence permit, although it impinged upon private life and the relationship with his or her same-sex partner, did not constitute a violation of the right of respect for private life (see also *X and Y v. U.K.*). In a 1992 case, the Commission ruled that a stable homosexual relationship between two women does not fall within the scope of the right of respect for family life.¹⁴ The ECtHR has not yet accepted that same-sex couples enjoy a right to respect for their family life or a right to marry. Several statements on the meaning of marriage can be found in cases brought by transgender applicants who could not marry after reassignment. Early case law was repeatedly unfavorable: the ECtHR held that the right to marry foreseen in the convention refers only to traditional marriage between people of a different biological sex (*Rees v. U.K.*), and that domestic laws forbidding marriage of transgender people with a person of the same biological sex cannot be considered an excessive limitation of the right to marry (*Cossey v. U.K.; Sheffield & Horsham v. U.K.*). In these cases, the ECtHR

also held that refusal of the government to change the birth certificate after gender reassignment did not constitute a violation of the convention's right to respect of private life. Only in recent times has a more liberal approach developed. In a 2002 landmark decision, the ECtHR finally recognized that the government had to ensure legal recognition of the person's gender reassignment and that there is no justification for "barring the transsexual from enjoying the right to marry under any circumstances" (*Christine Goodwin v. U.K.*).

Finally, in 2007 the ECtHR held that the ban imposed on a pride march and on stationary assemblies by Polish authorities violated both the right to freedom of assembly and the nondiscrimination provision of article 14 (*Bączkowski v. Poland*). With a landmark decision of January 22, 2008, the ECtHR also held that refusing a lesbian woman the authorization to adopt a child, given "the manner in which certain opinions [of the authorities] were expressed," did mask sexual orientation discrimination, and was thus a conduct in breach of article 14 of the convention taken in conjunction with article 8 (*E.B. v. France*). The ECtHR stressed that "the inescapable conclusion is that her sexual orientation was consistently at the center of deliberations in her regard and omnipresent at every stage of the administrative and judicial proceedings" (paragraph 88). French law did already allow child adoption by single individuals.

EMPLOYMENT AND ECONOMICS

Free Movement

Today, thanks to the development of EU citizenships, all citizens have the right to move, reside, and remain within the territory of the MS. Furthermore, they have the right of equality before the law of other MS: after moving from state to state, they must be treated in the same way as nationals of the MS to which they have moved. More generally, according to recent rules (directive 2004/38/EC), access to social rights by citizens of the EU who move to other MS has been made dependent on the grant of residence by the host state, so as to reflect the contribution of each individual to the society he or she lives in, irrespective of nationality, thus reducing the risk of welfare shopping. Some rights can only be enjoyed after having been granted permanent residence.

Community institutions—and especially the ECJ—have tried to make sure that the benefits descending from national social programs could be afforded to citizens of other MS who were exercising their right to move and reside freely. Several cases brought before the ECJ concerned subsistence allowances, allowances facilitating access to the employment market, and tax breaks. Favorable decisions were reached by virtue of the prohibition of discrimination on grounds of nationality foreseen by the treaty. Furthermore, in the context of equal treatment between men and women, the EC developed a body of laws that has significant social and political repercussions, such as provisions on equal pay; access to employment, vocational training and promotion, and working conditions; social security; occupational social security schemes; and the safety and health at work of pregnant workers.

Originally, guarantees of equal treatment in certain fields were afforded only to those moving from MS to MS for economic purposes: the EC treaty speaks of circulation of *workers*, and affords to migrant workers the right to accept offers of employment, to move freely within the territory of MS for this purpose, to stay

in an MS for the purpose of employment, and to remain there after having been employed in that state. Furthermore, the EC treaty guarantees freedom of establishment, which includes the right to take up and pursue activities as self-employed persons and to set up and manage undertakings. Subsequently, rights similar to those given to workers were afforded to other categories of persons, such as students, pensioners, and others. According to a number of old EC regulations and directives, migrant workers had a right to the same social and fiscal benefits as national workers.

Antidiscrimination Legislative Framework

In recent decades, the EU has increasingly taken action to combat discrimination, including discrimination based on sexual orientation. The European Commission maintains that “discrimination seriously undermines EU employment and social protection achievements and that it harms social integration and cohesion,” as stated on its Web site. The first EU institution to address LGBT issues in relation to employment was the European Parliament: in 1984, it adopted a Resolution on sexual discrimination at the workplace, where it acknowledged the need to tackle the problems faced by lesbian and gay workers. Subsequently, a European Commission recommendation of 1991 on the protection of the dignity of women and men at work, supplemented by a code of practice on measures to combat sexual harassment, did specifically address harassment against lesbians and gay men. A further positive development (of binding nature) was the amendment of the staff regulations for officials of the Communities in 1998 to foresee sexual orientation as a prohibited ground of discrimination.¹⁵

A major breakthrough came in 1997 with the inclusion of article 13 in the Treaty of Amsterdam (in force since May 1, 1999), which empowered the European Community to “take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.” This was a unique and vitally important step for gay and lesbian rights in Europe. However, it was not enough in and of itself; it needed to be complemented by concrete measures, both in the legislative and the policy domain. Thanks to various MEPs who kept up the pressure on the European Commission and the respective MS to adopt new legislation, in the year 2000 the Council adopted two landmark directives: the so-called Race Equality Directive (2000/43/EC) combating discrimination on the grounds of racial and ethnic origin in various domains of EC competence, including employment and the provision of goods and services; and the Employment Framework Directive (2000/78/EC), which obliges all MS to introduce legislation banning discrimination in employment on a number of grounds, including sexual orientation.¹⁶

The Employment Framework Directive represents a significant advance in the progress toward real equality for LGB people in Europe: it prohibits both direct and indirect discrimination based on sexual orientation in access to employment (selection and recruitment) and vocational training, in employment and working conditions (including dismissal and pay), and in membership in employers’ organizations or professional bodies. It also protects against harassment and victimization in the workplace.

Because transgender issues are considered to be covered by EC sex discrimination law, gender identity is not mentioned in directive 2000/78. However,

discrimination linked to a transgender person's identity was included in the revision of the directive on the equal treatment of men and women (directive 2006/54/EC), which recognizes that the directive also applies to discrimination arising from a person's gender reassignment.

The Employment Framework Directive has been transposed—albeit with a varying degree of accuracy—by all 27 MS of the EU. During negotiations for accession of the MS that joined in 2004 and 2007, the European Commission issued public statements in order to make it clear that antidiscrimination rules need to be considered part of the *acquis communautaire*; this means that antidiscrimination legislation needed to be in place before any country joined the EU. For example, during recent rounds of negotiations, the European Parliament monitored legislative developments in countries that still had discriminatory (often criminal) laws against LGBT people, such as Bulgaria, Cyprus, Hungary, Estonia, Lithuania, and Romania. The implementation of the Employment Framework Directive in national legal systems was first monitored by a group of experts set up by the European Commission who focused specifically on issues of sexual orientation discrimination.¹⁷ Today, implementation of antidiscrimination laws is monitored by the European network of legal experts in the nondiscrimination field, set up by the European Commission in 2004 to cover five grounds of discrimination.

Case Law of the Court of Justice of the EC

In order to have a more complete understanding of the European antidiscrimination legal framework, it is also important to consider the case law on sexual orientation discrimination stemming from European courts, which has not always been favorable to LGBTs. A first noteworthy case was *Grant v. South West Trains Ltd.*¹⁸ In this case, the ECJ was asked to clarify whether the EC provisions on equality between men and women (article 141 of the EC treaty and some secondary law) also covered the case of partner-related employment benefits that had been denied by the British employer of Lisa Grant to her same-sex unmarried partner. The employer's staff regulations granted those benefits to the unmarried partner of an employee, provided that it was of a different sex. The court did not agree with the claimant, and it refused to accept that the differential treatment of the employee, based on the sex of her partner, could be regarded as unlawful (sex) discrimination, because the condition of living with a partner of the opposite sex applied equally to men and women. In contrast, Ms. Grant had argued that she was living with a woman and had been treated less favorably than a man living with a woman, and that this conduct on the part of her employer was sex discrimination forbidden by EC law.

Since then, other cases concerning differences in work-related benefits granted to same-sex registered partners compared to married or registered opposite-sex couples have been brought before the Court of First Instance (CFI) and the ECJ. One case was presented by an official employed by the European Council who had concluded a same-sex registered partnership in his state of origin and claimed the same partner benefits afforded to married officials. Both the CFI and the ECJ rejected his claim on the grounds that legal situations distinct from marriage cannot be treated in the same way as marriage, and that this conclusion did not infringe the principle of equal treatment.¹⁹ Yet, on April 1, 2008, after an ECJ advocate general (Jarabo Colomer Damaso) had delivered his favorable opinion, the court

held that Tadao Maruko, the surviving partner of Hans Hettinger, was entitled to the survivor's pension by a pension scheme to which Hettinger had contributed for 45 years.²⁰ The reason for the refusal was that the two men were parties to a registered life partnership in Germany, rather than to a legal marriage. The court found in favor of Maruko by holding that treating registered same-sex partners differently than married spouses (in relation to pay related benefits) constitutes direct sexual orientation discrimination if the two situations are comparable under the relevant domestic law. *Maruko* has been the ECJ's first judgment in favor of a same-sex couple and a departure from its prior judgment in *D. and Sweden* (2001), which is now overruled.

As regards transgender issues, the case law of the ECJ is conspicuously more favorable. In *P v. S*, the court ruled that discrimination because of gender reassignment is sex discrimination and is, thus, forbidden by EC law.²¹ Moreover, in 2004, it concluded that British legislation prohibiting transgender people from marrying a person of a different sex with respect to the acquired sex (because legally it would be a same-sex marriage) was incompatible with EC law insofar as it implied the denial of payment of a survivor's pension to the (unmarried) transgender partner of an employee.²² Furthermore, the court has recently ruled that the refusal to allow a male-to-female transgender person to retire at age 60, instead of 65 (the retirement age for men in the United Kingdom), is a violation of directive 79/7/EEC on the progressive implementation of the principle of equal treatment for men and women in matters of social security.²³

POLICIES AND PROGRAMS

EU employment policies and programs that relate to sexual orientation are intrinsically linked to the implementation of the Employment Directive and the mainstreaming of the antidiscrimination principle across the EU's programs and instruments. Recognizing that legislation is not enough, the European Commission has developed programs and projects to support concrete changes in the workplace. First, the European Commission works together with trade unions and employers' associations to support the development of employment practices and workplace policies in line with the directive. For example, the European Commission provided financial support for a project of the European Trade Union Confederation on sexual orientation discrimination. The European Commission has also been working with business by presenting a business case for diversity and good practices by equal opportunity employers, including on sexual orientation. Moreover, the European Commission has supported actions aimed at fighting discrimination in working life through the EQUAL Initiative (European Social Fund), which has fed into the European Employment Strategy. As part of EQUAL, eight projects specifically targeting sexual orientation discrimination were funded.

SOCIAL/GOVERNMENT PROGRAMS

In terms of social policy, the competence of the European Community was originally limited; the EEC Treaty of 1957 only gave a role to the European Community with respect to equal treatment between men and women. However, the development of the internal market in the 1970s was accompanied by an underlying social dimension (see regulation 1408/71 concerning social security for migrant

workers), which became more evident with the endorsement of a Community Charter of Basic Social Rights for Workers in 1989. The Amsterdam Treaty contributed to renewed momentum for the European social policy: it introduced the new title on employment and was accompanied by the social protocol. In 2001, the social policy agenda (SPA), prepared by the European Commission after the important Lisbon meeting of the European Council, reflected the new, integrated EU approach aimed at pursuing economic and social renewal through open coordination among MS.

Today, the role of the EC in matters of social solidarity is mainly that of a catalyst. Generally speaking, the European Community does not run its own programs when it comes to social protection and welfare. What it does is to offer additional financial support to national schemes, for instance through the European Social Fund and other programs. Furthermore, it can facilitate cooperation and dialogue with key institutions, agree with MS common objectives, and foster the transfer of best practices. The EU's financial contribution in this field is approximately 10 billion euros per year, which stands out as a very limited budget if compared to the 498 billion euros spent by Germany for social benefits. In this framework, in 2005 the EU adopted a new social agenda, a roadmap for employment and social actions.

More particularly, following the adoption of the Employment Framework Directive, the European Commission launched programs to support the implementation of antidiscrimination legislation. From 2001 to 2006, the European Commission ran its first Community Action Program against discrimination. This was designed to supplement—with awareness-raising and capacity-building actions—the new legislative framework against discrimination in a number of areas. This program involved the expenditure of 100 million euros over a five-year period. Part of this budget was allocated to the European branch of the International Lesbian and Gay Association (ILGA-Europe), as the European umbrella NGO networks representing and defending the rights of people exposed to sexual orientation discrimination. Activities funded under the program include awareness-raising campaigns; training on antidiscrimination legislation for judges, legal practitioners, and NGO representatives; studies on discrimination-related issues (e.g., good practices in the workplace, data collection, etc.); and support for specialized equality bodies.

For the period 2007–2013, the European Commission decided to continue further efforts in this direction by designing a new program called PROGRESS (Program for Employment and Social Solidarity), which combines four former Community action programs. Nondiscrimination is now included in one of PROGRESS's five sections, along with employment, social inclusion and social protection, working conditions, and gender. According to a European Commission leaflet, PROGRESS “will spend its budget of over 700 million on analyzing, networking and sharing of information to improve policy and practice and in campaigns to highlight key employment and social issues over its seven years of implementation.” Under PROGRESS, training and awareness-raising activities will continue to be funded, and umbrella networks such as ILGA-Europe will continue to be financially supported.

Another recent EU initiative relevant for LGBT people was the declaration of 2007 as the European Year of Equal Opportunities for All, a year-long concerted effort aimed at making people in the EU more aware of their rights to equal treatment. During this year, MS developed national strategies with priorities for the year

on each ground of discrimination included in article 13, and implemented activities and projects addressing all the grounds of discrimination. From a LGBT perspective, the Year of Equal Opportunities allowed LGBT people to gain visibility in many countries and opened up opportunities for national LGBT organizations to establish a sustainable dialogue with policy makers and public officials.

FAMILY

Competence over substantive family law matters, namely the celebration of marriages, conditions to marry, matrimonial property regimes, divorce, maintenance, children, adoption, and all that is related to civil status, is retained by MS. This can be deduced by the fact that no treaty provision enables the EU to adopt substantive measures in these fields. Over the last two decades, MS have each taken their own route as to the recognition of LGBT families. Today, there are various legal schemes ranging from full marriage rights (in Belgium, Spain, the Netherlands, and Sweden) to the possibility of registering very light cohabitation contracts, along with free-standing rights connected to informal, unregistered cohabitation. The following lists provide a simplified overview of developments in national law.

Civil marriage open to same-sex couples:

Belgium
Netherlands
Spain
Sweden

Alternative registration scheme similar to marriage:

Denmark
Finland
Germany
Netherlands
Sweden
United Kingdom

Alternative registration scheme entailing fewer rights and responsibilities than marriage:

Belgium
France
Czech Republic
Luxembourg
Portugal
Slovenia

Although no European Community action has been put in place to ensure coordination or harmonization of national substantive law, there is quite a remarkable EC activism in the field of mutual recognition of judgments among MS, including decisions on matrimonial matters and parental responsibility.

Notwithstanding the predominance of national law as regards family matters, a number of European Community policies confer rights over the individual depending on his or her family status or on his or her family relation with EU citizens. The main problem is to determine who qualifies as a family member for the purposes of European Community law. As already seen, in *D and Sweden v. Council* (see Employment and Economics), the ECJ refused to equate the position of a registered partner with that of a spouse for the purpose of granting a household allowance to a European Council official, although under the national law of the claimant, such equalization was in fact made.²⁴

In recent times various directives and regulations have started to define the *family member* in a broader way than the spouse only, but have left unaddressed a number of issues. This is the case, for example, in directive 2004/38/EC on the right of EU citizens and their family members to move and reside freely within the European Union.²⁵ According to this directive (article 2(2)), family members of EU citizens, irrespective of their nationality, enjoy a number of rights that can be equated to those of EU citizens, such as the right of entry and exit in the territory of a MS of temporary or permanent residence, a right to take up employment or self-employment in the host state, and a right to equal treatment with nationals of that state.

In many ways, this directive epitomizes all the difficulties encountered in the current debate around LGBT families in the EU. It defines as family members not only the spouse and certain descendants or ascendants, but also “the partner with whom the EU citizen has contracted a registered partnership on the basis of the legislation of a MS.” This important recognition of national legal schemes akin to marriage and often designed only for same-sex couples is, however, subject to the condition that such registered partnerships are already recognized in the MS to which the couple wishes to move. In other words, if a German couple, registered in Germany, wishes to move to Austria where no recognition exists, Austria may refuse to consider the registered partner of the EU citizen as a family member for the purposes of the directive in question. Although it may well be that the partner can enter the territory of Austria and reside there if he or she is also an EU citizen, the situation is rather different if he or she is a citizen of a country outside the European Union. In this case, it will be very difficult to rely on the directive. Furthermore, it should be added that even if a third-country national (e.g., a Canadian citizen) is allowed entry on grounds that legislation of the host MS (e.g., Sweden) treats registered partnerships “as equivalent to marriage,” the directive will still allow differential treatment as compared to the registered partner who has EU citizenship, both at the level of administrative formalities and of consequences of termination of the relationship.

The principle adopted by directive 38—that registered partnerships must be recognized only if the *host* MS already treats them as equivalent to marriage—also inspires other pieces of European legislation, dealing especially with the common asylum system and with immigration.

Mutual Recognition of Judgments in Matrimonial Matters and Parental Responsibility

In 1997, the treaty of Amsterdam inserted the new title IV into the EC treaty, thereby giving competence to the European Community in the field of visas, asylum, immigration, and other policies related to the free movement of persons. The

political project behind this transformation was that of ensuring that the EC could progressively become an area of freedom, security, and justice. An integral part of the area of freedom, security, and justice is the so-called judicial cooperation in civil matters, which has cross-border implications. EC measures in this field have the objective of improving and simplifying service of documents, taking of evidence, and the recognition and enforcement of decisions in civil and commercial cases, as well as of promoting the harmonization of laws among MS concerning conflict of laws and jurisdiction. In 1999, at a meeting held in Tampere, the European Council endorsed the principle of mutual recognition of judicial decisions and indicated family litigation among the priority areas to be addressed. Following this indication, in 2000 the Council adopted a program of measures for implementing this principle, where it laid down a series of European Community acts that it considered necessary.²⁶

As of now, regulation 44/2001 aims at setting common rules on jurisdiction and on recognition and enforcement of judgments in civil and commercial matters. This regulation does not apply either to rights in property arising out of a matrimonial relationship or to succession. It does, however, apply to judgments concerning maintenance and alimony. As far as matrimonial matters and matters of parental responsibility are concerned, regulation 2201/2003 dictates common rules on jurisdiction and on the recognition and enforcement of judgments. The regulation applies to judgments on divorce, legal separation, or marriage annulment, but does not address their prerequisites or their consequences (such as grounds for divorce, property rights, etc.); furthermore, it covers all decisions on parental responsibility (attribution, exercise, delegation, restriction, or termination) regardless of any link with a matrimonial proceeding, but does not apply to the establishment of parenthood, nor to any other question linked to the status of persons including adoption, name, emancipation, maintenance, trusts, or succession.

Neither of the two regulations modifies substantive or procedural law of the MS or conflict of laws rules. They merely select appropriate and common criteria for establishing which court has international jurisdiction and ensure automatic recognition and enforcement of decisions. After the adoption of the Hague Program in 2004 by the European Council, the Commission has put forward proposals for new legislation on applicable law both in matrimonial matters and in maintenance obligations.

From the perspective of LGBT families, it is unclear whether EU regulations apply to maintenance claims (regulation 44), divorce, separation, or annulments of marriages (regulation 2201) between persons of the same sex contracted in those MS that allow same-sex marriage. As regards matters of parental responsibility, it is even more doubtful that a MS that is the habitual residence of the child but that does not recognize any form of legal link between a child and the partner of the same sex of his or her biological parent or any form of adoption, will consider regulation 2201 applicable to such cases. In addition, it is difficult to assess how MS will deal with matters concerning the termination, separation, or annulment of registered partnerships contracted in other MS. Since regulation 2201 does not apply to such cases, the only viable conclusion is apparently that they will be dealt with by national rules on jurisdiction and on conflicts of laws. In certain cases, however, regulation 44 could apply, especially with respect to all of those schemes that are not considered akin to marriage and, thus, cannot be deemed to be excluded from its scope.

On December 15, 2005, the European Commission published a draft regulation on jurisdiction, applicable law, recognition and enforcement of decisions, and cooperation in matters relating to maintenance obligations,²⁷ which does include registered partnerships. According to article 1 of the proposal, “this Regulation shall apply to maintenance obligations arising from family relationships or relationships deemed by the law applicable to such relationships as having comparable effects.” It is rather clear, thus, that the Commission’s proposal does not exclude from its scope those registered partnerships that can be compared to marriage as to their legal consequences, according to the applicable law. A recent proposal of the Commission²⁸ aims at modifying regulation 2201 with a view to introducing common rules on applicable law in divorce matters, a step that should facilitate the mutual recognition of judgments.

COMMUNITY

While national LGBT organizations have existed in some European countries (e.g., the Netherlands and Denmark) since the 1950s, a European LGBT community emerged over the years, in large part through the action of individual activists who started using the legal and political mechanisms being put in place in Europe. LGBT youth organizations—such as the International Gay and Lesbian Youth Organization (IGLYO) active since the 1980s—trade union based LGBT groups and groups affiliated to political parties, all contributed to the creation of a European LGBT movement.

In 1996, ILGA-Europe was founded, when its parent organization, the International Lesbian and Gay Association (ILGA), established separate regions. As a nongovernmental umbrella organization representing its members, principally organizations of LGBT persons, it took over responsibility for supporting the development of the LGBT movement in Europe and for relationships with the EU, the Council of Europe, and the Organization for Security and Cooperation in Europe. Today, ILGA-Europe has more than 240 member organizations in over 40 European countries; these include national and local organizations, as well as trade union-based groups, political party-based groups, women’s groups, and so on. Many of ILGA-Europe’s member organizations combine human rights campaigning with providing support services to their community such as telephone help lines, HIV information and advice, and counseling. Initially, ILGA-Europe worked entirely on the basis of volunteer resources. However, the core funding allocated to the organization in 2001 in the context of the EU community antidiscrimination action program enabled ILGA-Europe to set up an office in Brussels and to recruit permanent staff.

HEALTH

The powers of the EU in the field of health care are rather limited. The EU complements the action of MS, whose primary competence in relation to the organization and delivery of health services and medical care is asserted in the EC treaty (article 152). Therefore, the EU can complement national policies by adopting “incentive measures designed to protect and improve human health” (e.g., supporting research into the causes of diseases, and promoting health information, education, and prevention) but it cannot harmonize the laws and regulations of the MS in this area (article 152(4)).

From a legal standpoint, the right to health is recognized in a limited way by the EU. For example, the Charter of Fundamental Rights (article 35) recognizes everyone's right "of access to preventive health care and the right to benefit from medical treatment under the conditions established by national laws and practices."²⁹ However, extending the scope of EU antidiscrimination legislation to protect against all grounds of discrimination in health care is on the agenda of the European Commission in the context of future legislative proposals implementing the principle of equal treatment outside employment. Adoption of new legislation would considerably extend the protection afforded against discrimination in health in the EU and would open up new opportunities for action in this area.

In this framework, the mainstreaming of nondiscrimination concerns and LGBT issues in EU health policy is progressing at a slow pace. While organizations are raising LGBT issues in the context of debates around an EU mental health strategy, in relation to health and safety at work and the impact of mental illness on employment, and access to health services, EU policies have yet to reflect the needs of LGBT people more specifically. On the other hand, EU programs against AIDS have repeatedly emphasized the importance of nondiscrimination. For example, in its communication on combating HIV/AIDS within the EU and in the neighboring countries (2006–2009), the European Commission says that it will continue to provide leadership to combat stigma and discrimination, identified as barriers to successful prevention.

EDUCATION

According to a Europe-wide survey conducted by ILGA-Europe and IGLYO in 2006, 61 percent of young LGBT people in Europe have experienced forms of discrimination at school.³⁰ While exclusion, bullying, and marginalizing of LGBT youth in education is a reality in the EU, the competence of the European institutions in this area is mainly related to issues of mobility of students and teachers, mutual recognition of qualifications, and vocational training, as important components of active labor market policies (article 149 of EC treaty).

Indeed, the involvement of the EU in education consists principally in coordination and exchange initiatives. In this context, EU action in relation to issues such as teachers' training, curricular development, and school management, among other areas, is confined to that of fostering cooperation and promoting the exchange of practices and experiences that MS are free to take on board or not as they choose. Indeed, the Treaty states that measures may be taken "excluding any harmonization of the laws and regulations of the MS" (article 149[4]).

In terms of legal protection in this area, it remains to be seen whether the newly adopted Charter of Fundamental Rights (article II-14) that affirms the right to education will have an impact on EU policies in the field of education, and thus offer opportunities to advocate for stronger protection and inclusion of LGBT youth at school, for instance. Moreover, the inclusion of education in the scope of the European antidiscrimination legal framework is under consideration by the European Commission in the context of future proposals to enhance protections against discrimination in areas outside employment (already covered by the Employment Framework Directive) on a number of grounds, including sexual orientation.

Therefore, EU policies related to education and youth have so far covered LGBT issues only marginally. The European Parliament, on the other hand, has highlighted the issue of discrimination and homophobia in education in recent years.

In April 2007, it adopted a resolution voicing concern following an announcement by the Polish education minister of a new draft law to outlaw homosexual propaganda in schools. During the same period, the LGBT Intergroup presented a written declaration on combating homophobic bullying; although the declaration failed to obtain the required number of signatures to become an official document, it was used to raise awareness about the issue among MEPs.

Moreover, EU programs have provided funding opportunities for initiatives aimed at raising awareness of sexual orientation discrimination and building the capacity of LGBT youth organizations. The Youth in Action program has funded exchanges and voluntary service experiences in LGBT organizations in countries like Poland and Lithuania, for instance. A network of youth resources centers funded by the EU, the SALTO-YOUTH centers, also developed resources specifically aimed at promoting the inclusion of young LGB people in the EU youth programs and in international youth work.³¹

VIOLENCE

According to Human Rights First's *2007 Hate Crime Survey*, there is a disturbing rise in hate crimes across Europe. The survey documents dozens of hate crime cases, analyzes trends, and discusses the causes and consequences of hate crime violence; it concludes that only 15 of the 56 participating states of the Organization for Security and Co-operation in Europe (OSCE) are fulfilling their basic commitments to monitor hate crimes, with countries in the EU and North America leading the way. Among other issues, the survey finds that the problem of antigay prejudice and violence has become more visible in many countries, with some of the reported acts of violence in 2006 taking place at gay pride demonstrations.

Most of the work on hate crime and violence in Europe has been carried out by the OSCE³² (a primary instrument for early warning, conflict prevention, crisis management, and postconflict rehabilitation in its area), and the EU is in the early stages of developing legislation to address hate-motivated violence as a crime. Negotiations over a proposal for a framework decision on combating racism and xenophobia has been taking place for more than five years, and was finally adopted by the European Council in 2007. It has yet to be adopted by all the MS. Unfortunately, this legislation does not cover crimes motivated by homophobia.

Despite the lack of a clear legal framework in the EU to take specific action against homophobic violence, the European Parliament has taken a strong stand to denounce crimes motivated by homophobia and incitement to hatred. In resolutions adopted in 2006 and 2007, the parliament has condemned homophobic hate speech or incitement to hatred and violence, and urged "MS to ensure that lesbian, gay, bisexual and transgender people are protected from homophobic hate speech and violence" (January 18, 2006 and April 26, 2007). The Parliament also requested that the Fundamental Rights Agency conduct a study on homophobia in Europe, which was published in 2008 and calls for European legislation to cover hate speech and homophobic violence.³³ Moreover, a number of MEPs have demonstrated their support for the right to freedom of assembly and protection against violence of LGBT people by attending various pride marches in and outside the EU (in countries like Moldova and Russia), and in particular, pride marches organized in hostile environments.

European Union funding in the area of freedom, security, and justice has in recent years offered opportunities for projects to raise awareness about violence against LGBT people. Through a specific funding scheme that supports actions against all forms of violence, including bullying in schools and discrimination-based violence against vulnerable people (called DAPHNE), projects on bullying and homophobia at school and on supporting families to prevent violence against gay and lesbian youth are receiving financial support from the EU.

OUTLOOK FOR THE 21ST CENTURY

The recognition of rights for LGBT people at the level of the EU has progressed significantly in the past decade. Prohibition of discrimination based on sexual orientation is increasingly enshrined in law at the European level, and a growing number of programs are being developed to support implementation of these legal provisions in practice. However, the protection against discrimination based on sexual orientation only extends to the area of employment in EU legislation. The adoption of a new antidiscrimination directive that would extend the protection against discrimination on a number of grounds of discrimination, including sexual orientation, in areas outside employment (such as access to goods and services, health care, education) is expected to remain on the European agenda over the next few years. Moreover, a number of cases pending before the European Court of Justice and the European Court of Human Rights on issues related to family and partnerships will likely have an impact on developments relating to legal recognition of same-sex couples and of diverse forms of families in Europe.

RESOURCE GUIDE

Suggested Reading

- Nico Beger, *Tensions in the Struggle for Sexual Minority Rights in Europe: Que(e)rying Political Practices* (Manchester: Manchester University Press, 2004).
- Mark Bell, *Anti-discrimination Law and the European Union* (Oxford: Oxford University Press, 2002).
- Mark Bell, "We Are Family? Same-sex Partners and EU Migration Law," *Maastricht Journal of European and Comparative Law* 9 (2002): 335.
- Katharina Boele-Woelki, ed., *Perspectives for the Unification and Harmonisation of Family Law in Europe* (Antwerp, Oxford, New York: Intersentia, 2003).
- Katharina Boele-Woelki and Angelika Fuchs, eds., *Legal Recognition of Same-Sex Couples in Europe* (Antwerp: Intersentia, 2003).
- Matteo Bonini Baraldi, "EU Family Policies between 'Good Old Values' and Fundamental Rights: the Case of Same-Sex Families," *Maastricht Journal of European and Comparative Law* 15, no. 4 (2008): 517.
- Matteo Bonini Baraldi, *Freedom and Justice in the EU: Implications of the Hague Programme for Lesbian, Gay, Bisexual and Transgender Families and their Children* (Brussels: ILGA-Europe, 2007).
- Damian Chalmers, Christos Hadjierrmanuil, Giorgio Monti, and Adam Tomkins, *European Union Law* (Cambridge: Cambridge University Press, 2006).
- Ian Curry-Sumner, *All's Well that Ends Registered? The Substantive and Private International Law Aspects of Non-Marital Registered Relationships in Europe* (Antwerp: Intersentia, 2003).

- Helmut Graupner, "Sexuality and Human Rights in Europe," in *Sexuality and Human Rights—A Global Overview*, ed. Helmut Graupner and Phillip Tahmindjis (New York: Harrington Park Press, 2005).
- International Commission of Jurists, 1995. *Sexual Orientation and Gender Identity in Human Rights Law: Jurisprudential, Legislative and Doctrinal References from the Council of Europe and the European Union* (Geneva: International Commission of Jurists), http://www.icj.org/IMG/European_Compilation-web.pdf.
- Johan Meeusen, Marta Pertegas, Gert Straetmans, and Frederik Swennen, eds., *International Family Law for the European Union* (Antwerp: Intersentia, 2007).
- Alastair Mowbray, *Cases and Materials on the European Convention on Human Rights*, 2nd ed. (Oxford: Oxford University Press, 2007).
- Clare Ovey and Robin White, *Jacobs and White: The European Convention on Human Rights*, 4th ed. (Oxford: Oxford University Press, 2006).
- Sheila Quinn, *Accessing Health: The Context and the Challenges for LGBT People in Central and Eastern Europe* (Brussels: ILGA-Europe, 2006).
- Sheila Quinn and Evelyne Paradis, *Going beyond the Law: Promoting Equality in Employment*, 2nd ed. (Brussels: ILGA-Europe, 2007).
- Judith Takács, *Social Exclusion of Young Lesbian, Gay, Bisexual and Transgender (LGBT) People in Europe* (Brussels: ILGA-Europe and IGLYO, 2006).
- Kees Waaldijk, *More or Less Together: Levels of Legal Consequences of Marriage, Cohabitation and Registered Partnership for Different-sex and Same-sex Partners. A Comparative Study of Nine European Countries*, Documents de travail n. 125 (Paris: Institut National d'Études Démographiques, 2005).
- Kees Waaldijk and Matteo Bonini Baraldi, eds., *Combating Sexual Orientation Discrimination in Employment: Legislation in Fifteen EU Member States, Report of the European Group of Experts on Combating Sexual Orientation Discrimination, about the Implementation up to April 2004 of Directive 2000/78/EC Establishing a General Framework for Equal Treatment in Employment and Occupation* (Leiden: Universiteit Leiden, 2004), <http://www.emmeijers.nl/experts>.
- Kees Waaldijk and Matteo Bonini Baraldi, *Sexual Orientation Discrimination in the European Union: National Laws and the Employment Equality Directive* (The Hague: T.M.C. Asser Press, 2006).
- Kees Waaldijk and Andrew Clapham, eds., *Homosexuality: A European Community Issue* (Dordrecht: Martinus Nijhoff Publishers, 1993).
- Anne Weyembergh and Sinziana Carstocea, eds., *The Gays' and Lesbians' Rights in an Enlarged European Union* (Brussels: Éditions de l'Université de Bruxelles, 2006).
- Robert Wintemute, "From 'Sex Rights' to 'Love Rights': Partnership Rights as Human Rights," in *Sex Rights*, ed. Nicholas Bamforth (Oxford: Oxford University Press, 2005).
- Robert Wintemute, "Sexual Orientation and Gender Identity," in *Human Rights in the Community: Rights as Agents for Change*, ed. Colin Harvey (Oxford: Hart Publishing, 2005).
- Robert Wintemute and Mads Andenaes, eds., *Legal Recognition of Same-Sex Partnerships: A Study on National, European, and International Law* (Oxford: Hart Publishing, 2001).

Web Sites

EQUAL projects on equality at work

Program that was part of the European Employment Strategy. Financed by the European Social Fund, EQUAL developed and tested new and innovative ideas and practices to combat discrimination and inequality in relation to the labor market. Eight EQUAL projects focused on discrimination based on sexual orientation.

- “Homosexuals and Bisexuals in the Care System” (Sweden): <http://www.rfsl.se/?p=566>
- Normgiving Diversity on LGB within the Church, the police, and the armed forces (Sweden): <http://www.normgivande.nu>
- Sexual and Gender Minorities at Work (Finland): <http://www.valt.helsinki.fi/sosio/tutkimus/equal/>
- Enabling Safety for LesBiGay Teachers (The Netherlands)
- Deledios (France): <http://www.autrecercle.org>
- Open and Safe at Work (Lithuania): <http://www.atviri.lt>
- Partnership for Equality (Slovenia): <http://www.ljudmila.org/lesbo/>
- Beneath the Surface of Discrimination in School (Sweden): <http://www.ytan.se>

Eurogames, <http://www.eurogames.info/>

Eurogames, the European Gay and Lesbian Championships, is an annual European sporting event governed by the European Gay and Lesbian Sport Federation (EGLSF). It is the biggest athletic event for lesbian, gay, bisexual, and transgender people in Europe.

European Commission’s Directorate General for Employment, Social Affairs and Equal Opportunities, http://ec.europa.eu/employment_social/fundamental_rights/index_en.htm

Provides information on all aspects of EU action—both laws and policies—to combat discrimination.

European Commission’s Stop Discrimination, <http://www.stop-discrimination.info/>

Source of information on the EU-wide campaign For Diversity. Against Discrimination and provides an update on current antidiscrimination issues and activities in all 27 EU member states.

European Gay and Lesbian Managers Association, <http://www.egma.eu>

Umbrella organization for national LGBT business associations.

European Gay and Lesbian Sport Federation, <http://www.eglsf.info>

Network open to gay, lesbian, straight, and mixed sport groups and organizations that has more than 10,000 members within over 100 organizations and sport groups.

European network of legal experts in the nondiscrimination field, http://ec.europa.eu/employment_social/fundamental_rights/policy/aneval/legnet_en.htm

Brings together 27 country experts—one for each EU member state—and five coordinators for specific grounds of discrimination, including sexual orientation. The network supports the work of the European Commission by providing independent information and advice on relevant legal developments in the member states, and the implementation of EU antidiscrimination laws.

European Parliament Gay and Lesbian Rights Intergroup, <http://www.lgbt-ep.eu/news.php>

Brings together Members of the European Parliament and their support staff wishing to advance LGBT equal rights issues.

European Pride Organisers Association (EPOA), <http://www.europride.info>

Network of European gay, lesbian, bisexual, and transgender pride organizations. The purpose of EPOA is to promote lesbian, gay, bisexual, and transgender pride on a pan-European level and to empower and support local and national pride organizations in their efforts of planning and promoting pride celebrations.

Film, http://ec.europa.eu/employment_social/fundamental_rights/movie/film_en.htm

Introductory film on EU antidiscrimination policies.

Fundamental Rights Agency, <http://fra.europa.eu/fra/index.php>

Provides assistance and expertise relating to fundamental rights to the relevant EU institutions and member states when implementing European Community law.

Gay Police European Network, <http://www.eurogaypolice.com>

Brings together gay police networks and members of police organizations from different countries.

ILGA-Europe, <http://www.ilga-europe.org>

European branch of the International Lesbian and Gay Association (ILGA) that works for human rights and equality for lesbian, gay, bisexual, and transgender people in Europe.

International Gay, Lesbian, Bisexual, Transgender and Queer Youth and Student Organization (IGLYO), <http://www.iglyo.com>

Important network meeting point for LGBTQ youth in Europe.

SALTO-Youth Resource Centres, <http://www.salto-youth.net/inclusionLGBT/>

Program funded under the European Commission's youth program that provides youth work and training resources and organizes training activities to support youth organizations. One of its projects focused on combating discrimination and promoting the inclusion of young LGBT people.

NOTES

1. All figures in this paragraph are taken from the official EU report "Key Facts and Figures about Europe and the Europeans," http://europa.eu/abc/keyfigures/index_en.htm.

2. See the official Web site of the Commission, Directorate General for Enlargement, http://ec.europa.eu/enlargement/candidate-countries/index_en.htm.

3. Such duty had already been carved out by the Court of Justice of the European Community in more than two decades of case law and the treaty closely replicated the elaborations of the court in the absence of written law.

4. *Official Journal of the European Union* C 321 (December 29, 2006): E/48.

5. Council Directive (EC) 2000/78 of November 27, 2000, establishing a general framework for equal treatment in employment and occupation, *Official Journal of the European Union* L 303 (December 2, 2000): 16.

6. See http://www.fra.europa.eu/fraWebsite/home/pub_cr_homophobia_p2_0309_en.htm.

7. See point 2 of the European Parliament resolution of April 26, 2007 on homophobia in Europe, P6_TA-PROV(2007)0167.

8. More information on the Intergroup is available at <http://www.lgbt-ep.eu/news.php>.

9. To check the status of ratifications, see conventions.coe.int.

10. All decisions can be found at the Web site of the court: www.echr.coe.int.

11. See Robert Wintemute, *Sexual Orientation and Human Rights. The United States Constitution, the European Convention, and the Canadian Charter* (Oxford: Clarendon Press, 1997).

12. See *L. and V. v. Austria*; *S.L. v. Austria*; *R.H. v. Austria*; *Wolfmeyer v. Austria*; *Ladner v. Austria*; *H.G and G.B. v. Austria*; *B.B. v. U.K.*

13. See *Lustig-Prean and Beckett v. U.K.*; *Smith and Grady v. U.K.*

14. See *Kerkhoven v. the Netherlands*; see also *Rööslä v. Germany*; *B. v. U.K.*

15. Articles 1a and 27(2) of Council Regulation (EEC, ECSC, Euratom) 781/98 of April 7 1998, *Official Journal of the European Union* L 113 (April 15, 1998): 4.

16. See Kees Waaldijk and Matteo Bonini Baraldi, *Sexual Orientation Discrimination in the European Union: National Laws and the Employment Equality Directive* (The Hague: T.M.C. Asser Press, 2006).

17. Information on the Group, and its report, can be found at www.emmeijers.nl/experts.

18. *Grant v. South West Trains Ltd*, February 17, 1998, case C-249/96, 1998 ECR I-621.

19. *D and Sweden v. Council*, May 31, 2001, joined cases C-122/99 and C-125/99, 2001 ECR I-4319.
20. *Tadao Maruko v. Versorgungswerk der deutschen Bühnen*, case C-267/06, 2008 ECR I-1757.
21. April 30, 1996, case C-13/94, 1996 ECR I-2143.
22. *K.B. v. National Health Service Pensions Agency*, January 7, 2004, case C-117/01, 2004 ECR I-541.
23. *Richards v. Secretary of State for Work and Pensions*, April 27, 2007, case C-423/04, 2006 ECR I-3585.
24. Nowadays, Community Staff regulations have changed and the registered partner is treated as a spouse. The 2004 regulations explicitly stipulate that “non-marital partnerships shall be treated as marriage” if certain conditions are met.
25. *Official Journal of the European Union* L 158 (April 30, 2004): 77.
26. *Official Journal of the European Union* C 12 (January 15, 2001): 1.
27. COM(2005) 649 final. See also the green paper on maintenance obligations, COM(2004) 254 final.
28. COM(2006) 399 final.
29. The International Covenant on Economic, Social and Cultural rights, on the other hand, recognizes the “right of everyone to the enjoyment of the highest attainable standard of physical and mental health” (article 12).
30. See Judith Takács, *Social Exclusion of Young Lesbian, Gay, Bisexual and Transgender (LGBT) People in Europe* (Brussels: ILGA-Europe and IGLYO, 2006).
31. See <http://www.salto-youth.net/inclusionLGBT/>.
32. Information about the Organization for Security and Co-operation in Europe (OSCE) at <http://www.osce.org>. The Tolerance and Non-Discrimination Information Centre provides information on hate crime motivated by homophobia, <http://tandis.odihr.pl/index.php?p=ki-ho>.
33. See http://fra.europa.eu/fraWebsite/material/pub/comparativestudy/FRA_hdgso_part1_en.pdf.

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FINLAND

Krister Karttunen

OVERVIEW

Finland is small country in northern Europe, with quite a large area but a small population. There are some five million inhabitants in 130,000 square miles, and the country stretches 690 miles between latitudes 60 and 70. The capital city is Helsinki, with about a million inhabitants in the area. The long coastal line of the Baltic Sea is crowded with small islands and inland areas are covered by conifer forests, peat lands, and innumerable lakes; in the far north there is a large expanse of wilderness and mountains.

Finland has been inhabited since the last ice age, some 9,000 years ago. Christianity arrived mainly from the west in the 13th century, with the oldest stone churches dating from the 14th century. Finland was under Swedish rule until 1809, when Russia occupied it and granted some autonomy in internal affairs. In 1906, near the fall of the Russian Empire, Finland achieved a democracy in which everyone could vote and run for office, including women.

In the melee of revolution in Russia and World War I, Finland opted for independence. This was gained in 1918, but only after a very fierce and bloody civil war between the conservatives and socialists. As usually happens in such conflicts, civilians suffered most. Just before the outbreak of World War II, Russia attacked Finland as a precaution to ward off Nazi Germany. In the Winter War, Finland surprised everybody by holding off the significantly larger Russian army for many months, but eventually had to make peace, giving over large territories. To gain back these areas, and perhaps to acquire some more, Finland made a pact with Germany and attacked Russia, but once again lost when Germany collapsed. However, there was no Nazi party in Finland; Jews were welcomed or compelled to join the army, and



only about six refugees were turned over to Germany. Neither Nazi nor Soviet troops occupied Finland.

After the war, Finland had to recognize the power of a huge Communist neighbor and many overtures and pacts of friendships were made. At the same time, private ownership was not in any way limited, and the Finnish economy boomed with commerce both to the Soviet Union and to the West. The Finnish population believes that the country navigated rather smartly and successfully through the years of cold war with its policy of neutrality. In 1994, Finland joined the European Union and in 2003 made a pact with NATO without full membership.

Swedish and imperial Russian control, a severe civil war, and the fights and forced peace with the Soviet Union are ingrained in the collective memory of Finland, and may explain some Finnish peculiarities.

The Finnish economy was agrarian until the 1950s. There are few natural resources except forests, and the paper industry is still very important. Since the 1980s, however, information technology (IT) has gained in importance. The Finnish mobile phone manufacturer Nokia is the emblem of this, but there are many small companies supplying devices and programs for various purposes, from NASA satellites to internet security to game consoles.

Culturally, Finland has been very uniform until quite recently. There is a Protestant Lutheran state church, of which some 85 percent of people are members. They do not, however, take religion very seriously, attending services only about once a year.¹ Protestantism is rather a cultural thing in the nation. Primary education has been free and compulsory since the 1930s, and the fees for higher and university education are nominal. About 50 percent of the people finish high school and about 20 percent of each class attends one of the 10 universities in the country.² The biggest and oldest, Helsinki University, was founded 1654.

The Finnish language is fairly unique. Estonian is a close relative, but Hungarian is about as close to Finnish as English is to Sanskrit. As often is the case in small countries, Finns tend to know foreign languages quite well. Almost all young people know English.

There are some small minorities in Finland.³ The biggest one is only linguistic, the speakers of Swedish. For centuries, Sweden was the language of government, learning, and society, and contrasted with Finnish, which was the language of peasants. After the independence in 1917, Finnish speakers have gained the upper hand, almost without violence. The position of Swedish speakers is guaranteed in the Finnish constitution: they have the right to education and to any public services in their own language anywhere in the country. They constitute some 4 percent of the population. The few thousand Roma people quite frequently face discrimination and suffer stereotyping by the main population; only recently have their cultural rights been recognized to some degree. The Sami people, the only indigenous people in Europe, of the semi-arctic north, numbering some thousands, struggle to maintain their traditional culture of reindeer herding.⁴ The government has recognized their cultural and linguistic rights and granted some autonomy, but there is continuing disagreement over land ownership. Presently, over one hundred thousand foreign nationals also live in Finland.

OVERVIEW OF LGBT ISSUES

The general situation in terms of LGBT rights in Finland is about the same as in other Scandinavian countries, though most reforms were achieved some decades

later. Government policy, supported by public opinion, has usually been to ignore LGBT issues. Mainly due to activity by human rights and LGBT organizations, LGBT rights are presently fairly widespread, and discrimination is minor. In part, this change has been achieved because of the pressure from the European Union (EU) and European Human Rights Convention (EHRC).

Pressure from Europe has been resented in some nationalistic circles. In some clerical and conservative circles, there is still opposition to gay rights. The most common slogan has been that gay rights ruin family values. In the past decade, new progay legislation has been accepted in the parliament with a two-thirds majority. On the other hand, the government has been quite careful with the proposals to get the majority.

Nowadays, after decades of struggle, the situation for LGBT people is quite good in Finland. There are no antisodomy laws, the age of consent has been standardized, military regulations have been changed to accept open service members, marriage rights have been extended to LGBT individuals, hate crime and antidiscrimination legislation has been passed, the government supports many LGBT organizations, and HIV testing as well as AIDS medication is free. The last bastion of reactionaries seems to be the church, but even this is rapidly changing.

Changes in laws have partly been made possible by the changes in public attitudes, but in many cases the laws have been more enlightened than public opinion. Mostly, opinions have also changed, partly because Finns are quite law-abiding people and partly due to the new visibility of LGBT persons. People have come to notice that lesbians, gays, bisexuals, and transgender individuals, whether in the parliament or living next door, are quite ordinary. This has been confirmed by the growing number of positive stories and interviews about LGBT persons in mainstream television and magazines. This situation can be contrasted with how it was a few decades before, when the few published stories were sex scandals or AIDS horror stories. Today, outing would be quite difficult in Finland because few would care who is gay and who is not.

Some problems remain. The changes in the attitudes have been most prevalent in bigger cities. In the countryside, and especially in more religious districts, there are still problems. The limited adoption rights for gay and lesbian couples, insufficient antidiscrimination laws, and virtual lack of hate crime policies still pose problems. Many people find the church's position offensive, bisexuals feel ignored, intersexuality is hardly recognized, and teenagers do not get the help and support they need.

EDUCATION

In Finland, primary education is free for all, and colleges, vocational schools, and universities charge only nominal fees. Schools are municipal and follow a common curriculum. About 50 percent of the population finish high school and 15 percent acquire university degrees.⁵ Finland's school system has been ranked best in the Europe-wide comparisons in several years. There are some dozen universities and several colleges, with the oldest and for centuries the only one being Helsinki University, which was established in 1643.

Violence at schools has not been a very serious problem, but has increased lately. Larger cities have a more diverse population, including some immigrants and refugees, which may lead to conflicts, but smaller residential areas are ethnically very uniform, making life difficult for the few rebellious children. Possession of fire arms

is mainly restricted to hunters and arms very rarely figure in violence in schools. However, in 1989, Finland experienced its first school shooting, in which there were two victims; in a 2007 incident, a high school student shot six students and two teachers.

Bullying has been identified as one source of the violence. There are some programs aimed toward easing the situation, especially among the younger children. Students are encouraged to report all kinds of bullying for whatever reason to teachers and parents, and not to regard this as snitching.

In Finland, there is some data on bullying of young homosexuals or children of homosexual families.⁶ Abusive vocabulary commonly includes words like homo and lesbian, usually aimed randomly without any idea of the victim's sexual orientation. This practice, however, is not constructive for the self-image of young gays and lesbians. Alarmed by the studies in comparable countries like Norway that indicated that young homosexuals are prone to suicide,⁷ some LGBT organizations have unsuccessfully sought a response from the government. The leading national organizations for child protection, however, have recently been quite attentive to the special problems that gay youngsters and families face.

Ironically, bullying and other forms of discrimination may have increased with the greater publicity of LGBT issues. Previously, gays and lesbians and other sexual minorities were invisible and ignored; if mentioned at all, they were treated as psychiatric cases in textbooks. In the school curriculums, homosexuality is still treated quite cursorily. For the gay youth themselves, there are many other ways to acquire information, including the Internet, which is used routinely by young Finnish people.

The gay family is such a recent phenomenon in Finland that little can be said about how children of such families are treated in schools. In the public day care, which is attended by a great majority of young children, there have been some attempts to recognize these special families. In many cases, problems are not due to active discrimination or ill will, but rather ignorance and the prevailing heteronormativity. There have been some efforts in the schooling of teachers and other professionals to address this.

EMPLOYMENT AND ECONOMICS

Finland is a small but modern economy with a gross domestic product (GDP) of 175 billion euros and annual growth of about 5 percent, usually ranking near the top in international comparisons. Roughly one-third of the Finnish labor force is employed in the public sector and 20 percent each in business and industry. Virtually all are members of labor unions and those unemployed are fairly well compensated by insurance and government. Relatively few are self-employed or private entrepreneurs.

Most Finnish women work, but often in less well-paid, minor jobs. Their careers are not as good as men's and occasionally they are paid less for the same position. Solving these problems and fighting sexual harassment have been a high priority of the state for some time. For example, according to the law there must be a plan to promote equality in every workplace. Various ideas about quotas for women and minorities have been hotly debated, but mostly rejected as discriminating.

The latest Equality Act from 2004 is fairly stringent about discrimination at work. It specifically states that discrimination based on an employee's sexual orientation

is a criminal offence. This includes employing, distributing work, possible harassment, unfair treatment, promotions, salaries, and so on. In Finnish legislation the burden of proof is reversed in these offenses, a unique practice. If one makes a proper complaint against an employer, the employer must show that no discrimination occurred. There is yet very little evidence of how effective this law has been for LGBT people. In a study, 12 percent of interviewed LGBT persons had encountered or suffered harassment or discrimination at work because of sexual orientation, and 50 percent had been subjected to unpleasant jokes.⁸ Half the people interviewed were willing to take the case to a court if discriminated against.

Public officers and private entrepreneurs offering public services, such as restaurants, are further constrained by the criminal code's articles on discrimination. They must serve all customers equally and cannot deny entrance. These articles concern ethnic minorities, the disabled, and LGBT persons. Some people, like the Roma, are forced to evoke these rules routinely, but gays and lesbians very rarely need to demand these legal rights. There are few cases in which the complaints have been successful, including an instance in which a male couple was evicted from a bar because they were kissing.

Perhaps surprisingly, the Finnish Army's official policy has been approving or at least tolerant of gays. In Finland, all male citizens are required to take part in a 180- to 360-day military service in the army or, alternately, they may choose to serve 360 days in a nonmilitary capacity in some public utility. Women may voluntarily partake in the military service. At least since the late 1970s, when homosexuality was decriminalized in Finland, army officers were informing recruits that homosexuality is not a valid reason to be exempted from the service. Nevertheless, those choosing a military career have thought it prudent to keep their same-sex inclinations quiet.

For some years, persecution because of sexual orientation or gender has been recognized as valid reason to earn refugee status or a permanent residence permit.

SOCIAL/GOVERNMENT PROGRAMS

Traditionally in Finland, the state and municipalities have taken care of many social issues. Although charitable or nonprofit-seeking associations, foundations, and cooperatives are quite active, taking care of some health care, for example, they are mainly financed by the state. Part of the budget of many LGBT organizations is covered by government subsidies. Recently, many special programs and studies in various fields, such as gays and lesbians in the workplace and the support of transsexual, gay, and lesbian families, have been funded by the state.

FAMILY

Parenting

According to the official statistics, in 2006 there were 120 registered female and 3 male couples with children living in the same household.⁹ Other LGBT families with children do not appear in statistics.

In discussing LGBT families, some legal categories must be defined. Biological and adoptive parents are treated almost equally in Finland. They have some rights and duties, while custodians enjoy some other rights. In most heterosexual

families, the parents are also custodians, though after divorce and remarriage the situation may get more complicated. Some rights and duties depend on whether a parent is living in the same household with the children.

In general, a child, biological or adopted, has the right of inheritance, subsistence, and the visitation of a parent, whether living in the same household or not. A custodian may take part in the upbringing of a child, will get all relevant information, and must be consulted in all decisions concerning the child. In Finland, the salaried maternity and paternity leaves are fairly long, and parents staying at home taking care of their children get quite good support from the state, including allowing workers to leave the workplace to care for sick children. These benefits usually concern people living together with the children, parents or custodians or neither, but not those parents living separately from them.

This legal mishmash creates problems for gay and lesbian parents. In divorce from a registered union, children have no rights of visitation or subsistence from a social parent or custodian, regardless of how close their relationship had been or how long it lasted. Custodianship gives no rights to inheritance to the child, and even if there is a will, the taxation may be higher than with biological parents. Further, a biological parent not living with the children does not enjoy the parental leaves and payments.

The award of custodianship is automatic for presumed biological married parents. A female couple with a child without a known father usually gets a shared custodianship without a problem. Although by the law, the number of custodians is not limited, the courts have very rarely accepted more than two. This means that if the father is known, the female partner who is not the biological mother may not be accepted as a custodian.

In most cases, courts have wide powers to assign parenthood, custodianship, visitation rights, and so on. For example, in one case, courts placed a child under the care and custodianship of the deceased mother's female companion, overriding the claims of a biological father.

Marriage

People in same-sex relationships have been able to register their unions since 2002. In 2006, there were 455 registered male couples and 493 female. The legal consequences are almost identical to marriage (see Politics and Law).

Insemination

Artificial insemination and laws relating to it have been debated in Finland for decades. The discussions have mainly been about general principles, but the hottest topic has always been the right of single women to seek the procedure. It has been practiced in private and semi-official clinics since the method became widespread, and the first attempts to regulate it occurred in the 1980s. Since then, many state committees have published reports and proposals to regulate insemination, but only a 2006 Fertility Treatment Act was accepted. The unregulated situation was not wholly unfavorable to lesbians, because clinics could choose their customers and many did not discriminate.

The government proposal to allow single women or female couples to be treated aroused strong opposition, especially from churches and some conservative

psychiatrists. The act eventually passed the parliament with a vote of 105 for and 83 against, which is a fairly accurate picture of attitudes toward LGBT rights in the Finnish parliament.

At present, single women and those living in a registered partnership can get insemination. The sperm donors cannot be anonymous. They may give consent to be possibly recognized as legal fathers. If they do not want to accept that kind of legal consequence, their names still must be registered to be given to the child, if he or she asks for it after coming of age. This may be in the best interest of the child, but has led to a shortage of sperm donors.

Some lesbians become pregnant by home insemination by friends or have children from previous heterosexual relationships.

Fathers

Among gay men, there is growing interest in fatherhood. Some men have children from previous heterosexual relationships, often with joint custodianship with the mother, and sometimes living permanently with them. Although single-parent adoption is open to men, this is extremely difficult in practice. In Finland, the use of surrogate mothers is illegal, although it has happened unofficially.

Sometimes gay men have joined lesbian couples or single women to form extended families with children. The legal as well as practical arrangements vary. A problem is that the spouses of the biological parents have rarely been awarded custodianship, leaving them with almost no legal status. This kind of joint parenthood with up to four people is also a challenge to authorities, teachers, relatives, and so on, and may require detailed negotiations between the parties.

Adoption and Foster Care

In general, adoption is possible in Finland only if the biological parent gives his or her consent, and thereby gives up all rights of parenthood, or if the parents are unknown or dead. In practice, there are very few Finnish children given up for adoption, as most orphans are taken in by relatives and single and young mothers take care of their babies. On the other hand, many children are placed in foster care, with or without the consent of the biological parents, but in Finland this almost never leads to adoption.

In May 2009 Finnish parliament amended the Act of Registered Partnership, allowing same-sex partners to legally adopt their spouses' children if the other biological parent consents or is unknown, including cases of artificial insemination in public health care. Unlike married couples, gays and lesbians may not jointly adopt foreign children. Adoption as a single parent is, however, possible, even if one lives in a registered partnership. This possibility is to a large extent theoretical, since married couples are often preferred in the adoption process, both in Finland and in the delivering countries.

Lesbian and gay couples sometimes act as foster parents, with only some of the rights and duties of legal parents. Until recently this has been quite rare, despite the fact that there is a shortage of families to take care of foster children. It seems that Finns are more reluctant to consider gay rights in relation to children than marriage or military concerns.

COMMUNITY

Until quite recently gays, lesbians, and trans persons were quite invisible in Finnish society. Even obviously intimate same-sex relationships were interpreted as something else or ignored.

The first glimmers of gay subculture in Finland emerge during wartime in the 1940s. There were certain bars or public parks where LGBT people could meet. It was obviously difficult for LGBT people to organize when homosexuality was illegal. The first organization that had gay rights in its agenda was established in 1969, though its activities were not quite open. In 1974, SETA (Sexual Equality) was established, and since its beginning it has been politically oriented, fighting for a variety of equality issues. Social programs have been important; SETA started the first and only gay magazine in 1975, and organized the first gay pride parades in the 1980s. The present President of Finland, Tarja Halonen, served as a young liberal lawyer as the president of SETA in 1980–1981, and still sends her greetings to all pride events.

In the 1990s, the LGBT community proliferated. Nowadays, there are organizations in all bigger cities and SETA functions as an umbrella organization. The programs of local organizations are mainly social, but they have some activity in local politics, and usually they are open to people of all sexes and sexualities. There are also LGBT student unions; youth organizations; religious associations; sports clubs; various fetish groups; and so on. Transsexuals, gay and lesbian families, and HIV-positive people have formed their own associations, while actively cooperating with mainstream LGBT organizations.

The commercial scene was fairly quiet for decades. The first openly gay bar opened in 1984. At present, there are a half dozen in Helsinki and a couple in other bigger towns. Otherwise, there are almost no commercial enterprises targeted especially at LGBT people. There are no gay-centric travel agents, hotels, beauty salons, gyms, clinics, or real estate agents. The reasons for this may be that Finland is such a small country, with a population of only 5 million; most mainstream business caters fairly well for LGBT customers; and many needs, including health care, are met by organizations and clubs or by public services.

The change in the culture in the past two decades can be observed in all kinds of research and studies, including analysis of gays, lesbians, and transsexuals in folklore; queer themes in literature; LGTB life in the 1940s; criminal sentences under sodomy laws; and gay dads' self-images. Students in various schools and colleges have been active in writing their theses and essays about LGBT themes. This new activity is also reflected in the growing number of positive stories, news items, and interviews in various magazines and on TV.

HEALTH

The first HIV case in Finland was reported in June 1983, making big headlines in all the tabloids. This created a lot of negative publicity for gay men, including threats of violence and killing and public outcry about gay cancer, as it was sometimes called. At first, the state and municipal health officials were quite unable, perhaps unwilling, to cope with the virus or to arrange any counseling or support for those who were infected. The job was taken on by the LGBT organizations and some doctors. Later, health officials and voluntary organizations combined their resources fairly effectively.

There are some dedicated centers for testing and advising people with HIV or AIDS and in any local health center, one can get tested anonymously and free of charge. There is also an organized group for HIV-positive people and another campaign for healthy sexual practices.

By the end of 2007, there had been 2,258 HIV infections, 744 of those from sex between men; there had been 492 cases of AIDS and 281 deaths. In 2007, 184 new infections were detected, 59 from sex between men.¹⁰ These figures must be seen in relation to the number of inhabitants of Finland, totaling a little over five million. In Finland, HIV and AIDS are not especially problematic for the gay community except in popular mythology. Nevertheless, being HIV positive or having AIDS is a stigma both in general society and among homosexuals.

There are no reliable statistics about LGBT people and venereal diseases or other illnesses. There is some indication of growing numbers of sexually transmitted diseases (STDs) among gay men. A slight rise in HIV infections and the proportion of infections resulting from sex between men may indicate carelessness when it comes to proper protection in sex.

Even after the belated removal of homosexuality as a diagnostic criterion in Finland in 1981, there have been some psychologists and psychiatrists, including some that are quite influential, who have considered LGBT people to be disturbed. Many Finnish gays and lesbians have had traumatic and expensive experiences in therapy. At present these represent a small minority. There may be an excess amount of depression among LGBT people, but most psychologists and psychiatrists are quite sympathetic, and the LGBT organizations offer some counseling.

Recently, there have been very few attempts to offer to “cure” homosexuality, mostly by some religious fundamentalists. Likewise, there are no ex-gays (allegedly recuperated), healed gays, or lesbians figuring in public media. At the moment this is only a very minor problem.

There is a state-sponsored universal health insurance system in Finland and all municipalities are required to offer low-price medical services. These systems cover HIV and AIDS medication. A flaw in the public sector system is the sometimes long wait for nonserious cases, and especially for mental problems. Private health care is also widely used and partly covered by the official health insurance.

Since the 2003 transsexuals have enjoyed reasonable legal and social rights in Finland. Transsexual people get full state support for medication and operations, and the state recognizes a person’s new sex legally and officially. Any procedure involves interviews and counseling at a special medical unit. The person can determine the scheduling of the operations and a name change. If the person is living in a heterosexual marriage or homosexual registered union, the relationship can carry on without a break with the new appropriate name and status, and the legal status with offspring is not disrupted.

Special issues involving intersexual persons have, on the other hand, been largely ignored.

POLITICS AND LAW

Sodomy

Official sodomy laws, forbidding fornication between persons of the same sex, were established in 1889, but before that other articles of the civil or canonical

codes were applied. The law was not reformed until 1971. The punishment under the articles included imprisonment for up to two years. In all, 1,026 men and 53 women were convicted during the 20th century. In the early decades, only a couple of people were convicted annually, but the number rose to over 60 in the 1950s and dropped to 16 in the 1960s.¹¹

The new 1971 law was part of a more general reform in the spirit of the 1960s and had been campaigned mainly by nonqueer activists, liberal lawyers, doctors, writers, and so on. In those times it was quite difficult to be openly gay or lesbian in Finland.

There was strong opposition to the reform, and partly to placate those fighting against LGBT rights, the new law included a higher age of consent for homosexuals, which, at 18 years, was two years older than the minimum 16 years considered legal for heterosexual encounters. A new article was introduced, which forbade publicly encourage or promote indecency between members of the same sex. In effect this meant that the distribution of any positive information about homosexuality was criminalized. This article was seldom applied, but it acted as a strong deterrent for television producers, newspaper editors, and publishers. Behind these limitations was the theory that young people especially could be infected by homosexuality.

The information ban was the target of a long campaign by emerging gay and lesbian activist groups in the 1970s. Although it was not abolished until 1999, it had been defunct for decades. Police had refused to deal with any reports or self-denouncements by activists of anyone breaking the rule.

The unequal age of consent law was changed in the same 1999 reform to a minimum age of 16 years for all youths. Only a few individuals had been convicted under the article, but it had been seen as strongly discriminative.

Marriage

Another long debate has concerned civil union and marriage between people of the same sex. The possibility had been discussed since the early 1990s and finally, in 2002, the Act of Registered Partnership was accepted. This law treated official unions between people of the same sex in an almost equal way to heterosexual married couples, although the word marriage was deliberately avoided to appease clerics and other conservative groups. The exceptions concern the right to adopt children and sharing a common family name, which requires a separate application.

Any two people of the same sex may enter into a registered partnership so long as one of them is a resident of Finland. They will receive all the same benefits in taxation, social security, inheritance, and power of attorney, for example, as married couples, and also in turn all the same inconveniences. The union is made publicly before an official registrar and can be dissolved in a court by application of either party after a six-month consideration period or after a separation of two years. The courts require no explanations or reasons. In the last few years, about 200 partnerships have been registered annually and 30 terminated. By the end of 2006, there were about 1,000 registered couples.

Same-sex unions contracted in foreign countries with originally more or less the same legal consequences can be officially recognized in Finland by application to a court. If the union's legal effects in the country of origin are significantly weaker, for example, in regard to inheritance, the union will be treated only as a civil contract under foreign law.

Discrimination

In the recently reformed Constitution of Finland, all kinds of discrimination are denounced. LGBT people and sexual orientation are not mentioned in the document, but in the preparatory works and in the discussions in the parliament, it was understood that LGBT people are covered by the final words, “or other reason that concerns his or her person,” of the sixth section of the constitution. This invisibility of homosexuals is a common problem in Finnish as well as international legislation and affects public opinion, making the application of the pertinent articles inefficient.

The Equality Act of 2004 is fairly effective in terms of discrimination at work. The statutes also deal with discrimination more widely (e.g., in housing), but those articles specifically exclude homosexuals. In the criminal code there are some articles about hate crimes and discrimination that have rarely been applied (see Violence).

In Finland, ombudsmen deal with all kinds of complaints by citizens, and may investigate unprompted. They are supposed to pay special attention to discrimination and have considerable powers. There is one ombudsman in the parliament for all kinds of grievances, and dedicated ones for women, children, and ethnic minorities. None of the last three can consider complaints of discrimination based on sexual orientation. It has been argued that there should be one to monitor discrimination against LGBT people, as in Sweden, and to help in the enforcement of the aforementioned legislation.

RELIGION AND SPIRITUALITY

Religiously, Finland is almost a monoculture. The great majority, 85 percent, of people are members of the state Lutheran church. The Orthodox Church, also state-sponsored, and some evangelical and other denominations (Baptists, Mormons, free, etc.) comprise only some 2 percent, while 13 percent are classified as irreligious. Within the Lutheran church, there are, however, various groups differing in their position on women’s priesthood and acceptance of LGBT parishioners. There is no special church for homosexuals and no data as to which church, if any, gays and lesbians favor.

Most of the minor churches and some organized groups within the Lutheran church regard homosexuality as a grave sin and actively oppose any changes in legislation that would target discrimination. Although they are supported by very few people, they are very vociferous and have organized demonstrations and campaigns.

The Lutheran church has slowly changed its position.¹² At first, in 1984, the synod of bishops agreed that homosexuals cannot change their nature and should be loved as Christian brothers. Homosexual acts, however, were still condemned, meaning that only celibacy was acceptable to the church. The Lutheran church also officially opposed the Same Sex Union Act in the 1990s, as well as all other moves to end discrimination. Gay and lesbian people have also been fired from their jobs in the church.

Historically, there have been homosexual ministers in the church, but they have carefully avoided any publicity. Some ministers have also been friendly to LGBT people, privately blessing homes and giving absolutions.

All this discrimination and silence has been traumatic to people seeking consolation within the churches or who have felt that they are called to be priests. In this century, the situation is rapidly changing. Many priests and bishops have raised their voices to demand full acceptance of LGBT people in the church. At the same time the state has created new legislation, allowing same-sex unions, banning discrimination in work, and so on, which the church cannot ignore. At the moment, the Lutheran church seems to be in a crisis that may lead to some dispersion. The more conservative elements within the church appear adamant in their condemnation of homosexuality while the more open-minded liberals are losing their patience.

Christian LGBT people have founded some groups for peer support and to alter the policies of the church. They are usually ecumenical in nature. Some of them also produce theological works, meet with other religious organizations, offer counseling, and arrange training for local congregations.

VIOLENCE

There is a certain strong tradition of violence in Finland. Fighting usually occurs among acquaintances in homes and bars while people are drinking, not in streets against strangers, and people fight with their fists or knives, not firearms. Murder is not especially common. There are roughly two murders and homicides per 100,000 persons. The incarceration rate is about 75 per 100,000 persons.

Domestic violence, usually in the form of aggressive husbands, is seen as a serious problem and also occurs among homosexual couples. There are special refuges for victims of domestic violence, including men and LGBT people.

There is no systematic gay bashing in Finland though harassment and name calling occur. Violence expressly against LGBT people is not recorded by the police and is hardly ever reported in the press. By comparison to other Western European countries, it can be alleged that anti-LGBT violence is not infrequent. It can be assumed that people think that they would not get unbiased treatment from the authorities for being gay or lesbian. Minor brutalities are perhaps not reported at all.

There are hate crime prohibitions in Finnish law, although they are not often invoked and were passed without much discussion. Debasement or incitement of violence against minorities is criminalized, and crimes motivated by racism or homophobia can be punished with more severe sentences. These articles, however, have apparently never been applied in relation to LGBT individuals. In regard to the first article, there have been only a few prosecuted cases of slurs against people of color.

Hundreds of racist crimes are recognized yearly under the articles against racial hate crimes. The police or prosecutors, however, are not compelled to recognize the crimes as bias crimes unless the victims report them as such, and even then police and prosecutors have been quite disinclined to respond to homophobic violence. Authorities are not presently under obligation to record and compile statistics, even of reported hate crimes against LGBT people. New European Union regulations may change this.

OUTLOOK FOR THE 21ST CENTURY

It would seem that the life of LGBT people is fairly easy in 21st-century Finland. The major discriminative laws have been amended, the general public is fairly

friendly or impartial, and the public and private services are as good and extensive as possible. However, there are gaps in legislation, the courts and public officials are on occasion unsympathetic, and public opinion can change.

At the moment, the most controversial practices and attitudes are found in the church. Although the majority of the parishioners might accept equal rights for gays and lesbians, the minority is usually more active and vocal. Presently, same-sex couples may not be officially blessed, nor are publicly gay or lesbian priests tolerated. Priesthood has been open to women since 1986 after decades of long, bitter discussions, and only now are the bishops forcing out those who oppose the inclusive regulation. Now, LGBT issues are similarly a very controversial and divisive topic in the church.

Adoption rights are a discussed legal issue. For example, new regulations allow same-sex couples to adopt each other's children, but not to jointly adopt non-biologically related children. This inequality has been criticized, but the government does not want to antagonize the opposition.

The existing hate crime and antidiscrimination laws, as such fairly adequate, are rarely or inefficiently applied. There have been no statistics about hate crimes, but this may change because of new Europe-wide practices. One remedy would be more effective training for police, prosecutors, and other officials, since problems are due to ignorance or disinterest rather than malice.

The HIV/AIDS situation seems to be fairly well under control, although much could be done to relieve the social discrimination of people with HIV/AIDS. There is some concern about the slowly rising trend of new infections; gay men and others seem to have relaxed their safe sex practices.

Racism and discrimination among LGBT people are often seen as growing problems. Everyday social issues are receiving more and more attention within the queer community, including poverty, elderly people, and families and children.

RESOURCE GUIDE

Suggested Reading

Jukka Lehtonen, and Kati Mustola, eds., *"Straight People Don't Tell, Do They...?" Negotiating the Boundaries of Sexuality and Gender at Work* (Helsinki, Finland: Ministry of Labour, 2004).

Jens Rydström, and Kati Mustola, eds., *Criminally Queer: Homosexuality and Criminal Law in Scandinavia 1842–1999* (Amsterdam: Aksant, 2007).

Web Sites

FINNQUEER, www.finnqueer.net/.

Web journal for sexual and gender minorities.

Kimmoliisa, <http://kimmoliisa.net/>.

Helsinki gay radio.

Ranneliike, <http://ranneliike.net/>.

Internet discussion forum for gay men and information about gay life, night life, pride celebrations, and other happenings.

Sappho Net, <http://www.sappho.net/>.

Guide to lesbian life and resources in Finland.

Organizations

AIDS Tukikeskukset, <http://www.aidstukikeskus.fi/sivut/>.

Provides AIDS help centers with offices in many cities. This semi-public institution works to prevent HIV infection while advising the government, arranging confidential testing, and offering support and counsel to HIV-positive persons.

ARCUS, <http://www.arcusfinland.net/>.

An ecumenical group of employees and active members of churches.

HOT, <http://www.hot.fi/>.

Sports club for lesbians and gay men.

MSC Finland, <http://www.msconfi.fi/>.

Union of gay bikers, leather men, and others.

Out 'n loud, <http://www.outnloud.fi/>.

Helsinki's gay men's chorus.

POSITIIVISET, <http://www.positiiviset.fi/>.

The Finnish Body Positive Association, a self support group of HIV-positive people and their friends and family.

SATEENKAARIPERHEET, <http://www.sateenkaariperheet.fi/>.

Rainbow Families, an association for lesbian, gay, bisexual, and transgender families and parents.

SETA, <http://www.seta.fi>.

SETA, Sexual Equality, is a national coalition organization for sex and sexual minorities with offices in Helsinki.

TRANSTUKIPISTE, <http://www.transtukipiste.fi/>.

SETAs support and resource center for transsexuals, transvestites, and intersexual persons.

TRASEK, <http://www.trasek.net/>.

Organization for transsexual and intersexual persons seeking medical treatment, therapy, or legal counseling.

NOTES

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2. Statistics Finland, *Education in Finland 2006* (Statistics Finland, 2006).

3. Statistics Finland, https://stat.fi/index_en.html (accessed May 30, 2008).

4. The Sámi in Finland, http://www.samediggi.fi/images/stories/pdf_tiedostot/saamelaisetenglanti.pdf (accessed May 30, 2008).

5. Statistics Finland, *Education in Finland 2006*.

6. Vappu Sunnari, Jenny Kangasvuo, and Mervi Heikkinen, eds., *Gendered and Sexualised Violence in Educational Environments* (Oulu: Oulu University Press, 2002).

7. Kristin Hegna and Lars Wichström, "Suicide Attempts among Norwegian Gay, Lesbian and Bisexual Youths," *Acta Sociologica* 50 (2007): 21–37.

8. Jukka Lehtonen and Kati Mustola, eds., *Straight People Don't Tell, Do They? Negotiating the Boundaries of Sexuality and Gender at Work* (Helsinki: ESF Research Publications 2004/2b, Ministry of Labour, 2004), http://www.esr.fi/esr/fi/_yleiset/research/report2b04.pdf.

9. Statistics Finland, https://stat.fi/index_en.html.

10. National Public Health Institute, HIV and AIDS statistics (2008), <http://www.ktl.fi/> (accessed May 30, 2008).
11. Jens Rydström and Kati Mustola, eds., *Criminally Queer: Homosexuality and Criminal Law in Scandinavia 1842–1999* (Amsterdam: Aksant, 2007).
12. Arcus Finland, “Gays and Lesbians in Finnish Society and Churches,” <http://www.arcusfinland.net/churches.htm> (accessed May 30, 2008).

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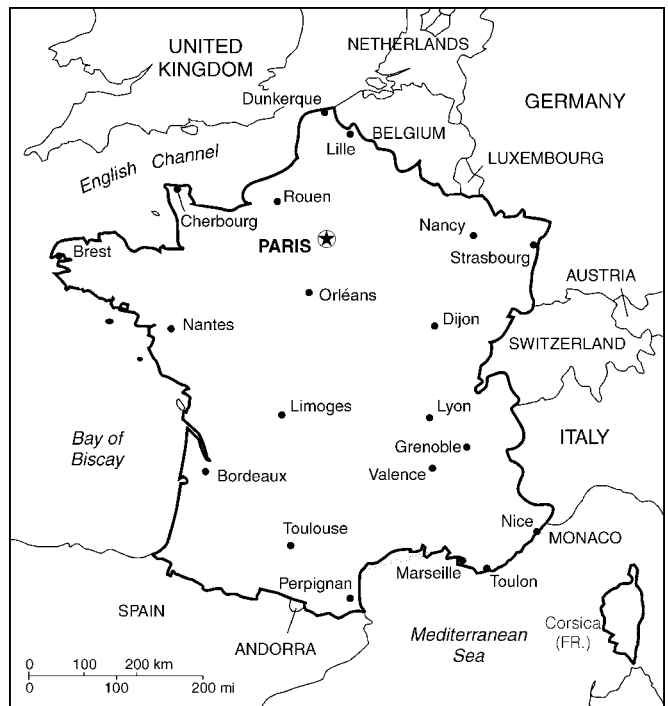
FRANCE

Marianne Blidon and Régis Revenin

OVERVIEW

France, officially known as the French Republic, is a democratic country in western Europe. It shares borders with five countries: Spain to the south, Switzerland and Germany to the east, and Belgium and Luxembourg to the north. France also has an extensive coastline, with access to the Mediterranean Sea in the south, and the English Channel, Bay of Biscayne, and Atlantic Ocean in the north and west. France covers an area of approximately 212,356 square miles in Europe. The French Republic, including its overseas territories, has a population of almost 65 million. Paris, the capital France, is a major world metropolis, with a population of 12 million. Lyons and Marseilles, the second-tier cities in France, each has a population of under 2 million. France is one of the oldest states in Europe, and is highly ethnically diverse. Today, France has a mixed presidential-parliamentary system of government that vests strong powers in the executive branch.

The official language of France is French, but a number of regional languages are also spoken. France has the sixth largest economy in the world, making it a major industrial power. France has a capitalist economy with substantial state intervention. The official currency is the euro, which in 2002 replaced the franc and the currencies of 11 other member states of the European Union (EU). France is a member of the Council of Europe and one of the founding members of the EU, the eurozone, and the Schengen area. It is one of the five permanent



members of the United Nations Security Council, and belongs to the Group of Eight (G8), the Organisation for Economic Co-operation and Development (OECD), La Francophonie, and the Latin Union. Militarily, France is a member of the North Atlantic Treaty Alliance (NATO) and has nuclear capability.

France is a secular nation, but influenced by a strong Catholic tradition. It also has a large Muslim population. An estimated 7 million people in France identify with the faith of Islam, and there are roughly 700,000 Jews. France is also home to small Protestant, Evangelical, Buddhist, and Hindu minorities. In addition to social problems such as unemployment faced by all industrialized countries since the 1970s, the issue of racial discrimination in French society has come to the fore since the late 1980s, crystallized recently by the Islamic headscarf debate and the riots in France.

A country with high symbolic value, particularly in the field of culture, France, and especially Paris, is the world's primary tourist destination.

OVERVIEW OF LGBT ISSUES

France is a highly ambiguous country when it comes to attitudes toward sexual orientation. Many French writers, from Proust to Colette, Gide, Cocteau, Jouhandeau, Montherlant, and Genet, established the existence of gays and lesbians in France. In 1791, France was also the first nation to abolish the crime of sodomy, which was considered a victimless crime. On the other hand, France was among the countries that declared homosexuality a psychological disorder in the first half of the 19th century. Homosexuality was only declassified as a disease in the early 1980s, when a left-wing coalition came to power.

French people, especially in the large cities, are fairly tolerant or indifferent toward homosexuality, particularly since same-sex civil unions were passed into law by a left-wing parliamentary majority in 1999. The civil union contract, *Le Pacte Civil de Solidarité* (PaCS) is open to both same-sex and opposite-sex couples, although it was initially designed and advocated by gay groups in the 1980s.

The City of Paris, a conservative stronghold for more than a century, elected a gay mayor, Socialist Bertrand Delanoé, in 2001.

Gay marriage and same-sex parenting are now the key issues for gay groups in France, whereas the main agenda in the 1990s was combating homophobia, and the chief concerns of the 1970s were sexual liberation and teenage sexuality.

EDUCATION

Sex education has not been a priority for recent French governments. The sex education curriculum remains focused on reproduction, contraception, and sexually transmitted diseases (STDs), neglecting sexual desire, sexual pleasure, and sexual orientation. The issue of discrimination based on sexual orientation or gender is rarely addressed in schools. LGBT associations like SOS Homophobic have shown that schools are rife with homophobia, and advocate that young people should be educated to be more tolerant and accepting of homosexuality from childhood.

There is no official program to combat homophobic or transphobic discrimination in secondary schools or institutions of higher education in France. Some LGBT groups propose actions to raise awareness of homophobic discrimination,

but they frequently meet with refusal from school principals and university chancellors who fear homosexual proselytizing.

In French colleges and universities, there is no research unit, department, or program dedicated to research on homosexuality, or sexuality in general. In spite of this, young LGBT researchers are emerging in disciplines such as history, sociology, and geography, but French academia remains unsupportive of this rich, dynamic movement. Ironically, France has been home to many intellectuals of great importance for gay and lesbian studies, such as Michel Foucault, Monique Wittig, and Guy Hocquenghem, and outstanding contemporary writers such as Hervé Guibert, Nina Bouraoui, and Guillaume Dustan.

EMPLOYMENT AND ECONOMICS

France is the world's sixth-largest economy. The French economy combines private enterprise, government programs, and social economy policies. The central government controls most defense, education, police, and security spending. Local governments control spending for infrastructure, the environment, recreation, and culture. The French state is the largest single employer.

France has shifted from an industrial economy to a service economy. The service sector employs three-quarters of the workforce. France is nevertheless the world's fourth-largest exporter overall, and number two for farm and agri-food products, even though those sectors employ fewer and fewer people. Since the oil shock in 1974, French economic growth has slowed, and unemployment hovers around 10 percent. Unemployment is highest among people under 30 years old, low-skilled workers, and women. Various incentive measures have been introduced to tackle the youth unemployment problem.

Aside from the law on equal gender representation in politics, there is no policy to combat discrimination based on gender, race, or sexual orientation in the workplace. The majority of women still come up against the glass ceiling, which keeps them out of positions of power in large corporations and government.

Since 1985, the law (no. 85-772 of July 25, 1985) has prohibited discrimination based on "mores." Sexual orientation in France is considered a private matter. Therefore, there is no official data on the employment of LGBT people or discrimination against LGBT people in the workplace. Some attribute the overrepresentation of gay and lesbian college graduates in surveys to greater investment in education by gays and lesbians, whereas others see the career choices of gays and lesbians as more oriented toward artistic and intellectual occupations.¹ This is the basis for various myths, such as the strong purchasing power of gays, called the pink euro.² This image overrides the invisibility and various forms of discrimination suffered by LGBT workers.

Several LGBT groups are active in combating LGBT discrimination in the workplace, and play a consultative role for the public authorities and companies concerned. L'Autre Cercle, founded in 1998, is one of the main national gay groups of France. It has more than 600 working male and female members. The group focuses on combating homophobia in the workplace. Personnel associations are forming to combat discrimination, enhance visibility, and promote equal rights in both the public sector, such as the education system and the police force, and in private corporations such as Air France. *Le syndicat national des entreprises gaiies* (SNEG), founded in 1990, provides support and promotion for companies run by LGBT people or catering to LGBT consumers.

SOS Homophobic, which runs a hotline, states in its annual report that one in five reported homophobic incidents occurring in the workplace.³ The incidents include hurtful remarks, verbal abuse, harassment, or discrimination in hiring or career advancement. As a result, few employees are open about their homosexuality in the workplace.

SOCIAL/GOVERNMENT PROGRAMS

Neither the central government nor local governments fund any social programs specifically designed for lesbians, gays, bisexuals, or transgender people. The EU treaties do not explicitly recognize discrimination based on sexual orientation, and therefore contain no specific provisions for special programs. Social policies in France completely disregard LGBT issues.

SEXUALITY/SEXUAL PRACTICES

Traditional attitudes toward sexuality in France highlighted the fact that sexuality was taboo. The absence of sex education at school and in the family demonstrate this anxiety.

Since the 1980s, the issue of sexuality has been approached primarily from the angle of HIV prevention, and rarely from that of sexual desire or sexual pleasure. This epidemiological approach to sexuality, expressed in terms of risk, has had an obvious influence on perceptions of sexuality and sexual practices. It has prompted numerous surveys on the sexual behavior of gays and bisexuals, and more rarely of lesbians and transsexuals. As HIV and AIDS cases increase again, the debate refocuses on safe sex versus barebacking, endorsed by the writings of Eric Remès and Guillaume Dustan. The renewed popularity of barebacking highlights the changing perception of the connection between homosexuality and AIDS, and challenges the norm of prevention, which is now perceived as a restriction.⁴

Surveys conducted by the French gay media after 1985 show a steep increase in the number of respondents seeking a stable relationship. In reaction to the epidemic, many gay men in relationships initially gave up outside encounters. The 1990s saw a revival of casual sex, an increase in the declared number of partners, and a return to potentially risky sexual practices such as group sex and the use of accessories. Homosexuals adapt their safe sex strategies according to the level of intimacy with their partners, and whether the relationship is stable or casual.⁵

Surveys and prevention campaigns have rarely been directed at lesbians, who are often considered not at risk for HIV transmission. In 2000, the ENVEFF (*L'enquête nationale sur les violences envers les femmes en France*)⁶ survey on violence toward women, however, showed that lesbians tend to become sexually active earlier than heterosexual women, and only 20 percent of French lesbians have their first experience of sexual intercourse with a woman. According to the survey, lesbians have more sexual partners during their lifetimes than heterosexual women. Bisexual women tend to have more male than female partners.⁷

FAMILY

Traditional French culture promotes the idea that the nuclear family, composed of husband, wife, and children, is the preferred family arrangement. That model

is based on a naturalist view of the family, which some French psychoanalysts claim guarantees the symbolic order.⁸ That dominant model has been challenged since the 1960s, mainly because of the widespread increase in divorce, which has brought single-parent families and blended families into the mainstream. Single-parent families account for 10 percent of households, while blended families make up 8 percent of households. The number of divorces has increased fourfold since the 1960s.

Traditionally, the French family was established through the rite of marriage. Yet, the frequency of marriage—still reserved exclusively for heterosexual couples in France—has declined significantly. In the 1960s, only 10 percent of couples cohabited before marrying. Now the figure is 90 percent. One-third of children are born outside wedlock. Since World War II, the French family has changed profoundly.

The civil code does not explicitly state that marriage concerns only heterosexual couples. In 2004, after the publication of a manifesto for equal rights, Noël Mamère, the mayor of Bègles, a small town, approved a marriage between two men. Mamère was suspended from office for a month and the marriage was annulled by the public prosecutor.⁹ The European Court of Human Rights (ECtHR) upheld the conformity of the ban on marriage between same-sex partners even though gay marriage is legal in several member states, namely Spain, Belgium, Denmark, and the Netherlands.

The push for same-sex marriage and for the social recognition of same-sex parents is the expression of social reality in France. Surveys show that approximately half of gay men and lesbians are in stable relationships equivalent to marriage.¹⁰ The number of children of gay or lesbian parents is estimated at between 40,000 and 300,000.¹¹

Same-sex couples raising children, as well as gays and lesbians who have children from a previous heterosexual union, highlight a legal void. Same-sex parenthood calls for a redefinition of the model of parenthood along the lines of adoption rather than biology. It also calls for a shift from the dominant model of the nuclear family, already challenged by single-parent and blended families, away from the couple and toward a relationship that can involve between one and four adults.

These social changes meet resistance from the main religious institutions, conservatives, and also some figures considered progressive. The issues of same-sex marriage and the right to adopt children have shaken up the political scene and the traditional opposition between left and right.

The family is also the environment where young LGBT people grow up. For most families, homosexuality is not even considered a possibility, so coming out is often a painful experience. SOS Homophobic reports that 10 percent of calls it receives are from people who have been blackmailed, verbally abused, or physically assaulted by family members. The group reports a few cases of young people thrown out of their homes with no money after they came out, as well as forced marriages, although little else is known about the extent of the problem.¹²

COMMUNITY

The idea of a gay community, similar to any distinct non-French ethnic community, is frowned upon in France. Communities, particularly of minorities, have a negative social, cultural, and political image. In opposition to multiculturalism,

considered an American import, France, at least officially, champions universalism *à la française*, underpinned by the ideas of social mix and equality. Social, racial, religious, gender, and sexual discrimination are nevertheless highly prevalent in France, and there is no proactive antidiscrimination policy, particularly in regard to sexual orientation.

Although its roots stretch farther back, the gay community only became visible in France during the 1970s and 1980s with the AIDS epidemic and the formation of activist groups like Act-up Paris. The 1990s saw fairly sterile debates on multiculturalism versus universalism. A wide variety of gay associations emerged, including social clubs, recreational groups, and student associations. Simultaneously, there was an explosion of gay businesses and gay media. Gay bars, restaurants, and clubs are not a new phenomenon, however: gay social venues have existed in Paris since the 1880s.

The first real gay organization in France has been Arcadie, founded in 1954 by André Baudry. It was a homophile movement, and also had a monthly journal. In 1971, the Front Homosexuel d'Action Révolutionnaire (FHAR) was created by radical lesbian and gay people.

Gay and lesbian centers only appeared in the late 1980s and expanded in the 1990s, partly bridging the gap between the activist and commercial spheres. There have been long-running tensions between activists, intellectuals, and gay business-people, with leftist activists deriding the gay district as a ghetto.¹³ There is also less heated debate among gays about whether the Marais, the gay district in Paris, is a haven or a ghetto. Both in Paris and other large French cities such as Marseilles, Lyons, Bordeaux, Nice, Lille, Nantes, and Toulouse, gay businesses are concentrated in particular districts such as Le Marais in Paris, or particular streets in large provincial cities.

The lesbian community, mainly visible in Paris, has a much lower profile than the male gay community, with fewer than 10 bars and clubs in Paris as of 2008.

Paris, as well as some large provincial cities, has a broad fabric of social and sex businesses, making it probably one of the gayest cities in the world since the late 19th century.

While the first gay pride march in Paris attracted a few hundred activists in 1977, Paris now has one of the most dynamic gay pride marches, recently renamed *Marche des fiertés LGBT* in French, with between 500,000 and 1 million participants in the past few years. A lesbian march and a transsexual march, with a more activist, political focus, are organized alongside the official Gay Pride, now seen by some as too commercial. Marches are also organized in large provincial cities all over France, with between 1,000 and 10,000 participants in each city.

A gay television channel, Pink TV, first went on air in 2004, but recently folded and became a pornography channel. A less ambitious gay Internet television channel started up in 2007 (Free Gay TV).

Several cities in France also host gay and lesbian film festivals. Some feminist lesbian festivals are also emerging. For the past few years, a large gay expo has been held in Paris, with several hundred exhibitors, including activist groups and businesses. Other LGBT-related activist, cultural, literary, and arts events and festivals with gay overtones are emerging in both Paris and the provinces.

Finally, the sudden increase in Internet dating, which has created a kind of virtual LGBT community, is facilitating friendly, romantic, and sexual exchanges, some of which lead to real-life relationships.

HEALTH

Health is a political issue in the French context. Social Security was defined by an order of October 4, 1945, issued by the National Council of the Resistance. Its underlying principle is repeated in the preamble to the constitution: the Fifth Republic “guarantees for all, particularly children, mothers and elderly workers, the protection of health, material security, rest and recreation.” However, as life expectancy increases and the proportion of contributors to the system declines, the health care component of Social Security, in deep deficit, is gradually being undermined as patients are asked to pay more.

In this environment, research and prevention campaign choices are influenced by cost concerns and politics. For example, prevention campaigns are rarely aimed at lesbians or transsexuals. Private associations must provide support and information and raise awareness of STDs.

Attitudes toward LGBT health issues are permeated by ignorance and stigma. For example, in its early days, AIDS was called *the gay cancer*. Gays were singled out with drug addicts as the main carriers of the disease while the public authorities delayed launching targeted prevention campaigns. Transsexuals systematically undergo psychiatric evaluation to determine their gender identity in order to decide whether to allow them to receive hormonal treatment or change their gender on identity documents. There are no data available on the number of transsexuals and intersex individuals in France today. Little is known about them and formal organizations are only just emerging.

There are approximately 62,000 AIDS cases in France, 25,000 of which are gay or bisexual people.¹⁴ In 2000, a mortality survey identified 1,600 deaths caused by AIDS per year. STDs that had virtually disappeared, such as syphilis, reappeared in the late 1990s. The number of syphilis cases, as well as the number of cases of other STDs, are no longer systematically recorded in France. There are close interrelationships between STDs and HIV, however, which should therefore be treated together.

POLITICS AND LAW

France is a centralized state, and laws passed apply nationwide, except in rare cases in some overseas territories.

On the legislative front, France decriminalized homosexual relations as late as the 1980s, and has criminalized homophobic language in the 21st century.

The crime of sodomy was abolished in 1791 during the French Revolution. Homosexuality, absent from the penal code until 1942, was not permanently removed until 1982. The legal age of sexual consent is currently 15 years for both heterosexual and homosexual intercourse, whereas for heterosexuals it was 11 years until 1863, and 13 years from 1863 to 1942. Except in cases of rape, there was no legal age of consent from 1791 to 1832.

The criminalization of homosexual intercourse with minors under 21 years of age by the extreme-right Vichy government in 1942 was maintained after the Liberation of France by the provisional government of Christian-Democrats, Gaullists, Socialists, and Communists, while heterosexual intercourse was permitted from the age of 13. The Mirguet Amendment of 1960 extended criminalization to homosexual intercourse between consenting adults, considered an *outrage public à la*

pudeur (act of indecency). The law listed homosexuality as a social ill on par with tuberculosis, alcoholism, and prostitution.¹⁵ The amendment was abolished by parliament in 1980 during debates on new provisions to deter rape.

But the Vichy law of 1942 was maintained, prohibiting homosexual intercourse between a minor under 18 years of age (the age of majority was lowered from 21 to 18 in 1974) and an adult, whereas the age of consent for heterosexual intercourse was set at 15. This was finally abolished by a left-wing government in 1982. During debates on reforming the penal code in 1991, however, a parliamentary amendment was submitted to restore the law of 1942, abolished in 1982, on the grounds of protecting youth.

The first antidiscrimination law connected with sexual orientation was passed in 1985 as article 225–1 of the penal code, which punishes discrimination based on mores, a subtle way of referring to homosexuality without naming it. Further antidiscrimination provisions were passed in 1986 and 2001, but since it is difficult to prove that homosexuality was the reason for an employer's rejection of a candidate, these provisions are virtually inapplicable. Moreover, most legislative progress has been driven by European directives, which for more than 20 years have required member states of the European Union to combat inequality in relation to sexual minorities.

Use of homophobic language only became an offense in France in the 21st century. The law of March 4, 2002, officially prohibits all forms of homophobic discrimination in hiring and in the workplace. Several amendments to existing antidiscrimination laws were passed in 2004, punishing the use of homophobic language in public in the same way that xenophobic and racist language is punished. At the same time, the law does not provide a definition of *homophobic*.

An antidiscrimination board, the *Haute autorité de lutte contre les discriminations et pour l'égalité* (HALDE), was established by law on December 30, 2004. HALDE has a mandate to combat homophobia along with other forms of discrimination. The founding law rounds out the provisions of the Press Act of 1881 by making it an offense to insult, defame, incite to hatred, or discriminate against individuals or groups on the basis of their sexual orientation by any means of public expression.

In practice, however, the courts do not always recognize the homophobic aspect of crimes or assaults, even when it is obvious. And HALDE can hardly consider government policy, which excludes gays and lesbians from marriage and parenthood, as homophobic.

Some gay groups criticize the leniency of the French courts.

A conservative member of parliament, Christian Vanneste, recently sentenced by the French courts for use of homophobic language, submitted an amendment to abolish the law of 2004 for consideration by parliament.¹⁶ Vanneste declared that homosexuality was a threat to the survival of humankind and was inferior to heterosexuality, because if it were universalized it would be dangerous for humankind. He added that homosexual behavior was sectarian.

Same-sex marriage is not recognized in France, unlike in other European countries such as Denmark, the Netherlands, Belgium, and Spain. PaCS, the civil union contract passed into law in 1999, confers the status of cohabiting partners on homosexual couples, without granting them any parenting or filial rights. Material benefits, such as joint taxation and inheritance rights, are less generous for PaCS couples than for married couples.

The issue of bisexuality is rarely addressed in France and academic research. There is only one bisexual association: BiCause.¹⁷ There is no recorded bisexual activism in France and few businesses or social venues in Paris or the provinces claim to be bisexual. Bisexuals are virtually invisible in the media, too. A common image of bisexuals is sex-obsessed men who have sex with women and men indiscriminately, or gay men unable to come to terms with their homosexuality. Lesbians and gay men sometimes distrust bisexuals because they refuse to choose.

Transsexuals are more visible than bisexuals, but far less visible than gays and lesbians. Groups such as ASB (Association du Syndrome de Benjamin), PASTT (Groupe de Prévention et d'Action pour la Santé et le Travail des Transsexuel(le)s), and CARITIG (Centre d'Aide, de Recherche et d'Information sur la Transsexualité et l'Identité de Genre) defend transsexual rights. Transphobic discrimination is widespread and persistent in France. Psychiatrization is pervasive, making it difficult to change gender in official documents.

Transsexuality represents a real challenge for French society. Evidence of this can be seen in the recent case of the trans marriage in the Paris suburb of Rueil-Malmaison (2005). The case involved a male-to-female (MTF) transwoman who had undergone sex reassignment surgery and an MTF transwoman who had not had the surgery, and would still be considered a biological man. The French administration and courts refuse to allow them to marry, not on the grounds of their biological sex, as was the case until now, but on the pretext that, in terms of identity, both partners see themselves as women.

Intellectuals such as sociologist Eric Fassin have expressed the view that non-conformity with traditional gender norms, defined by religious precepts, is becoming an obstacle to civil, secular marriage.¹⁸

RELIGION AND SPIRITUALITY

France is a secular state, which means that the state does not recognize or afford privileges to any particular religion, and that everyone enjoys freedom of belief. The separation of church and state occurred in 1905. Religion is considered a private matter and as such is not recorded in the census. Although the majority of French people are nonpracticing and many are agnostic, an estimated two-thirds of French people identify as Catholic, approximately 7 percent identify as Muslim, and 1 percent as Jewish. Catholicism is an enduring legacy that has left its mark on the calendar of holidays, place names, and French culture in general.

The three main religions of France all condemn homosexuality, partly because it is a type of love that is not aimed at procreation. Religious institutions have often been in the vanguard of opposition to changes to the nuclear family and to rights for same-sex couples. Different religions sometimes issue joint positions on marriage or adoption. During the PaCS controversy, several pro-family groups including Les associations familiales protestantes, l'Union des familles musulmanes and Famille de France formed a federation called Génération anti-pacs. Among the most conservative pro-family groups, Les Associations familiales catholiques cited scripture in its arguments. During the debates prior to the vote on the PaCS bill, a scene alien to France's secular culture took place: a right-wing parliament member, Christine Boutin, brandished the Bible in parliament.¹⁹

Each religious group, however, has more liberal movements whose positions diverge from the conservative core. Les réseaux du Parvis, founded in 1999, is a

federation of some 50 groups from the Catholic reform movement, which defend a more liberal approach, more attuned to the idea that religion must adapt to social change.

Jewish and Muslim gays and lesbians feel threatened by three-way exclusion: exclusion from their religion, which considers homosexuality a transgression of the divine order; exclusion from their families, which often forces them to keep their homosexuality secret; and exclusion from their communities, which leaves them with the choice between silence and rejection. In this environment, an important role is played by religious LGBT groups like David et Jonathan for Christians and Beit Haverim for Jews, which endeavor to reconcile a dual sense of identity in homosexuals who also see themselves as members of a religious faith.

VIOLENCE

There is little information about violence toward LGBT people in France due to a lack of clear statistics on this issue and underreporting. Physical assault is the reason for 11 percent of inbound calls to SOS Homophobic. In 82 percent of cases, the victim was gay. In half of cases, the victims were assaulted in a public place. In 8 percent of cases, the assault occurred within the family.²⁰

The French legal system has recognized homophobia as a factor in physical or verbal assault since 2004. Homophobic violence, however, has not disappeared and the courts do not always recognize a homophobic motive. For example, four men who ambushed and assaulted a gay man in a gay meeting place in Reims in 2004 were convicted of a *heinous crime (crime crapuleux)* rather than *homophobic acts of violence*.²¹

Homophobic violence is a key factor in influencing the relationship between LGBT people and the world. Every homophobic assault is a collective warning to LGBT people to conform to the heteronormative model. The increase in LGBT bars, clubs, and community centers responds to the need for safety among a collective LGBT community.

Transsexuals in France are highly at risk for violence. There are frequent newspaper reports of murders of transsexual people, to which the media and public opinion are largely indifferent, especially if the victim was a prostitute. In addition to physical violence, there is daily harassment linked to the assertion of their identity. For example, the difference between their appearance and the gender on their identity documents regularly exposes transsexuals to ordinary transphobia, particularly since changing documents is difficult unless the person undergoes surgical sex alteration and agrees to medical and psychiatric monitoring.

OUTLOOK FOR THE 21ST CENTURY

Compared to other nations, France is a fairly gay-friendly country, but the election of Nicolas Sarkozy as president in 2007 has pushed back the likelihood of same-sex marriage and the recognition of homosexual parenting, the most pressing claims of the French gay movement today. In the margins, more radical voices are calling for greater consideration of lesbian, bisexual, and transsexual issues, and a conflation of gender and sexual orientation with race- and class-based relationships of domination and power. The campaigns of the 1970s in favor of sexual liberation and teenage sexuality have been superseded by a hyper-valuation of the

couple, and a complete rejection by the gay movement of discussions of pedophilia and male prostitution. Some see this as a heterosexualization of gays, even as the clothing and behavior of heterosexual teenagers is becoming increasingly stereotypically homosexual. Moreover, discrimination based on sexual orientation is still common in the workplace. Homophobia is becoming more insidious: while physical assault and verbal abuse still exist, more indirect forms of rejection are occurring. Being gay in Paris or another large city is not the same as being gay in a small town or rural area.

RESOURCE GUIDE

Suggesting Reading

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- Maxime Foerster, *Histoire des transsexuels en France* (Paris: H & O éditions, 2006).
- Guy GrHocquenghem, *Le Désir homosexuel* (Paris: Fayard, 2000).
- Martine Gross, ed., *Homoparentalités, état des lieux* (Paris: Eres, 2005).
- Martine Gross, *L'homoparentalité* (Paris: Presses universitaires de France, 2007).
- Jean Le Bitoux, *Entretiens sur la question gay* (Béziers, France: H & O, 2005).
- Frédéric Martel, *Le rose et le noir: les homosexuels en France depuis 1968* (Paris: Seuil, 2000).
- Caroline Mécarry, *Les droits des homosexuel/les* (Paris: PUF, 2003).
- Rommel Mendes-Leite, *Bisexualité, le dernier tabou* (Paris: Calmann-Lévy, 1996).
- Jeffrey Merrick and Bryant T. Ragan, eds., *Homosexuality in Modern France* (New York: Oxford University Press, 1996).

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- Laure Murat, *La loi du genre. Une histoire culturelle du "troisième sexe"* (Paris: Fayard, 2006).
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- M. Sibalís, "Urban Space and Homosexuality: The Example of the Marais, Paris 'Gay Ghetto,'" *Urban Studies* 41, no. 9 (2004): 1739–58.

Videos/Films

- L'homme blessé* (109 min.; 1983). Directed by Patrice Chéreau. A young man discovers his homosexuality and begins a relationship with a criminal that he meets at a train station.
- Querelle* (108 min.; 1982; Franco-German film). Directed by Rainer Werner Fassbinder. A movie adapted from the classical novel by Jean Genet. French sailor Querelle arrives in Brest and starts frequenting a strange whorehouse. He discovers that his brother Robert is the lover of the female owner, Lysiane.
- Chouchou* (105 min.; 2003). Directed by Merzak Allouache. The love story between a perfect gentlemen and Chouchou, a migrant from north Africa who has just arrived in Paris.
- Crustacés et coquillages* (93 min.; 2005). Directed by Olivier Ducastel and Jacques Martineau. During the holidays, a family stays in their ancestral house. The father encounters an old friend, his first love.
- Le placard* (84 min.; 2001). Directed by Francis Veber.
- Son frère* (95 min.; 2002). Directed by Patrice Chéreau. Two brothers with a problematic relationship in the past come together again when the older one contracts a fatal disease and ask his brother to accompany him to see his doctors.
- Jeanne et le garçon formidable* (98 min.; 1998). Directed by Olivier Ducastel and Jacques Martineau. The relationship between Jeanne and a young militant from Act-up.
- Les témoins* (95 min.; 2007). Directed by André Téchiné. Paris 1984, a group of friends contend with the first outbreak of the AIDS epidemic.

Films with Transsexual and Transvestite Characters

- Tiresia* (115 min.; 2003). Directed by Bertrand Bonello. According to Greek Mythology, Tiresias was both a woman and a man. Here, Tiresias as represented as a Brazilian.
- Wild Side* (93 min.; 2003). Directed by Sébastien Lifshitz. A transsexual, who survives prostituting herself in Paris, returns to her family home in the countryside with her two lovers to look after her dying mother.

Films with Lesbian Characters

- Clara cet été-là* (90 min.; 2002). Directed by Patrick de Grandperret. The relationships between two teenagers during holidays.
- Coup de foudre* (110 min.; 1982). Directed by Diane Kurys. Two married women fall in love and want to run away together.
- Oublier Cheyenne* (90 min.; 2004). Directed by Valérie Minetto. The relationship between two women who are in love, but one of them wants to live in the country and the other in the city.
- L'Homme de sa vie* (90 min.; 2005). Directed by Zabou Breitman. During the holidays, a married man falls in love with a gay man.

Web Sites

- L'association des parents gays et lesbiens, <http://www.apgl.asso.fr>.
Created in 1986 for LGBT people who want to have children.
- L'association Act-up Paris, <http://www.actupparis.org>.
Famous international association dealing with HIV.
- L'association des sœurs de la perpétuelle indulgence, <http://www.lessoeurs.org>.
Famous international association dealing with HIV. The French branch was founded in 1991. Local convents.
- l'Atelier Genre & Sexualités (association EFiGiES-laboratoire IRIS), <http://www.efigies.org>.
Doctoral (PhD) workshop on sexuality, the only one in France, that focuses primarily on two projects: the creation of a peer-reviewed international and interdisciplinary French-language e-journal called *Genre, sexualité et société* and a monthly doctoral seminar in Paris, coordinated by Régis Revenin. The aim is to develop academic studies on sexuality in France.
- L'Autre Cercle, <http://www.autrecercle.org>.
Work association combating sexual discrimination at work.
- Bi'cause, <http://bicause.pelnet.com>.
The only bisexual association.
- CGL (*centre gays et lesbien*) de Paris, <http://www.cglparis.org>.
- La coordination lesbienne de France, <http://www.coordinationlesbienne.org>.
Federation of about twenty lesbian associations, founded in 1997.
- La Dixième Muse*, <http://www.ladixiememuse.com>.
Bimonthly lesbian magazine, published since 2004.
- Fédération des CGL de France, http://www.hexagonegay.com/Federation_Centres_LGBT/.
CGL is an associative community center in all major cities where LGBT people can find information and advice about sexual orientation.
- IDAHO (International Day against Homophobia), <http://www.idahomophobia.org>.
International Day against Homophobia (IDAHO) is celebrated May 17, and was created by the French academic and militant Louis-Georges Tin, in partnership with ILGA (the International Lesbian and Gay Association). It aims to coordinate international events to call respect for LGBT people worldwide.
- l'Inter-LGBT, <http://www.inter-lgbt.org>.
Federation of about 50 LGBT associations in France. It organizes several gay pride events (Marches des Fiertés LGBT), as well as working for gay and lesbian rights and against discrimination.
- M Mensuel*, <http://www.mmensuel.com/>.
Gay magazine, monthly since 2007.
- Les Panthères roses, <http://www.pantheresroses.org>.
Queer radical movement against imposed moral order, patriarchy, sexism, racism, etc.
- PASTT, <http://www.transmonde.net>.

Pref Mag, <http://www.prefmag.com>.

Gay magazine, bimonthly since 2004.

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GEORGIA

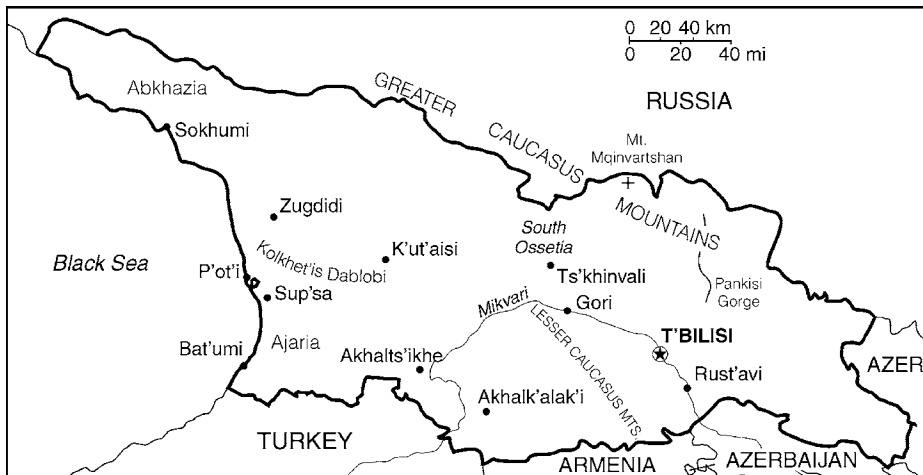
Paata Sabelashvili

OVERVIEW

Georgia is situated at the crossroads of Europe and Asia. It is a country in the southern Caucasus Mountains of the former Soviet Union. Georgia completely borders the Black Sea to the west, and shares borders with Russia to the north, Azerbaijan to the east, and Armenia and Turkey to the south. The territory of the country is 26,911 square miles (69,700 sq. km), slightly smaller than the Republic of Ireland or South Carolina.

Georgia is nestled in between the Greater and Smaller Caucasus mountain chains. Most of its terrain, therefore, is mountainous. Divided into West and East Georgia, its climate varies from Mediterranean, subtropical mild on the Black Sea coast to moderate continental in the east.

Georgia is an ancient country full of history, culture, and tradition. The first states in the land currently known as Georgia date back to 1112 B.C.E., when the kingdoms of Diaukh and Colchis were first mentioned in Assyrian historical inscriptions. The ancient Greeks initially called East Georgians *Iberians*. According to ancient Greek legends, Colchis, now modern day Western Georgia, was the destination



of Argonauts hunting the Golden Fleece. As the legend describes, the Argonauts succeeded in taking the trophy with the assistance of the Colchis princess Medea.

The history of Georgia is a battleground. Situated between the great empires of the Romans, Persians, Arabs, Turks, Mongols, and Russians, Georgia constantly had to struggle for its survival. The 11th through 13th centuries of the Middle Ages are known as the Georgian golden age, when the strongest medieval kingdom occupied the entire Caucasus. During that time, the death penalty was abolished and two universities were established in the territory.¹ After the 13th century, the Georgian state had undergone a consistent decline by being split into feudal princedoms, losing sovereign rule, and finally being annexed by the Russian Empire in 1801.

Georgia enjoyed a brief independence during the First Republic from 1918 to 1921, until it was occupied by the Russian Bolshevik Red Army and eventually joined the Soviet Union. The period of independence, though short, brought many developments. For example, Georgia was the first socialist republic with a leftist government that recognized the voting rights of women. In contrast, the Soviet era resulted in the nationalization of property, mass purges, and significant loss of citizens of reproductive age during World War II. During that time, Georgia lost the largest number of people per capita, and more than the United States did in absolute numbers. Georgia declared independence from the Soviet Union in 1991. Its new period of independence was followed by two territorial conflicts in the break-away regions of Abkhazia and South Ossetia, both heavily backed by Russia. Loss of territories, civil unrest, and economic collapse provided unfavorable grounds for the transformation of post-Soviet Georgian society into a modern, open society.

After the Revolution of Roses in 2003, Georgia started a rapid reformation in virtually all spheres of public life. The Western-style Georgian government had successfully restructured the police and the military, reformed the education system, targeted rampant corruption, and introduced a liberal business policy. Georgia declared that it aspires to democratic values and the pursuit of integration into Euro-Atlantic systems such as NATO and the European Union (EU).² Despite significant progress, the Georgian government is often criticized for its nonindependent judiciary and infringement of civil, political, and property rights.³

Georgia mainly produces agricultural products. The biggest share of its gross domestic product (GDP) (purchasing power parity [PPP] US\$18.16 billion in 2006)⁴ comes from services; its main exports are wine, nuts, and mineral water.

As Georgia aspires to NATO membership, it is undergoing intensive reformation of its armed forces. To meet this end, Georgia allocates the biggest part of its state budget to military modernization. Georgia expected invitation to the membership action plan but the war with Russia in August 2008 seriously hindered this process,

As of a 2007 estimate, the total population of Georgia is 4,646,003, and 83.8 percent of the population is Georgian. The remainder of the population is composed of Azeris (6.5%), Armenian (5.7%), Russian (1.5%), and other ethnic groups (2.5%). Most of the population identifies as Georgian Orthodox Christian (83.9%), while nearly 10 percent identify as Muslim. Armenian-Apostolics (3.9%), Catholics (0.8%), and other religious groups practice in Georgia as well.

The Georgian Orthodox Church enjoys a favored status as a result of constitutional agreement between church and state that recognizes the special role of the Orthodox Church in the history of Georgia.⁵ Until recently, the church had not attempted to interfere in the public domain to a significant extent. Recent statements of church spokespersons, however, are more direct and assertive. Church statements are directed toward ongoing reforms in education, the change of the

Georgian state model to a constitutional monarchy with a patriarch appointed as a regent until the monarch is selected, and homosexuality.

OVERVIEW OF LGBT ISSUES

In 1933, homosexuality was criminalized by Josef Stalin—a Soviet dictator of Georgian nationality. It was decriminalized in 2000, thanks to the commitment of Georgia to achieve Council of Europe membership.

Although information on the scale and occurrences of homosexual purges in Georgia is not accessible, one could assume that many gay men were sent to concentration camps in Siberia. The antigay article that prohibited sexual intercourse between adult male persons⁶ was often used in suppressing the leaders of dissident movements, even if they were not necessarily associated with homosexuality. In the arts as well, article 141 was often used for blackmailing and censorship. The KGB would use personal data that also would include a record of sexual behavior to recruit spies. The most vivid example of Soviet persecution was the imprisonment of Sergei Parajanov, a prominent Georgian-Armenian movie director, who was sent to prison twice for sodomy. His homosexuality was never a secret to Soviet authorities, though they used the sodomy article when the director's works became alarmingly dissident to Soviet movie censors. Western counterparts of Parajanov pleaded with Soviet authorities to release their colleague and friend from prison. Only when Parajanov was ill with cancer and could no longer continue with his career did Soviet authorities release him.

After the dissolution of the Soviet Union, the sodomy article was not used in independent Georgia to arrest anyone after 1993, but it was still actively used for blackmail and recruitment of agents.

Social attitudes public opinion surveys conducted since 1998 addressed homosexuality in their questionnaires.⁷ According to these surveys, homosexuals stand out as the most disliked group in Georgian society. The majority of respondents preferred to have an alcoholic colleague rather than a homosexual person at work.

Homosexuality in Georgia has become a convenient instrument for political struggle. With the decriminalization of male homosexuality, the sexual orientations of politicians moved from gossip to open accusations in the parliament. Many nationalistic political groups would use homosexuality against liberals by claiming that civil equality for LGBT people poses threats to Georgian-ness. Conspiracy theories flooded the pages of the Georgian press, warning the public about the pederasts' mafia.⁸

The Georgian media still remains homophobic. Representation of homosexuals in newspapers would fall into the same sections as crimes and anomalies. Since 2006, there have been attempts to disseminate accurate information on LGBT issues, primarily through *Me Magazine*, published by the only LGBT group in Georgia, which is called the Inclusive Foundation. Few other publications in Georgia devote LGBT-friendly articles to the subjects of homosexuality and homophobia. Those that do are mostly local English language newspapers and expensive glossy magazines that declaredly adhere to basic principles of free and politically correct journalism.⁹

The Georgian media often censors the topic of homosexuality. This was evidenced in 2001, when a prominent journalist was murdered in his own apartment by a person he met in a cruising place. Colleagues of the murdered journalist protested the investigation to confirm homosexual intercourse between the victim and the murderer.

Another act of censorship took place in 2005, when the late prime minister Zurab Zhvania was found poisoned by carbon monoxide along with a young man in an apartment. The Russian media spoke openly of the homosexual relationship between the prime minister and the young man, but the Georgian media never mentioned this version publicly.

Homosexuality in public discourse is very new, and is mostly limited to acts of hate speech. When human rights public officials are asked their opinion, in the best-case scenario, they remain silent.

Another form of censorship was evidenced by another TV event, yet a public one this time. Georgian Public Broadcaster, which is maintained through national tax collection, refused to show a documentary on LGBT rights violations in Europe. A public broadcaster is bound to represent any social group's interest, and homosexuals are openly listed among social groups that broadcasters are obliged to prepare or acquire production about. Inclusive Foundation ensured a free license for screening, and translated and adapted the documentary for the public. Nevertheless, Public Broadcaster returned the video, stating that they were unable to find the airtime. Public Broadcaster had not specified available time to screen the documentary.

The LGBT community never attempted to organize with visible success until 2006, when the first Georgian LGBT nongovernmental organization (NGO), Inclusive Foundation, was formed.

EDUCATION

The main government document to deal with Georgian education policies is the Georgian National Agenda for General Education, signed in 2004 by the late prime minister Zurab Zhvania. The document states that: "the youth should be able to . . . be a law abiding, *tolerant* citizen"¹⁰ and that "the state will not allow for discrimination of the students based on social, racial, ethnic, religious or political affiliation, physical abilities or other signs."¹¹

This document omits sexual orientation, which hampers introducing civil education based on inclusiveness of all social groups. LGBT youth are most vulnerable to discrimination on a daily basis, and the absence of such a provision makes it impossible for human rights groups to lobby for inclusive school policies.

There have not been any attempts to form gay-straight alliances or LGBT support groups in schools at any educational level. It is hard to predict the consequences of this; however, relevant examples suggest that it will not be easy to introduce LGBT-friendly subjects to public schools. There is an ongoing public debate over whether Georgia needs to offer sex education to pupils in schools. The Georgian Orthodox Church is outspokenly against the introduction of sexual education. It insists on bringing Christian subjects to public schools. The Ministry of Education, in turn, opposes the domination of any single religion in schools that receive funding from all citizens of Georgia.

EMPLOYMENT AND ECONOMICS

Georgia mainly produces agricultural products. The biggest share of its GDP¹² comes from services and its most exported goods are wine, nuts, and mineral water.

Georgia has achieved relative economic progress in the last two years since the change of government after the revolution of roses. Collection of tax revenues had improved significantly, and more foreign direct investment (FDI) was attracted. This in its turn derived from the liberal business policy of the government. Georgia has been a fast economic reformer, and consequently moved up to the 18th rank by free business environment criteria.

The new Georgian labor code is the only legal document that explicitly mentions sexual orientation in its antidiscrimination clause. It is hard to determine the rules for applying this provision. The law does not provide for any specific procedures, and does not mention whether the law protects potential employees, new employees, or current employees. In addition, it does not address whether LGBT people would be protected from discrimination during the job interview process or consideration for a raise or promotion.¹³

Interviews and documented cases provide evidence that homosexuality is not only suppressed in society, but in the workplace as well. Direct discrimination cases are rare. Most of the cases refer to concealed discrimination or the creation of invisible obstacles that make people leave their jobs. The methods for manifesting this attitude vary from gossip and ridicule to preventing promotions.¹⁴

The most serious limitation on freedom of speech—as well as discrimination in the workplace—was imposed when, in October 2007, a gay person publicly outed himself on a live broadcast of one of the private TV reality shows. As the incident was documented, the competitor on the reality show *Bar-4* was selected with the expectation that he would out himself. After he came out on television, the channel management expelled the participant the next morning. Press reports suggest that Patriarch Ilia II called the president of Georgia and protested the appearance of a gay man on a popular TV show. The president, in turn, called the channel management and demanded that the gay participant be expelled from the show.¹⁵ The contestant had a contract with the television company, and had not violated any of the conditions of the contract when he was expelled. By article 2.3 of the antidiscrimination article of the labor code, is a clear case of discrimination based on sexual orientation.

When it comes to public attitudes, it is also apparent that LGBT are the least desired people in the workplace.¹⁶ Qualitative analysis of public perceptions illustrates the attitude in public. The majority of heterosexual people participating in the discussions think that gays belong in the entertainment industry and fashion design. They would not like to see gays in the military or serving in schools, and believe that they could betray the nation and molest children. The Georgian public does not want gays in politics for fear of sexual conspiracies (the idea that if gays are at power they will bring other gays to key position because they are attracted to each other—like sexual nepotism).¹⁷

SOCIAL/GOVERNMENT PROGRAMS

Since the Revolution of Roses (November 2003), new leadership has rapidly started introducing a reformation policy in virtually every sector. While elaborating policy response to foster the integration of minority groups, the current policy discourse bypasses LGBT people; none of the policy documents mention them. Therefore, the implementation of these policies does not offer anything to the LGBT community in Georgia.

SEXUALITY/SEXUAL PRACTICES

Georgian society is a conservative culture when discussing sexuality as a topic of public discourse. There is no formal sex education in Georgia's schools. When it comes to LGBT issues, the data get even more scarce. In general terms, gender roles determine sexual expression to a great extent. Female sexuality is perceived as subject to male cultural and societal dominance, and women are expected to be virgins at marriage; men are allowed to have pre- and extramarital sexual relationships. No deviation from this model is accepted.¹⁸

Surveys suggest that most LGBT people are closeted and pursue hidden sexual relationships. Men often meet each other in parks and bathhouses, while women practice very discreet relationships with one person often throughout life, and often both are married. Bisexuality as an orientation is often hard to separate from the widespread bisexual behavior among men. Transgendered persons, on the other hand, rarely have sex in a manner that is conducive to expressing their true gender identity.¹⁹

FAMILY

Age is one aspect that makes a significant difference in the self-perception as well as visibility of lesbians. Those who are above 40 years old are closeted and live double lives between their heterosexual marriages and a life partner who is often in a similar family situation. Younger women between 30 and 40 years old are independent and more socially active. They are perceived as single women who choose not to marry. The younger the woman, the more personal control she has over her family and the more opportunity to choose a life she finds satisfying.²⁰

Age is also an important factor in the self-perception of gay men. Georgian coming out surveys show that older men are rarely out to their families and colleagues. In the majority of cases, they will only come out to very close friends. Gay men between 25 and 40 years old are economically independent and can pursue the life and career that they choose. At the same time, they are not publicly out, as they could lose their career and income. The rate of coming out among gay men aged 25 years and younger is significantly higher, as are their self-esteem and self-awareness.²¹

Both male and female bisexuals in Georgia face dual discrimination. They are targets of prejudice within both the heterosexual and homosexual communities. The lesbian community in particular does not welcome the bisexual behavior of female friends or lovers. Among men, it is hard to determine whether bisexuality is a mere and occasional sexual behavior or an orientation. Many gay men first come out as bisexuals due to the stigma of their homosexual orientation.²²

COMMUNITY

Until recently, there were very few attempts by the LGBT community to form activist groups, and all initiatives were a result of individual commitment. A few organizations from the local NGO sector have worked on LGBT issues. Tanadgoma NGO works in the HIV/AIDS prevention sector and covers MSM (men who have sex with men). The Georgian Young Lawyers Association (GYLA) is the biggest national advocacy NGO. GYLA has received complaints from homosexual men who were seeking redress. The Women Initiatives' Supporting Group (WISG) has implemented a couple of studies and prepared LGBT-related material in Georgian to post on their Web site. A group of activists started a gay Web site, www.Gay.ge.

The site was targeted by homophobic hackers who damaged the system several times. The Web site is now placed on a secure server and is expanding in terms of both the information offered to the LGBT community and the number of users.

In August 2006, the Ministry of Justice of Georgia officially registered the Inclusive Foundation as the first LGBT rights organization. It acts as an umbrella organization to mainstream LGBT issues in academic research, empower the community, and lobby for the interests of LGBTs.

An LGBT community in a small post-Soviet country is not like the LGBT communities of the West. Most people are not out to their families, even if they are relatively visible and out to friends. Members of the Georgian LGBT community considered to be out make up a small number, only a few hundred in a capital city with a population of over one million. This is explained by a high level of stigmatization of nonheterosexual orientations, low awareness among the population and LGBT community members themselves, a post-Communist legacy, hard socio-economic conditions that foster xenophobia, the Orthodox Christian religion, and the culture and traditions of a patriarchal society.

LGBT people in Georgia do not have exclusively LGBT places to meet. Gay men still seek sexual encounters in old Soviet-style cruising areas and public bathhouses. Younger people, as well as those who can acquire consistent access to the Internet, communicate through international and local Web sites and discussion forums. Even through this confidential medium, LGBT Georgians will hide their real identity or refrain from posting pictures of themselves.

Compared to gay men, lesbians rarely reach out to each other. They undergo double discrimination due to belonging to the female gender in a masculine society and being lesbians. This is the least social group within the LGBT community.

Problems that lesbians face in Georgia are also invisible. Most occur in their relations with family and friends, and in the workplace. Lesbian relationships were never criminalized in the former Soviet Union, yet there were practices of medicalization and institutionalization.²³

Gay men have always been visible in Georgia, even when male homosexual contacts were punishable under the criminal code. Gay men are also socially active and outgoing. Their social networks often go beyond their areas of residence. This group is noticeable in its high rate of internal and external migration. The visibility of gay men often brings problems in the street and other public spaces. This explains the correlation between their high rate of stigmatization and level of social activity.

The gay community in Georgia is highly segmented based on social class. Those who cruise are rarely welcome in the higher-income community that can afford to go out expensive places, where there are fewer problems than in the street.

Transgender people are not often seen, even among the LGBT community. In Soviet times, transgender people were diagnosed in mental institutions. Nowadays, there is no consistent state policy on transgender issues. People can change their names on forms of identification that do not include gender. If they want to obtain a new passport, however, they will find it almost impossible to do so legally, as the law does not regulate change of the gender marker in passports.

One precedent appeared in 2006–2007, when a postoperational female-to-male (FTM) transgendered person appealed to the court and requested new ID. The court decided in favor of the plaintiff, and ordered the change of all ID according to the new sex of the person. The court made this decision based on the fact that the person had undergone sex reassignment surgery, not simply because he decided that he had a new gender identity.²⁴

The number of visible transgender people is very small. As of 2007, the only medical clinic is run by Professor Iva Kuzanov, where transgendered persons seek sex-reassignment surgeries. There have been 18 consultations and only five genital surgeries carried out, all of them MTF.²⁵

The process to apply for sex-reassignment surgery is systemized. Transgender people come to the clinic, where a doctor refers them to the State Commission on Bioethics. The commission appoints two independent observation committees, both of which include a psychologist, sexologist, and one or more psychiatrists. After one year of observation, the committees send their evaluations to the commission, which will ultimately decide whether the clinic can carry out the operation.

HEALTH

The first HIV/AIDS case in Georgia was registered in 1989. As of May 2009, there are over 2,005 registered HIV-positive persons in Georgia, of which 2.7 percent are MSM. Gender-specific data regarding the prevalence of the infection among WSW (women who have sex with women) is not recorded. Out of the total number of registered HIV-positive persons, 1,504 have developed AIDS and 435 have died. The real number of infected persons is estimated to be much higher than the number reflected in official statistics. There is also an assumption that the number of cases attributed to MSM sexual contact is probably higher than 2.7 percent.²⁶ This assumption is based on the fact that homosexuality and sexual contact with persons of the same sex are deeply stigmatized, and registered HIV-positive persons might not disclose the real method of transmission.

Under the support provided by the Global Fund to Fight AIDS, Tuberculosis, and Malaria, HIV testing is free of charge for the groups most at risk. It is also the Global Fund that provides coverage for antiretroviral treatment for people living with AIDS.

Georgia has adopted AIDS legislation. It also had set up necessary institutions to adopt and implement HIV/AIDS prevention intervention. The country coordination mechanism (CCM) is a multistakeholder system that involves state, non-governmental, and international agencies working in the HIV/AIDS prevention field. CCM has adopted a special action plan that specifies the roles of different stakeholders, and is endorsed by all of them. Funding of the interventions is almost entirely driven by the Global Fund to fight AIDS, Tuberculosis and Malaria.

HIV/AIDS is another reason for being stigmatized in Georgian society. The Georgian law on HIV infection and AIDS prevention obliges infected people to disclose their HIV/AIDS status when accessing medical services. Many persons living with HIV/AIDS often hide this fact from medical institutions and personnel, as these institutions often refuse to treat infected patients.²⁷

Surveys conducted among specific segments of the LGBT community reveal that in lesbian and bisexual women, awareness of the risk of HIV/AIDS transmission is mostly low.²⁸ Gay and bisexual men are more conscious of carrying out safe sexual practices, but overall stigmatization of the entire LGBT community results in low self-esteem, less social interaction, and risky sexual behavior.

There are no discriminatory clauses regarding the access to health care facilities by LGBT persons, aside from the decree against homosexual blood donation. One form of unconscious discrimination that was revealed among lesbians and bisexual women is connected to visiting the gynecologist for regular checkups. Cultural

perceptions of female sexuality explain this problem. It is very common to be asked questions such as “Are you married?” by the gynecologist during an exam. Single women who are sexually active remain stigmatized among the older generation, and in addition to the stigma against lesbianism and bisexuality in women, implications of visiting the health professional in these particular circumstances do not encourage lesbians or bisexual women to have regular gynecological exams, making them more vulnerable to women’s health problems.

POLITICS AND LAW

Georgian legislation has improved significantly since it joined the Council of Europe in 1999. In 2000, Georgia adopted a new criminal code that did not contain an article incriminating male homosexuality. Georgia is also a signatory of the European Convention of Human Rights (ECHR). Article 14 of the convention provides for nondiscrimination. It lists a wide range of grounds for nondiscrimination, yet omits sexual orientation. This gap was bridged with protocol 12 to article 14, which does specify that, based on the case law of the European Court of Human Rights (ECtHR), sexual orientation is considered an explicit ground for nondiscrimination. Georgia signed the protocol and ratified it in 2005. This is an important international legal instrument for an LGBT Georgian to seek redress if he or she is discriminated against on the grounds of sexual orientation.

The municipal legal system of Georgia avoids mentioning sexual orientation. There is only one exception where the law covers the topic of sexual orientation, in the new labor code of Georgia adopted in 2006. Article 2.3 lists sexual orientation as one of the grounds for nondiscrimination in employment relations. The limitation of this instrument is that there is no further specification of rules of application of this article.²⁹

There is the discriminatory clause³⁰ that prohibits LGBT people from donating blood. The decree of the minister for health, labor, and social affairs explained that this refusal is based on homosexuals belonging to the high risk group for HIV/AIDS. This article is a result of the inability to distinguish between sexual identity and risky sexual behavior.

In other instances, Georgian legislation does not include openly discriminating clauses. The absence of antidiscrimination legislation, definitions of hate speech and hate crimes, and exact punishment for those acts, leaves many gaps that allow for discriminatory practices.

Most LGBT community members are closeted and invisible. Therefore, it is a logical expectation that it will take quite awhile before the Georgian LGBT community will march the streets with demands for equality. The Georgian newspaper *Alia* published an article in July 2007 that informed the public about an upcoming gay pride event in the center of Tbilisi. The event was misconnected with the Council of Europe campaign for civil equality, which was speculated to have concealed the gay pride plan. The reactions from the public, politicians, and the church showed that the freedom of assembly of LGBT people is under a serious threat.

In article 36, paragraph 1 of the Georgian constitution, marriage is defined as “based on equality and consent of spouses.” This article is not gender-specific, and therefore does not impose a limitation on same-sex marriage. However, article 1106 of the civil code of Georgia specifies that marriage is the consensual union

of a man and a woman. In article 1120, the law states the grounds that prevent marriage. It does not include homosexuality or lesbianism as a legitimate obstacle for marriage. Finally, article 1140 lists the grounds for declaring a marriage as void, and that article does not include marriage to a person belonging to the same sex.

Adoption is covered more clearly in the same civil code. The law asserts the right of any single person to adopt a child when it is in the child's best interest. Two persons are entitled to adopt a child only if they are married. Several clauses that challenge the right of the person to adopt a child use controversial terms such as morality.³¹ Therefore, it is unclear what the court decision would be if someone challenged the right of a single LGBT person to adopt a child.

RELIGION AND SPIRITUALITY

Religion has always played a central role in the history of Georgia. After the breakup of the Soviet Union, a considerable part of society went back to church and eventually became more religious. The current tendency of the Georgian Orthodox Church when it is involved in public life has a political nature. The church is also trying to modernize its infrastructure through the creation of religious schools and NGOs.

The head of the Orthodox Church issued a statement in July 2007 by which it condemned an alleged gay pride event in Tbilisi. The Council of Europe's youth campaign, called All Different, All Equal, was in no way connected to the plans to hold a gay pride march; but this connection was made, allowing Patriarch Ilia II to condemn the event with a special statement. The statement condemned the plan to hold the march, and warned organizers and participants that if they did not cancel the march, the results would be fatal.³² Ever since, the head of the church started addressing issues of sexual orientation and gender identity in every Christmas and Easter epistles, and not in a positive context.

Dogmas of the Georgian Orthodox Church are not favorable to LGBT Christian groups. The church considers homosexuality a sin and calls its followers to confess and return to the true path of religious life in church.

VIOLENCE

Given the degree of homophobia in Georgian society, violence against LGBT persons is often seen as morally justified. The public perceives homosexuality as a problem, but homophobia is not usually questioned.

Violence is a common problem faced by LGBT persons in public. Forms of violence vary from name-calling to physical assault and rape, especially in Georgian prisons. According to a survey conducted among the LGBT community, only two respondents complained to the relevant institutions about violent acts inflicted upon them, and neither of these acts was dealt with in a way that satisfied the victim.³³ This situation once again raises the issue of the absence of hate crime legislation, which makes it extremely difficult to guarantee adequate redress in relation to the rights of LGBT persons.

The number of documented cases of homophobic hate crimes show that it is not always possible to persuade a victim to seek redress of his or her rights due to the stigma, and that available mechanisms do not allow for much advocacy. In 2005, a gay man came out publicly on television. Soon after this he was severely beaten up

in the street, while attackers called him names and stressed the connection between the beating and his appearance on television. Because of the lack of hate crime legislation, the investigation agency recorded this as a regular street attack.³⁴

OUTLOOK FOR THE 21ST CENTURY

Over the last couple of years, the LGBT community and its concerns has gained significant visibility. Homosexuality is no longer a taboo issue in public discourse, although it is still a very sensitive topic. LGBT rights violations are being studied, documented, and addressed. Alternative information sources such as magazines and Web sites are being developed to disseminate adequate information on LGBT issues. A number of governmental agencies and civil society have started expressing readiness to incorporate LGBT rights in their mandates.

With the further transformation of Georgian society, new threats are emerging. With the advancement of LGBT issues in public discourse, new controversy is being voiced through antigay media sources. Because homosexuality is perceived as a threat to Georgian society, rightist political powers use the issue to magnify the threat and justify their causes, which attracts more supporters. Politicization of the issue involves new risks and targets, meaning that the LGBT community must tackle new problems.

On the other hand, the LGBT community in Georgia is growing, and this irreversible phenomenon is bringing new opportunities to advance LGBT rights in a newly emerging democracy.

RESOURCE GUIDE

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Organizations/Web Sites

Gay.ge, <http://www.gay.ge/>.

The national gateway for the LGBT community in Georgia. This bilingual (Georgian-English) Web resource provides updated news and articles on art, sports, and health issues. The Web site has a discussion board (forum) and chat. It also offers a dating

service. Integrated interface is available for Inclusive Foundation's online consultations with a psychologist and sexologist.

Inclusive Foundation, <http://www.inclusive-foundation.org/>.

The only national LGBT organization. Fosters the integration of the LGBT community into local society and protect their rights. The bilingual Web site (Georgian and English) provides information about the organization, its mission and activities. Provides news about the LGBT movement in Georgia and globally, online consultation services for community members, articles on LGBT topics, glossary, publications prepared by the foundation, a list of literature available in Foundation's library, and relevant links.

Lesbi.ge, <http://www.lesbi.ge>.

Bilingual (Georgian-English) Web site for lesbian and bisexual women in Georgia. Similarly to gay.ge, this Web site has news, discussions, chat, and dating services. It offers number of articles on sexual and reproductive health and rights. It also gives detailed information about lesbian and bisexual women active in arts, literature, and other cultural fields throughout world history.

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9. Ibid.

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20. Ekaterine Aghdgomelashvili, *Internal Reports on Coming Out Survey among Inclusive Foundation Visitors, and Internal Analysis of Lesbian and Bisexual Women Oral Histories* (Tbilisi, Georgia: Inclusive Foundation, 2007).
21. Ibid.
22. Ibid.
23. Ibid.
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GERMANY

Frédéric Jörgens

OVERVIEW

Germany is the most populous country of the European Union, with just over 82.4 million inhabitants as of July 2007. In the north it borders Denmark, in the west the Netherlands, Belgium, Luxemburg, and France. In the south its neighbors are Switzerland and Austria, in the east Poland and the Czech Republic. All of these except Switzerland have joined the European Union (EU). Germany's capital is Berlin, which with 3.6 million inhabitants is also the largest city, followed by Hamburg with 1.7 million, Munich with 1.3 million, and Cologne with just under 1 million inhabitants.

Germany was divided after the World War II when the German army and the Nazi regime were defeated in 1945. The crimes of Nazism and the relationship with the Allied powers (the United States, the Soviet Union, Britain, and France) shaped Germany's geopolitics, society, and culture in the postwar period. Placed in the center of the cold war between the West and the communist East at the end of the 1940s, Germany was split into the German Federal Republic (GFR) in the west and south and the German Democratic Republic (GDR) in the east. Western Germany, with about 60 million inhabitants and its capital Bonn, was under the influence of the Western Allied powers, a liberal democracy, and started the process of European integration with France, Italy, and the Benelux countries (Belgium, the Netherlands, and Luxemburg). Eastern Germany, with about



16 million inhabitants and its capital East Berlin, was under Soviet influence, with a largely nondemocratic communist regime, and was responsible for the building of the Berlin wall in 1962, isolating the Western enclave of West Berlin within the surrounding Communist GDR. In 1989, an uprising in East Germany led to the fall of the wall in Berlin, free elections in the GDR, and less than one year later, in 1990, to the reunification of both German countries. Germany hosts one of the strongest economies in the world, despite strong economic disparities between an increasingly rich south and an economically weaker east and 8–10 percent unemployment nationwide.

Looking further back, Germany was constituted by small independent states for a long period of time, until it was unified in 1870. At the end of World War I, it became a democracy known as the Weimar Republic, and enjoyed an increasing degree of societal freedom that created a boom in literature, theatre, cinema, and art. However, the Weimar Republic lasted only for a short while. In 1933, an economic and political crisis ended in the election of Adolph Hitler. He immediately disembodied the democratic institutions and installed a dictatorial regime that entered history as the worst totalitarian state that ever existed, responsible for the horrors of World War II and the Holocaust. The regime lasted for 12 years, ending with a crushing military defeat in 1945 and leaving the country in ruins.

OVERVIEW OF LGBT ISSUES

The societal acceptance of homosexuality in Germany was fundamentally influenced by the dramatic historical shifts during the 20th century. In 1903, the liberal physician and researcher Magnus Hirschfeld led scientific research on masculine homosexuality. He created a foundation, the Magnus-Hirschfeld-Stiftung, that called for a tolerant societal attitude toward homosexuality, and some argue that this constituted the world's first modern gay movement. For others Hirschfeld's belief in racist eugenics cast an important shadow over his reformist stance concerning homosexuality.

German society, conservative and largely provincial until this time, became a liberal democracy with the onset of the Weimar Republic (1918–33). This republic became world-famous for its tolerance, which left room for a colorful homosexual subculture during the Golden Twenties, which would fall into strict prohibition, cultural censorship, and persecution with the homophobic medical trials in the Nazi period. In the Anglo-Saxon world, the German Golden Twenties became a famous literary reference, especially in British novelist Christopher Isherwood's *Goodbye to Berlin*, which describes the sharp fall of German society from liberal to authoritarian and oppressive in the 1930s.¹

Homosexuality in West Germany, 1945–1989

After 1945, different societal developments occurred in West and East Germany. In West Germany, with a largely conservative political environment dominated by Konrad Adenauer's Christian Democratic Union (CDU), homosexuality was confined to the margins of society until the late 1960s. Legally, in West Germany, a highly repressive and discriminatory version of the laws homosexual acts was introduced in the period of national socialism, condemning sexual acts between men with a prison sentence of up to 5 and, in special cases, up to 10 years. These

laws were left untouched until 1969. Indeed, between 1949 and the legal reform in 1969, about 50,000 men were condemned on the basis of section 175 in the Federal Republic of Germany. In 1957, the West German constitutional court upheld the 1935 version of the law.² Homosexual acts thus remained illegal and could lead to formal state prosecution. It should be added that many courts increasingly refrained from implementing anything but symbolic fines on grounds of consenting homosexual acts. After the 1969 reform, scrapping the weaker form of section 175 was an important goal for the West German gay movement. This remaining form of the law stipulated a higher age of consent for homosexual acts than for heterosexual ones, and the aim to eradicate it was achieved only after reunification, in 1994.³

Culturally, homosexuality rose from the margins to form an increasingly strong subculture. Cologne, Hamburg, and West Berlin became the centers of West German gay culture. During the 1970s, largely influenced by American hippie culture and politicized after the 1968 student revolts, homosexuality and bisexuality were tolerated and accepted in left-wing subgroups. David Bowie became a queer, bisexual pop icon, residing in West Berlin during the late 1970s; the queer filmmaker and playwright Rainer Fassbinder created a new German cultural avant-garde; and gay film-maker Rosa von Praunheim became the incarnation of the modern German gay liberation movement with his documentary film bearing the bulky title *It is Not the Homosexual Who is Perverted, but the Situation in Which He Lives*.⁴

Subsequently, it was to a large degree the nascent Green movement that channeled claims for political reform and social recognition into an increasingly accepted political position. While West Berlin was the leading location of a 1970s bisexualized hippie culture, Cologne as the West German media capital became the prominent gay capital of the 1980s. Here, personalities such as the cartoon artist Ralf König⁵ and the lesbian TV-presenter Hella von Sinnen gained national prominence well into mainstream culture and provided nationwide references for what lesbian and gay life was about. The AIDS crisis of the 1980s, despite individual calls for repressive antigay politics, led to political and societal solidarity with the gay community and prepared the grounds for a new understanding of inclusion. Legally, however, nothing changed as long as the socially conservative Christian Democracy of Helmut Kohl was in power (from 1982 to 1998).

Homosexuality in East Germany

The Socialist/Communist German Democratic Republic lasted from 1949, when it was proclaimed, to 1990, when free elections led to unification with the western part of the country. Concerning human rights and civil liberties, East Germany was clearly more repressive of its citizens than West Germany. This government spied on its citizens by means of an omnipresent information service (the Ministry for State Security, commonly known as the Stasi), did not allow for free elections, and threatened the lives of those who wanted to leave the country. The picture is less black and white, however, concerning the acceptance of homosexuality.

In the legal context, during the postwar period the German Democratic Republic (GDR) had, at least nominally, been more progressive in decriminalizing homosexuality. The discriminatory sections 175 and 175a on homosexual acts were abolished through reforms in 1950, 1957, 1968, and 1988. The decision in 1950 to return to the Weimar Republic version of section 175 implied a lower maximum

penalty compared to West Germany (6 months in East Germany, 5 years in West Germany). In 1957, the possibility of nonprosecution was introduced if the homosexual act did not represent “a danger to the socialist society,” which in practical terms ended the prosecution of homosexual acts between consenting adults. In 1968, the new penal code of the GDR mentions only a higher age of consent for both male and female homosexual acts, namely 18 years. After a judgment of the East German high court in 1987, the GDR parliament finally abolished this law.⁶

Culturally, however, the East German lesbian and gay scene was far less vibrant, to say the least. There was nothing there comparable to the bars, cafes, clubs, and discotheques that became fundamental experiences in lesbian and gay lives in Hamburg, Cologne, or West Berlin. According to commentators, the absence of a commercial homosexual subculture characterized the main difference between East and West Germany.⁷

There were only very few homosexual bars in East Germany, such as the Schoppenstube in Prenzlauer Berg. Instead, private circles and homosexual associations tolerated within the structures of the Protestant Church constituted a large part of the East German homosexual scene.⁸ So did cruising areas. Beyond looking for sex, cruising places arguably had broader social functions, in contrast to those in West Germany.⁹ But for many, the existence of a colorful and very visible lesbian and gay culture on the other side of the wall constituted a particular reference point in forging gay identities within East Germany.

Beyond the legally comparatively progressive stance, there had been a real cultural development toward the integration of homosexual perspectives into GDR culture, at least during the 1980s. In the very last years before the wall fell, this effort was symbolized by the production of the GDR film *Coming Out*, which was a state-sanctioned critical review of a young gay teacher’s life in East Berlin.¹⁰ The film premiered the night the wall fell, and the East German debate on the cultural acceptance of homosexuality was overtaken by the collapse of the entire Soviet system.

EDUCATION

Germany’s education system, generally speaking, is based on a common primary education between the ages of 6 and 10, thereafter branching out into up to four different educational paths, Gymnasium (leading to higher education), Realschule (O-levels), and Hauptschule (manual and practical sectors). Today, about 40 percent of German pupils attain a university-entrance diploma (Abitur). Education lies within the responsibilities of the regions (Länder) and schooling models, based on a strong political divide on the issue as well as historical traditions, differ. The left has criticized the split education model for a long time as socially unjust and restrictive of social mobility and, in a range of regions, has implemented either longer phases of joint schooling or an alternative model of overall joint schooling systems; however, the initial model has not successfully been replaced.

Similarly, a strong political divide has arisen on the question of whether university students should be made to pay for their studies. Traditionally state run and free of charge, a large number of German Länder have recently imposed fees on higher education—although these are still very moderate compared to U.S. standards. The issue remains controversial, and some regions have indeed abolished

the student fees after regional elections that have shifted the governing majorities. A large number of German universities now propose LGBTQ studies, most often based on previous gender studies programs. In schools, the inclusion of LGBTQ issues in educational programs has been decided at the regional level, where some but not all left-leaning regions have tended to implement programmatic reforms.

EMPLOYMENT AND ECONOMICS

Germany hosts one of the most powerful and most developed economies in Europe and in the world, leading internationally in the high-tech, transportation technology, and pharmaceuticals industries.¹¹ Germany's gross domestic product (GDP) comes third worldwide after the United States and Japan, according to current indicators.¹² The country has, however, suffered from a large public debt and structurally high unemployment. Unemployment has recently decreased from 13 percent in 2005 to 7.2 percent in late 2008,¹³ but the economy risks an economic downturn in 2009.

SOCIAL/GOVERNMENTAL PROGRAMS

The main basis of the German welfare state was created at the end of the 19th century under the conservative Reichs-chancellor Otto von Bismarck—at the time, the reforms were seen as preempting social movements by implementing basic standards for workers. The postwar model of the (West) German mixed economy—a free market with a strong welfare state—was increasingly put under pressure in the 1990s, mainly due to a systematically high level of unemployment (between 8 and 10%), until a bundle of reforms called Agenda 2010, under the left-wing government of Gerhard Schröder, led to important cutbacks in unemployment benefits, pensions, and social services. Unemployment has fallen since then, but social inequalities have grown, and the sentiment of social exclusion has grown stronger, eventually leading to a shift in Germany's political landscape through the rise of the former Communist Party, renamed Linke (left), which became an important force in both East and West Germany.¹⁴

SEXUALITY AND SEXUAL PRACTICES

According to an extensive study on sexuality, Germans have sex 139 times a year on average. Just under 40 percent admit to having been unfaithful at least once. (Heterosexual) men, in this study, report having had 10.2 sexual partners on average, and women 6.7.¹⁵ Estimates on the proportion of homosexuals and/or women and men practicing homosexuality tend to differ too widely to be counted as reliable. In the past 5 to 10 years, safer sex habits of gays have dropped significantly, giving rise to increasing worries over a new rise in HIV infections.¹⁶

FAMILY

Since 2001, Germany recognizes same sex partnerships through the possibility of registered partnership (Eingetragene Lebenspartnerschaft). The law was passed in November 2000 by the left-wing coalition of Social Democrats (SPD) and

Greens (B90/Die Grünen), and was heavily opposed at the time by the Christian Democrats. The two opposition parties (CDU/CSU and FDP) voted against the law. Due to the opposition parties' power of veto over any benefits related to legal change through the high chamber (Bundesrat), a restricted version of the initial project was adopted. Consequently, the law in place falls short of anything close to an equal status to opposite-sex marriage in Germany. In sum, any financial advantages are excluded from the law, while rights concerning citizenship and work and residence permits are included. Thus, the law led to an important symbolic recognition at a societal level as well as to an important tool for securing the bases of couples with one noncitizen partner. In the casual vernacular, registered partnership is often referred to as gay marriage (Homo-Ehe), despite the fact that it is not formally equivalent to marriage. Opinion polls have shown that a majority of Germans today support the existence of not only registered partnership but also of true same sex marriage. In the Eurobarometer 2006, 52 percent were in favor of same-sex marriage—a number that was still under 30 percent in the same Eurobarometer in 1993. A different survey, Gallup Europe 2004, found even more support for same sex marriage, at 65 percent.¹⁷

The law, however, was heavily criticized by conservatives calling for the defense of marriage as the basis of society, and by the Catholic Church, in particular Joseph Ratzinger (who became pope in 2005), who intervened heavily in the German media debate at the time.

It also had numerous critics on the left who were displeased with the limitations of the reform. Not only are various financial, tax, and pension benefits excluded from the law but also certain symbolic allowances, as same sex ceremonies are often barred from being held in the town hall where many marriages take place, depending on the region. Further, no adoption rights are given to same-sex partners, artificial insemination remains forbidden for a woman unless she is married to a man, and parenthood for the partner of a parent who subsequently enters a same-sex partnership is restricted to a second-order parenthood under the Small Adoption Right (Kleines Adoptionsrecht). Finally, the law was heavily criticized and actively opposed by a significant part of the lesbian and gay movement that advocated a more radical reform of patriarchal, traditionalist societal values and the abolition of marriage. Gay and lesbian groups, particularly left-wing, anarchist, and queer groups in Berlin, grouped in anti-gay marriage demonstrations such as the alternative Christopher Street Day in the borough of Kreuzberg, and accused the author of the law, the Green MP Volker Beck, of social conservatism.¹⁸

The law took effect on August 1, 2001, and the criticism both on the conservative and on the antimarriage side has practically ceased. Conservative political parties have since included the recognition of same-sex partnerships in their party programs, even the traditionalist Bavarian Christian Social Union (CSU).¹⁹ In addition, a number of queer antimarriage critics have welcomed the reform as to the practical enhancement it represents for non-EU partners.²⁰ All regional authorities of the Lutheran Protestant Church in Germany have recognized same-sex partnership and propose ceremonial church blessings. The Catholic Church, however, continues to oppose the recognition of same-sex partnerships. This has led to a large source of discrimination due to the fact that the Catholic Church controls a vast amount of employment in Germany, often in state-financed but church-run institutions such as Catholic schools, hospitals, and social services. Thus, in the several million jobs that are controlled by the Catholic Church,

lesbians and gays cannot officially identify as homosexual without with the threat of being fired.²¹

Overall, on the societal level, the recognition of same-sex partnerships has led to a deeper acceptance of homosexual lifestyles in Germany. But despite the fact that Germany may well count among the most tolerant countries in the world for LGBTs today, there is still discrimination, homosexuality is still often taboo, and there may even be an increasing amount of homophobic violence in certain areas.

COMMUNITY

Despite the high level of acceptance in Germany, in certain ways homosexuality is still kept secret. Particularly amongst lesbian women, keeping sexual identity a private element of their lives is still very common. It should at least be said that openness about an LGBT identity is carefully weighed against specific social settings, such as family, work, and friends. Dependent on the sector of employment, the workplace traditionally represents a challenging setting for gay and lesbian identities. Whether a woman or a man wants to present her or himself as lesbian or gay or keep it a secret often depends on the potential risks this identity poses to her or his career. Today, some encounter total acceptance in the workplace.

Gay or lesbian identities can be lived publicly in one setting and not in another. The way they choose to reveal their identities in each setting is often based on an experienced or imagined risk. Acceptance is not experienced throughout, and many difficulties remain. Hence, the observed general trend toward greater acceptance does not change the fact that for many people, managing homosexual identities remains the result of a subtle case-to-case judgment. In some of the interviews that were conducted in a study on the social acceptance of homosexuality,²² specific social settings such as the family, the workplace, and specific cultural groups are singled out. In certain places, or among certain groups of people, some continue to refrain from addressing their homosexuality, even in presumably tolerant large cities like Berlin, where the interviews were held.

Avoiding certain areas or groups of people may or may not be felt as a constraint, but often the area or the group of people in the immediate vicinity has an impact on, for instance, showing affection in public.

This necessity for lesbians and gays to live double lives seems to be the exception in Germany today. But the concept of a case-to-case management of public identity is not entirely absent. This includes careful approaches to being publicly gay or lesbian with certain people, in certain institutions, or in certain areas or neighborhoods. Particularly homosexual women remain largely invisible in Germany's public life.

HEALTH

While at a low level if compared internationally, German HIV infection rates have continued to rise since 1999. The recent rise is particularly significant among homosexuals. Apart from the drawbacks of safer sex campaigns in the gay community, the significant rise in other sexually transmittable infections such as syphilis, which lead to higher infection rates, is seen as a major cause of the recent development. According to 2007 estimates, about 59,000 people in Germany are living with HIV/AIDS.²³

POLITICS AND LAW

Since 1990, for many, speaking of the difference between East and West German homosexual cultures has lost meaning, and homosexuality, having become largely accepted within mainstream German society, has itself become a non-issue for many. Commentators have pointed to the East German gay and lesbian culture's quick absorption by the West German 1990s culture, in a period that coincided with an increasing acceptance of homosexuality in West German society, politics, media, and law.²⁴ In the aftermath of German reunification, debates on homosexuality and same-sex marriage were largely dominated by West German media and politicians.

In recent years, Germany has become relatively accepting of homosexuality; in fact, it is among the most tolerant worldwide, together with a range of other European countries.²⁵ The coming out of national politicians and other prominent public personalities²⁶ and the introduction of registered partnership for same sex couples in 2000 created a decade of public debate in which the cultural East-West divide had no further significance. It is striking that various surveys indicate no gap between West and East Germany overall in the acceptance of homosexuality.²⁷ Instead, a city-country divide can be observed.²⁸ Most prominently, the coming out of the then candidate for Berlin City Hall, Klaus Wowereit, became a national reference for the new self-consciousness of German homosexuals when, during his endorsement speech, he publicly announced: "I am gay, and that's a good thing" (*Ich bin schwul, und das ist auch gut so*).²⁹ Various lesbian and gay events, such as the gay Christopher Street Day parade and the gay street festivals have become integrated into the main cities' popular culture, particularly in Berlin, Hamburg, and Cologne, and local politicians of all hues are eager to show themselves on the occasion. In the realm of politics, the conservative mayor of Hamburg Ole von Beust and the head of the centrist party FDP count among the most famous openly gay personalities. The coming out of the lipstick lesbian talk show moderator Anne Will constituted a new dimension in lesbian visibility, which had largely lagged behind that of gay men.

RELIGION AND SPIRITUALITY

Although Germany is not formally secular and is politically shaped by a party referring to Christianity, the role of religion has declined sharply. Today, 47 percent of Germans "believe in some sort of God."³⁰ About 31 percent of Germans are Lutheran Protestant, mainly in the north, and about 31 percent are Catholic, mainly in the south. In eastern Germany and in urban areas such as Hamburg, atheism is dominant.³¹ About 4 percent of Germans are Muslims, mostly of Turkish origin.³²

VIOLENCE

Some studies see homophobia, particularly violent attacks by young men, on the rise. The quantification of homophobic attacks is methodologically very difficult, as they tend to remain unreported. This was precisely the result of a large survey study in Berlin, organized by the gay helpline Maneo together with the sociologist Michael Bochow.³³ The study reported that 90 percent of homophobic attacks that were mentioned in the study had been left unreported.³⁴ It told of

several violent attacks, including attempted murder, particularly in poorer neighborhoods and in cruising areas such as the Tiergarten Park in the centre of Berlin. To give the example of Germany's capital, in 2006 police reported 27 homophobic crimes, while the helpline Maneco reported 200 cases.³⁵ The survey itself reported 3000 homophobic attacks, including verbal attacks.

OUTLOOK FOR THE 21ST CENTURY

The LGBT fight as a marginal group in German society appears to be history. But the legal debates on the family and partnership rights are all but settled. Societal advances still have not fully translated into full equal rights and equal respect. In addition, the focus of antigay discrimination has moved to certain societal groups (regional, religious, ethnic) but has not disappeared. With the growing internationalization of societies themselves, the question of homosexuality in Germany in the 21st century will, to a large and growing extent, depend on the question of homosexuality in the world.

RESOURCE GUIDE

Suggested Reading

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3. Hans-Georg Stümke, *Homosexuelle in Deutschland*. In 1969 the age of consent for homosexual acts was 21; this was lowered to 18 in 1973.
4. Rosa von Praunheim, *Nicht der Homosexuelle ist pervers, sondern die Situation, in der er lebt* (film; Germany: 1970).
5. E. G. Ralf König, *Der bewegte Mann* (Hamburg: Carlsen Comics, 1987). See also ralf-koenig.de.
6. Hans-Georg Stümke, *Homosexuelle in Deutschland*.
7. As the gay activist Rudolf Klimmer noted in 1968: "Despite this progressive legislation homosexual life in the GDR has not changed... few forms of visibility, no magazines and clubs." See Michael Holy, "Ungelebte Ost/West Beziehungen," in *Schwulsein 2000, Perspektiven im vereinigten Deutschland*, ed. Günther Grau (Hamburg, Männerschwarmskript, 2001), 58. All translations by the author.
8. Michael Holy, "Ungelebte Ost/West Beziehungen," 60. See also, for example, Rainer Herrn, *Schwule Lebenswelten im Osten* (Berlin: Deutsche AIDS-Hilfe, 1999).
9. Jan Feddersen in group interview, Günther Grau, ed., *Schwulsein 2000, Perspektiven im vereinigten Deutschland* (Hamburg: Männerschwarmskript, 2001), 80.
10. Heiner Carow, *Coming Out* (film; German Democratic Republic [GDR], 1989).
11. André Brodocz and Hans Vorländer, "Deutschland, Wirtschaft," <http://www.bpb.de/themen/DZ564O,0,0,Wirtschaft.html>.
12. According to 2007 list of the International Monetary Fund, the World Bank, and CIA World Factbook.
13. See <http://www.pub.arbeitsamt.de/hst/services/statistik/000100/html/monat/200810.pdf>.
14. On the debate and the role of the Linke, see an interview debate at http://www.fr-online.de/top_news/1599593_Agenda-2010-die-Abrechnung.html.
15. See *Focus*, September 17, 2008, http://www.focus.de/gesundheit/ratgeber/sexualitaet/sexstudie-so-liebt-deutschland_aid_334047.html.
16. See *Die Zeit*, November 2, 2004, http://www.zeit.de/2004/49/aids_Deutschland.
17. Eurobarometer 66, 2006. Gallup Europe 2004.
18. For queer antigay marriage positions see Ilona Bubeck, ed., *Unser Stück vom Kuchen. Zehn Positionen gegen die Homohe* (Berlin: Querverlag, 2000).
19. Since its 2006 party program, see *Tagesspiegel*, October 23, 2006.
20. See, for example, Frédéric Jörgens, "The Individual, the Couple and the Family: Social and Legal Recognition of Same-sex Partnership in Europe," PhD dissertation, Florence, European University Institute, 2007, p. 119f.
21. The constraint imposed by the Catholic Church as an employer is all but fictional: the public registration of a same-sex partnership formally constitutes a reason for terminating the employment even in state-financed institutions if they are administered by the Catholic Church in Germany. This includes a vast number of schools, hospitals and charities. See High Court judgment BVerfGE 70, 138.
22. Jörgens, "The Individual, the Couple and the Family."
23. Robert-Koch-Institut, "Epidemologisches Bulletin," November 23, 2007, http://www.rki.de/nn_205760/DE/Content/Infekt/EpidBull/Archiv/2007/47__07,templat eId=raw,property=publicationFile.pdf/47_07.pdf.
24. Holy, "Ungelebte Ost/West Beziehungen," 61–63.
25. In the Pew Global Attitudes Project 2003, Germany comes top of a list of 41 countries surveyed for the study, with 83 percent of respondents saying that "homosexuality

should be accepted by society.” It shares this result with the Czech Republic. Pew Global Attitudes Project, <http://people-press.org/reports/pdf/185.pdf>. Neither Scandinavian countries nor the Netherlands are included in this study. According to the 1999 findings of the World Values Survey 6.1 percent of Swedish, 6.2 percent of Dutch, 8.0 percent of Danish, 11.3 percent of East German, 11.8 percent of West German, 15.6 percent of French, 16.4 percent of Spanish, and 17.4 percent of Belgian respondents mentioned that they would not like to have homosexuals as neighbors, <http://www.worldvaluessurvey.org/>.

26. Gay public personalities became particularly debated after the controversial *outing* of various politicians and TV presenters by the filmmaker and gay activist Rosa von Praunheim in 1991 in the TV show *Explosiv* on December 10, 1991.

27. See *Datenreport 2004*, Berlin, Bundeszentrale für Politische Bildung 2004, 471–74. For 2002 the report finds that East and West Germans have an equal proportion of respondents judging homosexuality to be “bad” or “rather bad,” namely 24 percent. Interestingly, the number is up from 17 percent in East Germany in 2000, and up from 21 percent in West Germany, thus showing a negative trend for both. On other contentious topics, such as abortion, the difference between East and West is significant, arguably because of the more proabortion regime in the German Democratic Republic (GDR): it is bad for 35 percent in East Germany compared to 53 percent in West Germany, with a declining gap since 2000. On East and West Germans’ opinions on homosexuality, see also Emnid survey 2001 in *Tagesspiegel*, February 20, 2001.

28. Two regions with a high proportion of rural populations or absence of major cities, Rheinland-Pfalz and Sachsen-Anhalt, come last in the nationwide survey (Emnid survey 2001 in *Tagesspiegel*, February 20, 2001).

29. Klaus Wowereit at the launch of his candidacy for Berlin mayor in June 2001.

30. Eurobarometer poll, 2005.

31. http://www.ekd.de/download/kimi_2004.pdf; http://www.bpb.de/themen/GIRPNN,0,0,Was_ist_Islam.html (Bundeszentrale für Politische Bildung, Berlin, December 2004).

32. http://www.bpb.de/themen/GIRPNN,0,0,Was_ist_Islam.html; http://www.bpb.de/themen/GIRPNN,0,0,Was_ist_Islam.html (Bundeszentrale für Politische Bildung, Berlin, December 2004).

33. Eurobarometer poll 66, 2006; Gallup Europe, 2004.

34. Maneco Report 2007, <http://www.maneco-toleranzkampagne.de/index.php?cat=2&sub=2>.

35. *Die Welt*, July 2, 2008.

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GREECE

Carmen De Michele

OVERVIEW

The Hellenic Republic of Greece has one of the richest cultural heritages in Europe, its history shaped by influences from Europe, Northern Africa, and the Middle East. Western civilization, in turn, has its roots in ancient Greece.

The Greek culture evolved over several thousand years. The earliest civilizations are known to have existed in the Mycenaean (1500–1100 B.C.E.) and Minoan (2700–1450 B.C.E.) eras. Classical Greece (500–323 B.C.E.) and the Hellenistic era (336–31 B.C.E.) were followed by a time of strong influence from the Roman Empire (27 B.C.–393 C.E.). During the Byzantine Empire (330–1453 C.E.), Thessaloniki became its second most important city, after Constantinople. The Ottoman Empire (1299–1923) also had a strong impact on Greek culture until the Greek Revolution (1821–29). The nation won independence from the Ottoman Empire and became a sovereign unified country.¹

Greece joined NATO in 1952 and the Organisation for Economic Cooperation and Development (OECD) in 1961. In 1975, a referendum abolished the monarchy. According to the Greek constitution of the same year, the nation became a presidential parliamentary republic. On January 1, 1981, Greece became the 10th member of the European Union (EU); it joined the EU's Economic and Monetary Union (EMU) in 2001, adopting the euro as its new currency.

Greece is located in southeastern Europe, on the southern end of the Balkan Peninsula. Its northern neighbors are Albania, the former Yugoslav



Republic of Macedonia, and Bulgaria. Turkey lies to the east, and most of the mainland is surrounded by the sea. The Aegean Sea borders the mainland in the south and east, and the Ionian Sea in the west.

Greece's land boundary is 720 miles (1,160 km) long, while its coastline stretches over 9,250 miles (14,880 km), making it the world's 10th longest coast. About 80 percent of the country consists of mountains and hills, this mountainous territory dominating the mainland. The canal of the Isthmus of Corinth separates the Peloponnesus peninsula from the mainland. The Greek territory also includes about 2,000 islands, such as Crete, Rhodes, and Lesbos, as well as island groups like the Dodecanese and the Cyclades.

Greece's total population is about 11.1 million people. At 1.2,² the Greek total fertility rate³ is steadily declining, and the annual population growth rate between 1994 and 2004 was only 0.4 percent.⁴ In addition, infant mortality has declined from 40.07 per 1,000 live births in 1960 to 17.94 in 1980 and 5.34 in 2007.⁵ The marriage rate (the number of marriages per 1,000 people) was 5.4, while the divorce rate was 0.9 divorces per 1,000 people. Currently 3.7 percent of live births are to unmarried women.⁶ As the infant mortality rate has decreased, so has the life expectancy been increasing substantially in the last decades. The life expectancy in 2006 was 77 years for men and 82 years for women, up from 67.3 and 70.42, respectively, in 1960.⁷

About 35 percent of the Greek population lives in the nation's capital, Athens (3.8 million inhabitants). Thessaloniki, in the northern periphery of Central Macedonia is the second largest city with 1.9 million inhabitants. A total of 61.4 percent of the Greek population is concentrated in urban areas.⁸

Greece is subdivided into 13 administrative peripheries, which consist of 51 prefectures and the autonomous region of Mount Athos. The 240-mile (390 km) peninsula has only 2,250 inhabitants and is geographically part of the Chalcidice peninsula.⁹ Female visitors are not permitted to enter the autonomous region. Men are only allowed to visit one of the 20 monasteries, and only with special permission.

The prime minister is the head of government, and holds several executive and legislative functions, as well as performing certain ceremonial duties. However, the Greek government only exercises executive power, while the Hellenic Parliament vests the legislative power. The judiciary power is independent. In the last decades, two parties have continually dominated the multiparty system: the conservative New Democracy and the socialist Panhellenic Socialist Movement (PASOK).

The country has enjoyed substantial economic growth and an increase in living standards, especially in the urban areas. The EU funds large investments in heavy infrastructure. Increased revenues in the shipping and tourism industry, along with a growing service sector, have helped the economy to prosper. In 2004 Athens successfully hosted the Olympic Games, which led to an improved infrastructure in the capital, and specifically the construction of the metro. Major projects commissioned by the EU, like the Via Egnatia road in the north, will connect Greece more closely to its border countries, although Greece's relationship is tense with some of these. The conflict with Turkey over the occupation of Cyprus is still an important issue for many Greeks, as is the dispute with the northern neighbor, Macedonia, about its name, which the Greeks claim for themselves for historical reasons.

OVERVIEW OF LGBT ISSUES

In Greece, the Greek Orthodox Church still plays an important role in shaping society's opinion on issues such as sexuality. Homosexuality is not widely accepted, especially outside the larger urban areas. One of the main struggles of the community is to become more visible within society. Many Greeks still do not admit the existence of lesbians and transsexuals in their country. The family is still considered the nucleus of the society, and many gay Greeks hide behind a pro forma marriage.

On June 3, 2008, the mayor of the small island of Tilos, Anastasios Aliferis, married two homosexual couples, taking advantage of a legal loophole in the 1982 law that legalized civil marriage between persons, without explicit reference to their gender. The church was strongly opposed to this.

The Greek LGBT community has become better organized and more politically active in recent years. LGBT groups have linked themselves closely with other groups in Europe and around the world. Local LGBT groups have established close ties with gay expatriates living in Germany, Italy, the United States, and so on. Furthermore, their activities are not limited to the mainland. In the past decades, Greece has become a very attractive tourist destination for gay travelers. In particular, the small islands of Mykonos and Lesbos have become extremely popular.

Greece's membership in the EU, the large influx of immigrants, HIV/AIDS prevention programs, and increasing tourism are slowly exposing Greeks to the demands of the LGBT groups.

EDUCATION

The adult literacy rate in Greece was 91 percent in 2004, representing male literacy of 94 percent and female literacy of 88.3 percent.¹⁰ Ninety-nine percent of the primary school-aged members of the population were enrolled in primary schools.¹¹

Attending primary school and the gymnasium is compulsory for all Greeks. Children start school at about the age of 6 and attend primary school for six years. At age 12, students change to the *gymnasium*, which they attend for three years. Postsecondary education is divided into the *lykeio* (which is similar to the unified upper secondary school), and the technical-vocational schools. The vocational training institutes offer another alternative, and accept students from both the *gymnasium* (lower secondary school) and the *lykeio* (upper secondary education). Improving the educational agenda is an urgent need for the Greek government. The Program for International Student Assessment (PISA), commissioned by the OECD, compares the performance of secondary school children aged 15, and ranks Greek secondary education only as 38th worldwide, which is way below the OECD average.

The state is responsible for education, as determined by the Greek constitution. The Ministry of Education closely supervises all aspects of primary and secondary public education. All schools, private and public, must meet the established curriculum; the state controls the hiring of professors and teachers and is in charge of producing textbooks for students.

There is no sex education in high schools, as it is not permitted by the Greek Orthodox Church. In line with this, neither is there information about safer sex,

sexual health, or alternative sexualities. The National Council of Youth, a sub-branch of the Ministry of Education, promotes the European All Different, All Equal campaign in Greece. This program, sponsored by EU funds, is primarily aimed at school children at all levels and should both promote the visibility of LGBT people and uphold their equal rights as Greek and European citizens. It should support teachers in their task of informing all students as appropriate to their ages.

Public higher education is divided into universities, high educational institutions, and high technological institutions. Students must qualify for these institutions through a national examination, which is compulsory after their third year at the *lykeio*. Students aged 22 years are eligible for the Hellenic Open University, which selects its candidates through a kind of lottery.

The constitution allows only state-run universities to provide higher education in Greece. Every year, thousands of students are unable to access the public university system and are forced to emigrate. In 2004, 5,250 students per million inhabitants left their home country to study abroad. This makes Greece by far the world's largest exporter of students, followed by Malaysia, which has 1,780 students abroad per million inhabitants.¹² Since these problems are in part the result of the state's control of higher education, the New Democracy party proposed amending the constitution in the late 1990s. Private universities, the party asserted, should be allowed to operate in Greece as nonprofit institutions. The ruling socialist party, PASOK, rejected the proposal at first, but now also supports a constitutional provision that allows for private universities. Many members of the academic community, professors as well as students, fiercely oppose a change in the system. In 2006, Prime Minister Kostas Karamanlis declared his support of a new amendment to the constitution, which facilitates the creation of non-state-owned universities.

LGBT groups point out that schoolbooks used at universities, especially those used in law schools and at the police academy, present homosexuals as criminals and primary suspects for certain criminal acts like drug addiction and pedophilia.¹³

EMPLOYMENT AND ECONOMICS

Greece's gross domestic product (GDP) per capita in 2007 was \$35,167; this comes close to the European Union average. In 2006, the Greek economy produced a total GDP of \$305.6 billion.¹⁴ The most prosperous economic sector is tourism, followed by shipping industries. Other important industrial branches include telecommunications, manufacturing and construction, and banking and finance, the last of which has heavily invested in other Balkan countries.

The service industry constitutes 74 percent of the Greek economy, and is the largest and fastest growing sector. In comparison, industry (20.6%) and agriculture (5.1%) are relatively small. Manufacturing accounts for 13 percent of the GDP, and its most profitable and expanding sector is the food industry.¹⁵ Another fast-growing sector is telecommunications. Further important industrial sectors of the Greek economy include textiles, building materials, and electrical appliances.

Over 600,000 Greeks, directly and indirectly, depend on the tourism industry, which accounts for 15 percent of the total GDP and 16.5 percent of total employment. The number of tourists coming to Greece is increasing steadily, from 18 million visitors in 2005 to almost 20 million in 2007.¹⁶

The unemployment rate in Greece had been increasing drastically in the last decades, from 2.1 percent in 1977 to 9.2 percent in 2006.¹⁷

In accordance with European Union directive 2007/78, legislation protecting against discrimination in the workplace on the grounds of sexual orientation was adopted in early 2005 (Greek law 3304/05). Victims of discrimination can resort to European courts, but this proves to be difficult and generally too expensive for individuals.

Many single mothers and unmarried couples, homosexual and heterosexual, are disadvantaged. The General Secretariat for Equality in Greece reports that in 1999, the total employment rate of single parents, both male and female, was 63 percent. Since the government fails to support single parents, single mothers have a very high work activity rate; for divorced women with children, it was 77 percent, and for unmarried women, 72 percent. Compared to the average women's activity rate of 36 percent and the average men's rate of 66 percent, the number is strikingly high. Single Greek mothers are often obliged to accept any kind of job and often unfavorable conditions, such as below-average wages, low labor standards, long working hours, and so on.¹⁸

Military

Greece has universal compulsory military service for all males. Females may serve in the military, but are exempted from conscription.

Officially, gays and lesbians have equal access to the military. However, EOK, an Athens-based LGBT group, reports that homosexuals have been denied access to the military because of their sexual orientation.¹⁹

A presidential decree signed in 2002 excludes all persons from military service who are "suffering from psychosexual or sexual identity disorders." The country's privacy commissioner had put pressure on the government, so it no longer includes the mental disorder note in the papers of gays discharged from the army, but the papers of older discharges still have this notation.

SOCIAL/GOVERNMENT PROGRAMS

The government does not provide any kind of support programs for LGBTs, and the information provided by the authorities on antidiscrimination policy is almost nonexistent.

SEXUALITY/SEXUAL PRACTICES

Homosexuality has a long history in the country, even though the term homosexuality, as it is used today, is not readily applicable to ancient Greece. Most Greek men were bisexuals with wives and children. Erotic love between two male adults was considered unusual and even ridiculous. Homosexual love was only socially tolerated between an adult man and a boy, and the Greek word for this kind of bond was *paiderastia*. It was even considered a social duty to engage in intergenerational love affairs. The ideal relationship included an adult man, called the *erastes* (lover) and an adolescent *eromenos* (beloved).²⁰ There were prominent exceptions, such as the relationship between Alexander the Great and Hephaestion, or between the mythical hero Achilles and his best friend Patroclus.²¹ There

are several explanations that try to trace the origin of *paiderastia*. In one version, Minos, the King of Crete, imposed this system in order to avoid overpopulation on the island. The love between a man and a young adolescent was considered a rite of passage, and is historically documented in the writing of Ephorus of Kyme.

The bond between man and adolescent was not of an erotic nature. The older lover had a social responsibility for his beloved. He had the duty to provide him, as well as his family and close friends, with valuable presents and facilitate the boy's education. The relationships usually lasted until the end of the youth's education, but in many cases the lover was still considered responsible for the young man until he reached marriageable age. Some male couples were known for their bravery in war, such as those of the Theban Sacred Band, or became known as killers of tyrants, such as Harmodius and his lover Aristogeiton.²²

Besides the socially desired form of *paiderastia*, prostitution of boys was very common as well. Solon (634–560 B.C.E.) tried to regulate it in his hometown of Athens by enforcing that only *xenoi* (foreigners) who were not Athenian citizens were allowed to work as male prostitutes. Most of the boys offering their services were kidnapped in war or sold off into slavery.²³

In the classical age of Athens (the fifth century B.C.E.), male love served as inspiration for many important artists, such as Sophocles and Phidias. Many Greek poets, such as Archilochos, Ibycos, Anacreon, and Pindar dedicated a considerable part of their work to the love of young men.

In contrast to the prominent role that male homosexual love played in ancient Greek society, lesbian love remained hidden. The poet Sappho, who was born in 630 B.C.E. in Eresos on the western side of Lesbos, is mainly known for her poems that speak out in favor of lesbian relationships.²⁴ Only fragments of her nine books remain, the most famous of which are the marriage songs. Her erotic lyrics were addressed to a close circle of female companions. Still today, Lesbos, and particularly Eresos, attracts many lesbians who pay homage to Sappho.

Despite their ancient traditions, many modern Greek LGBTs still feel reluctant to manifest their sexual preference openly. The opinion of many Greeks is still biased when they are asked about LGBT. People living in small villages, in rural areas, or on smaller islands tend to be more homophobic than their urban countrymen. Negative stereotypes are very persistent and gays and lesbians still have to face degrading comments and mockery.

Greek society differentiates strongly between gays and bisexuals, showing more tolerance to the latter. According to the first scientific research conducted by the Athens Medical School in 1992, the majority of homosexual men's sexual activity was masturbation, fellatio, and anal intercourse. In addition, almost all claimed to have heterosexual contacts as well. Many gay men feel forced to marry and behave as heterosexuals, even though they may be emotionally homosexual.²⁵

An opinion poll from 1995 captured the feeling of many Greeks: 19 percent of those polled answered that they defined homosexuality as a disease, while about half (50.5%) said that homosexuality is normal; 16.9 percent of them believed that homosexuals are degenerate, and 13.6 percent did not answer the question or said they did not know. Women had a more positive attitude toward the subject than men. For 53.6 percent of the women, homosexuality was normal, while only 47.3 percent of the men said the same.²⁶

In polls by age group, the 30-to-39-year-old population had the most positive attitude, 59.9 percent of them finding homosexuality to be normal. The younger

groups, aged 14–24 and 25–29, said that homosexuality was normal only at 47.5 percent and 49.8 percent, respectively.²⁷

FAMILY

The family constitutes the basis of the Greek social structure. The social pressure on young adults to get married is still felt in both rural and urban areas. Extended family members are expected to help their relatives with both emotional and financial support in times of need. In the absence of a sufficient number of kindergartens or nursery schools, grandparents are often left to take care of the children while their parents are at work. Since the Greek government has not developed a consistent policy for the elderly population, many couples need to take care of their parents. Family ties are very close, and Greek children feel indebted to their elderly parents. Therefore, a considerable number of the elderly receive a lot of help from their relatives, especially from their children, either by sharing the same house with them or by living on their own but receiving informal care and assistance when needed.

Strong family ties also carry over into business relationships. Family businesses are frequent and nepotism is widely accepted. The idea of family honor is still strong and the wrongdoing of one family member can bring dishonor to the whole family.

Same-sex Couples

Same-sex couples are not officially recognized. In theory, same-sex marriages are allowed, since the Greek civil code does not state explicitly that the partners must be of different sex. But the concept of marriage is still popularly considered as the union between a man and a woman.

The law guarantees couples married abroad that their union is valid in Greece, as long as they present their marriage license authenticated by the foreign ministry of the issuing country. So far, there is no record of a same-sex couple married abroad having tried this. As same sex couples are not recognized, they also receive no marital social privileges, no right to visit in hospital, no pension, no shared work insurance, and no inheritance.

George Andreas Papandreou, the leader of PASOK, presented a legislative draft in parliament for the recognition of both heterosexual and homosexual unmarried couples. He proposed to adopt a solution similar to the French *pacte civil de solidarité*. Greek LGBT groups complain, however, that the proposal does not go far enough to ensure equal rights for unmarried same-sex couples.

The National Human Rights Committee proposed to register all unmarried couples, both homosexual and heterosexual. The Coalition of the Left, of Movements and Ecology party (also known as Synaspismós) stated in the Greek media that it will support same sex-marriage. Also, the leader of Synaspismós, Alekos Alavanos, affirmed that his coalition wants to fight all kinds of discrimination and promote the free expression of sexual orientation and same-sex marriages. The ruling New Democracy and Prime Minister Kostas Karamanlis, reelected in 2007, opposes the marriage of same-sex couples.

The Greek Orthodox Church, which holds a very powerful position in Greece, is against all the proposals and recommendations issued so far.

The Eurobarometer opinion poll of December 2006 showed that only 16 percent of the Greek public supports same-sex marriage and 11 percent feel that same-sex couples should have the right to adopt.

These figures are below the 25-member EU average of 44 percent and 33 percent, respectively. According to these numbers, Greece is among the lower ranks of the European Union in this area, together with Poland, Bulgaria, Cyprus, and Romania.²⁸

Adoption and Artificial Insemination

The mother and father are still considered the nucleus of the Greek family. In order to adopt a child, the future parents must prove that they are married. Since same-sex couples are not legally recognized by the Greek authorities, they do not qualify for adoption. Even if the proposal issued by PASOK is accepted, this form of partnership explicitly denies same-sex couples the right to adopt children.

A woman cannot be artificially inseminated if there is no man to raise the baby. It is unclear, however, whether this rule is followed by the many private clinics.

COMMUNITY

Media

The law regulating Greek radio and television mentions that “It is forbidden to present people in a way that under the current circumstances, may promote the humiliation, social isolation or negative discrimination against them from part of the audience especially due to sex (gender), race, ethnicity, language, religion, ideology, age, health or disability, sexual orientation or profession.” Further, it states that “It is forbidden to promote diminutive, racist, xenophobic (fearing of strangers), or sexist messages and intolerant views and generally ethnic and religious minorities and other sensitive or powerless groups of the population must not be attacked.”²⁹

But despite these egalitarian intentions, the Greek media do not promote the rights of LGBTs. In many cases, homosexuals continue to be presented as exotic, good to encourage gossip and strong reactions from the audience. The only municipal gay and lesbian radio station in Athens, 94 Epikoinonia FM, was shut down in early 2005, as the Greek National Council for Radio and Television (NCRTV) judged the content of the Athens Gay and Lesbian Radio Show to be degrading.³⁰

Local Communities

In Athens, a dynamic gay community is emerging. The capital is developing a gay village in the Gazi neighborhood. In 2007, the Athens Pride march was held in Syntagma Square in the city center. This annual LGBT parade was held for the first time in June 2005. The number of local and international participants has greatly increased since the festival was first held. Despite the growing popularity of the event, the mayor of Athens, Nikitas Kaklamanis, explicitly refused to let the Athens Pride 2007 be held under the auspices of the Athens municipality.

The city is home of the oldest surviving Greek gay organization, EOK, which started around 1989. The gay community in Athens attracts many gays and lesbians

from all over the country, who hope to find a more tolerant and open atmosphere in the capital. While the Greek islands such as Mykonos and Sykanthos attract an increasing number of gay tourists, the gay community in Athens is dominated by native Greeks.

Thessaloniki, Greece's second largest city, also has several gay/lesbian venues and two very active LGBT organizations that encourage public discussions: the Cooperation against Homophobia (Sympraxis) and the Homosexual's Initiative against Oppression (POEK). The city is known to be more fashionable, but also more conservative than Athens. The LGBT groups in Thessaloniki are very well linked to other international groups and cover almost all of northern Greece. Sympraxis is one of the most active LGBT groups in Greece. They organize public discussions about homosexuality and homophobia, publish the informative *Vitamine O*, and co-organize the annual Homosexual Movies Panorama, in which many other national and international groups take part.

Greece's only LGBT group focusing on transsexuals and transvestites, SATTE (Hellenic Association of Solidarity of Transvestites and Transsexuals), is located in Thessaloniki. There is no official data on these two groups. The Ministry of Health and Social Welfare states that there are 40 to 50 transsexuals living in Greece.³¹ Since Greek law does not allow for gender reassignment, they have had their surgeries abroad, mainly in Morocco. Most of those registered work as female prostitutes.

On several smaller Greek islands, local communities have emerged, such as Corfu Lesbians and Gays, Chios Lesbian and Gay Group, and the Cephalonian Lesbian and Gay Group. These groups are trying to provide a discussion platform for the gays and lesbians on their islands. They have established discussion groups and online newsletters for their members, offer support for LGBTs' family members, and write letters to the media. These small LGBT groups also work together with larger groups based on the mainland, such as the Athens Lesbian Group.

Every year, a large number of Greek and international gay tourists visit the island of Mykonos, which is known for its vibrant gay nightlife. Mykonos has a cosmopolitan feel, and has long been known as a favorite gay destination with a gay beach and many small gay-friendly bars. It is one of the few places where gay men show their mutual affection in public, by kissing or holding hands. Many Greek gays visit Mykonos for its international atmosphere. The local population depends on tourism revenue and tries to be tolerant of gay visitors.

The lesbian scene is more focused on the island of Lesbos. In May 2008, the inhabitants of the island planned to go to court in an attempt to stop gay organizations from using the word *lesbian*, as they believed that the natives of Lesbos should be the only ones allowed to use that name. They claim that the dominance of the word in its sexual context violates the human rights of the islanders and disgraces them around the world. Furthermore, they argue that the Greek government is so embarrassed by the term Lesbian that it has been forced to rename the island after its capital, Mytilini.³²

On the mainland, the Lesbian Group of Athens is among the most active. It was started by a group of women who took part in a discussion that occurred at the Athens Gay Pride in October 2000. Their aim is to make lesbians more visible in Greek society, in which female sexuality outside marriage or a relationship with a male is not supposed to exist. They fight against indirect discrimination and for an adequate public image in the media. In weekly talks, they discuss the potential and the limitations of pursuing lesbian politics, and about the ways in which the

lesbian identity constitutes a political identity. The Lesbian Group of Athens is also involved in many events fighting racial discrimination, such as the Antiracism Network.

HEALTH

Health Care System

All Greeks are covered by the Greek health care system. Due to the small population on some of the islands, many islanders have to travel to Athens or Thessaloniki for specialized treatment.

The Greek health care system is complex. Both the national health system (ESY-Ethniko Systima Ygeias) and numerous social insurance funds provide health care. Some of those funds run their own clinics. Arrangements and provisions vary among the different social security funds. These funds require about 25 percent co-payment toward the costs of pharmaceuticals, and if expensive products are needed for chronic illness or a patient is low income, co-payment is limited to 10 percent. In addition, most pharmaceuticals are provided free of charge if related to cases such as maternity, work-related accidents, AIDS, transplants, or certain chronic diseases. In general, the social insurance funds cover the expenses for primary care and prevention, hospital care plus medical tests, and, in exceptional cases, medical treatment abroad in Europe or the United States.

HIV/AIDS

In 2007, around 9,300 people in Greece were living with HIV, of which 2,000 were women aged 15 and up; there were fewer than 100 deaths due to AIDS.³³

Homosexuals, both gay and lesbian, are considered a high risk group. Blood donors must fill out a form stating that they have not engaged in any homosexual practice in the last 10 years (referring mostly to male homosexuals). LGBT groups report cases of doctors who have refused to see a patient after hearing that he or she was homosexual. Since many homosexual patients decide not to mention their sexual inclination, no statistics about HIV/AIDS infection among LGBTs are available.

By the end of 2004, Greek authorities had reported a total of 7,134 HIV cases. 2,515 people had already developed AIDS, of whom 1,417 had died. For 2004 itself, the authorities reported 434 new HIV cases, 72 new AIDS cases, and 25 AIDS deaths.

For 47.1 percent of the HIV cases, the route of transmission is not indicated. Homosexuals are still the largest group of newly infected, as 30.3 percent of the infected were homosexual males, while heterosexuals account for 19.5 percent. Most of the cases were 25 to 44 years old, with those aged between 30 and 34 the most affected. Sexual transmission was the main route of infection for all HIV cases. By June 2004, 86 percent of the HIV infected were men.³⁴ According to the statistics, heterosexual contact is the only transmission mode in which women account for the majority of cases.

The annual report of new HIV cases has been relatively low. A peak was reached in 1999, when 1,281 new cases were reported.³⁵ This can be partly attributed to retrospective reporting of past infections.³⁶

POLITICS AND LAW

The Greek constitution prohibits discrimination on the grounds of religion, ethnic origin, and disability. In addition, the EU's gender directive enforces non-discrimination on the grounds of gender.

Sexual orientation is not included in the Greek constitution as a nondiscrimination category. In 1950, a new criminal code decriminalized homosexual sex. But some provisions that discriminate against homosexuals are still in effect, such as article 347 of the Greek penal code, which states that unnatural debauchery (implying male homosexual sex) is a crime, punishable by three months to five years in prison. It further discriminates in the matter of age of consent, providing for the higher age of 17 years for male homosexuals, as opposed to 15 years for females and 16 for heterosexual males. Further, it gives the police the right to forcibly demand that gay men be tested for sexually transmitted diseases (STDs).

Since 2006, male prostitution has been legal, but not for "acts of unnatural debauchery" as defined in article 347. Lesbians are not mentioned in Greek law. A 1930s law about proselytizing is still valid, and actually forbids anything that could be considered proselytizing by anyone but the Greek Orthodox Church. There is no law protecting gender equality as a whole. The LGBT group SATTE reports frequent harassment.

RELIGION AND SPIRITUALITY

In the Eurostat—Eurobarometer poll of 2005, 81 percent of Greek citizens claimed to believe in God. Only 3 percent responded that they do not believe in any kind of god, spirit, or life force. Sixteen percent³⁷ answered that they do believe that there is some sort of spirit or life force. The percentage of Greeks asserting that they believe in God was the third highest among EU members, making it the most religious country after Malta and Cyprus.

The Greek constitution mentions Orthodox Christianity as the country's prevailing religion, guaranteeing freedom of religious belief for all; however, proselytism is officially illegal. The Greek Orthodox Church is protected by the state, which is in charge of paying the clergy's salaries. The Greek church remains self-governing, and submits itself to the spiritual guidance of the ecumenical patriarch of Constantinople.

Ninety-seven percent of the Greek population identify themselves as Greek Orthodox and claim to celebrate at least the main religious feasts, especially Pascha (Greek Orthodox Easter).³⁸

The Orthodox Church holds the opinion that sexuality is part of the fallen world. Monasticism and marriage are paths to salvation, which is denominated by the Greek word *sotiria*, literally meaning *becoming whole*. The ideal path for monasticism is celibacy, which is obligatory for Orthodox priests. Marriage is blessed under the context of true love. "Man must love his wife as Jesus loved his Church,"³⁹ as it is repeated during the orthodox marriage ritual. True love as the basis of marriage theoretically means that it is not exclusive of homosexuality. But many members of the church still encourage negative social stereotypes of homosexuals. Several prominent members of the clergy, like the head of the Church of Greece, Archbishop Christodoulos of Athens, have made statements condemning homosexuality.

The Muslim minority is mainly concentrated in the northern province of Thrace and was given legal status by the Treaty of Lausanne (1923). The Muslims are Greece's only officially recognized religious minority. Estimates of the number of Muslims range from 98,000 to 140,000, constituting between 0.9 percent and 1.2 percent of the Greek population. The number of Muslim immigrants is somewhere between 200,000 and 300,000.⁴⁰

Judaism has existed for more than 2,000 years, making it one of most long-standing religions in Greece. This is especially so in Thessaloniki, Greece's second biggest metropolitan area, where Sephardic Jews were an integral part of the city. Their traditional language, Ladino, was also spoken by the non-Jewish population of Thessaloniki. Very few Greek Jews survived the Holocaust, and today the Greek Jewish community has about 5,500 members.⁴¹

The 50,000 officially recognized Roman Catholics (Byzantine Greek Catholics and Latin Catholics) constitute only a fraction of the general Greek population. Most of them can be found on the Cyclades, an island group that was long under Venetian rule. About 200,000 illegal Roman Catholic immigrants must be added to this number.⁴² The increase of immigrants from eastern Europe and the third world has led to a wider spectrum of religious practices.

VIOLENCE

Domestic Violence

The family is the most important element of Greek society. Violence within the family is still taboo, and, in many cases, domestic violence is not reported to the authorities. Victims report that other family members have pressured them to keep silent in order to avoid bringing shame over the whole family. The responsible authorities often offer no real or qualified support for the victims.

In October 2007, the first law concerning violence in the family was introduced. The notion of marital rape was new for many Greeks. Before the change of law, married women had no right to report sexual violence they suffered from their husbands; now, married and unmarried women have the same rights. A new law for the protection of minors was due to be in effect starting in January 2007. It forbids the beating of children for any reason, protecting children from abuse at the hands of educators, religious persons, or other persons with authority over the children. Teachers now are obligated to report signs of physical harm to the school director and the district attorney. The law, however, offers no protection for teachers who get involved in what is considered to be a family matter. The punishment for the aggressor is not very severe, and in many cases he or she can escape any consequences by promising never to commit an act of violence again. The main aim of the new law was to enhance public concern for and visibility of many crimes that were kept secret within families. It mainly targets cohabiting heterosexual couples, both married and unmarried, and their relatives. De facto, the implementation of the law is difficult, as specialized institutions for the victims need to be introduced and the public is still not well-informed about the law.

Abuse among homosexual couples is seldom reported, and the victims mainly have to rely on those organizations that address domestic violence within a heterosexual family. Also, minors who suffer abuse due to their homosexuality cannot expect qualified psychological advice. Greek LGBT groups confirm that many organizations do not offer real support, especially the church-based ones.

Hate Crimes

There is no law describing hate crimes and, according to the Greek statistics, no hate crimes are reported. Human rights groups report violent acts against LGBT persons, but these reports are not made public. Furthermore, Greece has no laws protecting against antigay slogans or hate speech.

OUTLOOK FOR THE 21ST CENTURY

In the 1990s, Greece enjoyed rapid economic growth and a substantial increase in living standards. In 2004, with the Olympic Games in Athens, the country had the world's attention. Even though the country is currently a modern democracy and a fully integrated member of the European Union, certain aspects of it remain conservative. The role of the family as nucleus of Greek society continues to be a strong feature of the culture. But higher costs of living in urban areas, a larger female workforce, and demographic changes are putting pressure on the traditional family model. A large influx of foreigners, tourists as well as immigrants, has forced the Greek population to become more open to new ideas. The increasing popularity of American television programs too, especially among the younger population, may lead to more openness.

The Greek Orthodox Church is still powerful and influences political decisions. An increasing number of immigrants with different religious backgrounds may weaken this position. But the events related to the 9/11 terrorist attack in the United States also caused Greeks to regard their Muslim neighbors in Turkey, Albania, and Macedonia with more suspicion. Many consider traditional values, such as religion and family, to be even more important today than in the late 1990s.

RESOURCE GUIDE

Suggested Reading

- P. D. Dagtoglou, "Protection of Individual Rights," *Constitutional Law—Individual Rights—Volume I* [in Greek] (Athens-Komotini: Ant. N. Sakkoulas Publishers, 1991).
- International Lesbian and Gay Association (ILGA)-Europe, "Social Exclusion of Young Lesbian, Gay, Bisexual and Transgender People (LGBT) in Europe," ILGA-Europe, April 2006, http://www.ilgaeurope.org/europe/publications/non_periodical/social_exclusion_of_young_lesbian_gay_bisexual_and_transgender_people_lgbt_in_europe_april_2006.
- Venetia Kantsa, "Greece," in *Lesbian Histories and Cultures*, ed. Bonnie Zimmermann (New York: Garland, 2000).

Web Sites

- AKOE, The Hellenic Homosexual Liberation Movement, <http://www.geocities.com/WestHollywood/2225/eok.html/>.
- First gay group in Greece. They published the LGBT magazine *Amphi*, which was widely distributed in Greece, and launched a travel guide, the *Lesbian Gay City Guide*, containing information about Athens, Thessaloniki, Mykonos, and Lesbos, in English, German, and Greek.
- Greek Helsinki Monitor, <http://www.greekhelsinki.gr/bhr/english/index.html/>.
- The Balkan human rights Web page gives an overview of human rights groups operating in Greece and neighboring countries. The Greek Helsinki Monitor is part of

the International Helsinki Federation. It frequently reports news concerning LGBT matters.

Greek Sapphites, <http://www.SapphoGR.net>.

Targets Greek lesbians and LGBT-friendly Greek women. The page gets recent updates and reports news and changes in the Greek lesbian community. Information on Greek LGBT history, a selected bibliography, and a movie list are available in both Greek and English

Omofylofilia Mailing List, <http://www.geocities.com/omofylofilia/>.

An open mailing list about homosexuality in Greece for people who want up-to-date information about the work from affiliated LGBT organizations. Many Greek homosexual organizations and groups participate, along with organizations supporting LGBT rights in their agenda.

Organizations

SATTE (Hellenic Association of Solidarity of Transvestites and Transsexuals)

Phone/Fax: 210-9214079

E-mail: info@satte.gr

EOK (The Greek Homosexual Community)

Phone: +30 1 3410755

E-mail: eok@nyx.gr

Sympraxis (Cooperation against Homophobia)

Phone: (+30) 6999 249 000

E-mail: sympraxi.thess@yahoo.gr

OLKE

Phone: (+30) 6976550206

E-mail: info@olke.org

Athens Lesbian Group

<http://geocities.com/sapphida/loa/>

lesbiangroup@hotmail.com

LGBT-Corfu

<http://geocities.com/lgbtCorfu/>

E-mail: corfulg@yahool.com

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HUNGARY

Judit Takács

OVERVIEW

Hungary is located in the middle of the Carpathian basin in Europe, between western Europe and the Balkan Peninsula. Its neighboring countries are Austria, Slovenia, Croatia, Serbia, Romania, Ukraine, and Slovakia. The land area of Hungary is 35,907 square miles, about 1 percent of the size of Europe, and with 10 million inhabitants¹ it ranks about 80th in the world by population size.² According to 2001 census data, only about 5 percent of the population identifies as ethnically non-Hungarian, including identification as German, Slovak, Croatian, Romanian, and Roma or gypsy, the last being the largest ethnic minority in Hungary. Almost 75 percent of the population identifies as religious: 55 percent belong to the Catholic Church and 16 percent to the Reformed Church.³

Historically, Hungary was a multiethnic formation: the independent Hungarian Kingdom was established in 1000 C.E. by the descendants of Finno-Ugric tribes, mixed with Turk, Germanic, Slavic, and other peoples. Most of Hungary was occupied by the Ottoman Empire from the early 16th century; this would last for the next 150 years. After the expulsion of the Turks in 1686, the Hungarian Kingdom came under the Austrian Hapsburg Empire, and in 1867 became part of the



Austro-Hungarian Monarchy. As a result of the Treaty of Trianon (1920), which marked the end of World War I, Hungary lost about 60 percent of its land and population, including about 3.2 million ethnic Hungarians. In 1910, 18.3 million people lived in the Hungarian Kingdom (not including Croatia-Slavonia, which the kingdom administered until 1918) on 282,870 square kilometers: 54.4 percent were Hungarians, 10.4 percent Germans, 10.7 percent Slovaks, 16.1 percent Romanians, 2.5 percent Ruthenians, 1.1 percent Croatians, and 2.5 percent Serbs.⁴

After World War II, Hungary was forced to become part of the Soviet sphere. The country was ruled by the Hungarian Communist Party from 1949 until the collapse of the state-socialist system in 1989. Hungary, after regaining its full sovereignty, became a member of the Council of Europe in 1990, NATO in 1999, and the European Union (EU) in 2004.

OVERVIEW OF LGBT ISSUES

Budapest, the capital of Hungary, has always been known for its thermal springs rich in sulfur, and within its bathhouse culture that has flourished for centuries, a distinct bathhouse-oriented gay culture emerged. During the second half of the 20th century, bathhouses, where certain days of the week were reserved for men only, became important social and community spaces, especially for gay men. These provided a hassle-free environment in which they could physically interact with one another without raising suspicion.

During the late 19th century, the city of Budapest provided a home for Károly Kertbeny, the coiner of the terms *homosexual* and *heterosexual*. He lived in the Rudas Thermal Bath for the last seven years of his life. Kertbeny was born in 1924. His mother tongue was German but, as he declared, “I was born in Vienna, yet I am not a Viennese, but rightfully Hungarian.”⁵ In 1847 he officially changed his original name, Karl Maria Benkert, to Károly Kertbeny—a name at which he arrived by transposing the two syllables of his family name. In Hungarian literary history he is considered a mediocre translator and writer. However, in LGBT history, he is remembered for his inventiveness in sexual terminology and for the theoretical case he made for homosexual emancipation; he was the author of the anonymous pamphlets published in 1869 calling for the legal emancipation of homosexuals by eliminating the Prussian penal code that criminalized same-sex sexual activities. The word *homosexuality* (*homosexualität*), created from the Greek *homo* (same) and the Latin *sexus* (sex), was first openly used in these pamphlets.⁶ Kertbeny had already used the terms *homosexual* and *heterosexual* in 1868, in a private letter written to the German gay rights pioneer Karl Heinrich Ulrichs. In this letter, Kertbeny presented a surprisingly modern human rights argument:

To prove innateness . . . is a dangerous double edged weapon. Let this riddle of nature be very interesting from the anthropological point of view. Legislation is not concerned whether this inclination is innate or not, legislation is only interested in the personal and social dangers associated with it. . . . Therefore we would not win anything by proving innateness beyond a shadow of doubt. Instead we should convince our opponents—with precisely the same legal notions used by them—that they do not have anything at all to do with this inclination, be it innate or intentional, since the state does not have the right to intervene in anything that occurs between two consenting persons older than fourteen, which does not affect the public sphere, nor the rights of a third party.⁷

The new terms soon became popular, especially in psychiatric literature; they were used as early as 1886 in *Psychopatia Sexualis*, the medical-forensic study of sexual abnormalities, written by the Austrian neurologist Richard von Krafft-Ebing. Today, *homosexual* is perceived by many as a medical term, reflecting the interpretation of same-sex attraction as pathology, degeneration, or illness, while its original context, opposing paternalistic state intervention into people's private lives, has been overshadowed and often rejected as a means of medical control.

In 2002, a new tombstone was erected for Kertbeny by Hungarian gay activists, with the support of national and international LGBT organizations and individuals, in the Fiume Street Cemetery in Budapest,⁸ where he was originally buried in 1882. In the same year, near Kertbeny's tombstone, the neglected joint grave of a police constable and a teacher, both men, buried in 1940 and in 1945 respectively, was discovered by accident.⁹ Since the discovery of the grave, the Lambda Budapest Gay association had the couple's grave renovated, and each year during the annual LGBT festival a memorial ceremony is organized at both Kertbeny's and the same-sex couple's gravesites. These activities can be interpreted as being part of an LGBT history-making project, an attempt by the Hungarian LGBT people to discover and regain their past.

During the second half of the 20th century, under the rule of the Communist Party, LGBT issues in Hungary were taboo, though consensual sexual activity between same-sex adults had been decriminalized in 1961. The elimination of legal discrimination against LGBT people was accelerated only in the process of preparing to join the EU: in 2002 the difference in age of consent for heterosexual and homosexual relationships was lifted, and in 2003 the Act on Equal Treatment and the Promotion of Equal Opportunities were introduced, protecting both sexual orientation and gender identity. Despite these gains, the social exclusion of LGBT people, homophobia, and transphobia are still visible in many forms in Hungary, providing LGBT organizations and activists with many goals to keep working toward.

EDUCATION

Under the state-socialist system, all schools, from primary grades to higher education, were run by the state, and most school curricula were imbued with the officially prescribed Marxist-Leninist ideology. Since the political system began to change in 1989, private schools, especially higher education institutions, were established or reestablished by private companies and business actors, as well as churches. Between 1990 and 2000, the number of students enrolled in higher education institutions increased from 100,000 to 300,000, and the rate of full-time students in the 18 to 22 age group rose to about 20 percent.¹⁰ In 2005 public education spending was less than 6 percent of the gross domestic product (GDP) and 11 percent of total government expenditure.¹¹

Today, a three-level structure, comprised of the National Core Curriculum, the Frame Curricula, and local curricula at the institutional level, provide a framework for teachers to develop syllabi.¹² Based on a central definition of each discipline, the schools and the teaching staff can define and adopt local curricula and syllabi for each class and each subject, but LGBT issues are typically absent or misrepresented in Hungarian schools.

According to a recent survey, half of Hungarian LGBT respondents suffered from discrimination and prejudice in school, especially in secondary school;

90 percent of these cases were instigated by other students, and half of the cases by teachers. Moreover, one-third of the respondents reported a negative or totally missing representation of LGBT issues in school.¹³

With the support of the Phare democracy micro-projects program of the European Union, in 2000 the Labrizs Lesbian Association introduced the Getting to Know Gays and Lesbians educational program for secondary school students and teachers. The main aim of this program is to create a safe and unbiased environment in schools for all students, to help students learn to respect other, to increase teachers' awareness that their students might be gay or lesbian, and to give them ways to help these students. In 2003, the program was expanded to offer a training program on LGBT issues for prospective teachers, psychologists, and social workers. Developing a manual for teachers on LGBT issues was also part of this project.¹⁴

In 2003, the Károli Gáspár University of the Hungarian Reformed Church, after expelling an openly homosexual student, stated on its homepage that persons propagating and living homosexual lifestyles cannot participate in the church's pastoral and theological teacher training programs. In 2004, the Háttér Support Society for LGBT people in Hungary initiated legal action against the university because of the mistreatment of the homosexual student, applying the *actio popularis* clause of the Equal Treatment Act that had just come into effect that year; this allowed nongovernmental organizations (NGOs) to start cases on behalf of individuals covered by one of the protected categories of the Equal Treatment Act. Though the case was rejected by the court on the grounds of freedom of expression and church autonomy, it was implicitly acknowledged that equal treatment legislation also applies to universities maintained by a church and financially supported by the state.

EMPLOYMENT AND ECONOMICS

After the collapse of the state-socialist system in 1989, dramatic social and economic changes took place in Hungary. Following the one-party system, political pluralism and a market economy had to be created by introducing democratic institutions and constitutional reforms on the one hand, and by privatizing state enterprises and developing the private business sphere (with the influx of foreign capital) on the other. As a result of these structural changes, including the loss of the protected Soviet market, the Hungarian economy (as well as the economies of other post-socialist countries) fell into a deep crisis in the early 1990s. Strong recovery started from the mid-1990s, and the Hungarian GDP reached the 1989 level again by 2000.¹⁵ From 2001 onward, unsustainable fiscal policies have led to a new economic downturn, and progress toward a more developed economy has slowed. One of the major economic problems is the especially low employment rate of the population over age 55, a consequence of the pension system and the health of the population. Since the mid-1990s the Hungarian economy has maintained its dual character: besides the highly competitive, export-oriented manufacturing sector, domestic small and microenterprises suffer from a desperate lack of financial and human resources. In 2006, the rate of unemployment in the economically active Hungarian population between ages 15 and 64 was 7.5 percent; while economic growth in Hungary was among the lowest, the inflation rate was among the highest in the European Union.¹⁶ In 2007, Hungarian economic competitiveness reached 57.6 percent of that of the United States,¹⁷ and was ranked 47th out of 131 countries.¹⁸

According to a recent survey, more than one-third of Hungarian LGBT respondents had suffered from discrimination and prejudice in the workplace.¹⁹ Most people are afraid to come out as LGBT at their work. Even though equal treatment legislation is in place, requiring public sector employers and businesses with more than 50 employees to develop equal opportunity strategies, LGBT people are not listed among the main target groups. Equal treatment practices are still very rare in Hungary.

SOCIAL/GOVERNMENT PROGRAMS

There is no public funding provided by the state or local governments for any social programs specifically targeting LGBT people. However, a few smaller-scale social health programs have attempted to reach out to at least certain segments of the Hungarian LGBT community, including an AIDS prevention program for gay men in the countryside and a condom machine program for gay bars in Budapest, both implemented by the Háttér Support Society for LGBT People in Hungary and sponsored by the Ministry of Health.

There are two sources of support for civic organizations, including officially registered LGBT organizations. Since the introduction of the 1 Percent Act in 1996, taxpayers can allocate 1 percent of their income tax to a nongovernmental organization of their choice. In 2003, the National Civic Fund was established, which annually announces calls for applications to receive operating grants for NGOs. However, these sources of public support cannot provide a secure background for the functioning of the Hungarian LGBT social and cultural infrastructure.

SEXUALITY/SEXUAL PRACTICES

There has only been limited research on sexual behavior in Hungary, and there is hardly any reliable information available on the sexual practices of Hungarian LGBT people. However, changes in social and cultural norms associated with the rapid transitions of the 1990s have resulted in people starting sexual activity at younger ages, and also an increase in the number of sexual partners, especially among younger age cohorts. According to data from a 2004 national survey of 8,000 Hungarian youths, 54 percent of young people aged 15 to 19 were sexually experienced, as were 93 percent of young people ages 20 to 24. The average age for having a first sexual experience was 17.²⁰

During the 1990s, the sexual conservatism of the state-socialist era was replaced by oversexualized media representations and marketing projects, and a flourishing pornography industry started to develop in Hungary. In 1993, individual prostitution was decriminalized and legally interpreted as a petty offense. Since 1999, prostitution has been legalized and considered a form of individual entrepreneurship, but methods of profiting from another's prostitution, such as pimping or running a brothel, are criminalized. In 2000 an association was founded for protecting the interests of Hungarian prostitutes; since 2002 its membership has also included homosexual and transsexual sex service providers.

FAMILY

Until the early 1990s, the concept of family was closely associated with marriage and childbearing, ideally with a married couple raising two children. However,

decreasing marriage and fertility rates, marrying at a later age, rising divorce rates, and increasing rates of childless women reflect changes in individual and family lifestyles. Between 1980 and 2004 the total fertility rate decreased from 1.92 to 1.28 in Hungary, while the total divorce rate increased from 29 percent to 42 percent. The amount of childless women ages 15 to 49 increased from 28 percent to 39.6 percent, and the average age of first marriage increased from 22 to 26.5 years for women and from 24.5 to 29 years for men.²¹ In 2005, 11.5 percent of the Hungarian population lived in single-person households.²²

References to these statistics, along with the reality of Hungary's aging population, are regularly used in conservative political discourse as evidence of the death of the nation. Conservatives are calling for a moral revival and the return of the nuclear family. Same-sex families are unimaginable in this context, even though LGBT activists often argue otherwise.

At present, there are no legal institutions allowing same-sex marriage, joint adoption of children by same-sex couples, or second-parent adoption (i.e., adoption of the biological or adoptive child of one's partner). Adoption by LGBT individuals is legal, but national adoption agencies often give preference to married couples. Before 2006, artificial insemination was legally available only for women who were married or cohabiting with a man. Since 1996, single women have been allowed to apply, but only if natural reproduction is improbable because of the woman's age or in the case of medically proven infertility.

For transsexual people, one precondition of an official sex change is being single or divorced, in order to avoid the transformation of an originally heterosexual marriage into a same-sex marriage. In the new Hungarian civil code to be introduced in 2009, a sex change will automatically lead to the dissolution of an existing marriage.

COMMUNITY

While the first homosexual organization, the Homeros Lambda, was established in 1988, the sociocultural infrastructure for LGBT people is still not very well developed in Hungary. Even though there is an increasing number of formally and informally organized groups representing LGBT interests, the number of activists, LGBT social and cultural venues, and LGBT events remains limited. The officially registered LGBT organizations include the Háttér Support Society for LGBT People, which maintains a help line, legal aid service, and several AIDS prevention and other outreach programs; the Labrisz Lesbian Association; the Lambda Budapest Gay Association, which has published the *Mások* gay magazine since 1989; the Szimpozion Association for young LGBT people; the Atlasz LGBT Sport Association; the DAMKÖR Gay Association in southern Hungary; and the Rainbow Mission Foundation, organizing the annual LGBT cultural festivals in Budapest.

All Hungarian LGBT NGOs struggle for survival with the help of volunteers, lacking any kind of regular state support. Most LGBT-related events take place in Budapest, but there are regional LGBT community groups, bars, and parties in several other locales, mainly in bigger cities such as Debrecen, Nyíregyháza, Pécs, Szeged, and Székesfehérvár.

HEALTH

In 2004, Hungary spent 7.9 percent of its GDP on health care. Of the total expenditure on health, 71.6 percent was financed from public sources²³ consisting

of revenues from general and local taxation, and more importantly from contributions to the social health insurance scheme, which since its establishment in 1990 has been operating nationwide as a single fund, the Health Insurance Fund. The social health insurance scheme provides nearly universal coverage and a comprehensive benefit package with few exclusions and little or no co-payment except for pharmaceuticals, medical aids, and prostheses. The revenue of the Health Insurance Fund is derived mainly from the health insurance contribution, a proportional payroll tax paid partly by employers and partly by employees. Voluntary health insurance also exists in Hungary, but it is not a significant feature of the health care system. Health care delivery is based on the constitutional obligation of the state to make health services available for all resident citizens.²⁴

The collapse of the state-socialist regime was characterized by a marked decline in health status in Hungary. Between 1960 and 2000, the life expectancy increased by only 3.5 years in Hungary, compared to 9 years in the average of the OECD (Organisation for Economic Co-operation and Development) countries. Life expectancy in Hungary is still among the lowest in Europe. The main causes of premature death include cardiovascular disease, malignant tumors, and digestive disorders, as well as external causes, such as suicide; infectious disease seems to be less of a problem, as the incidence of and mortality from most childhood infectious diseases, viral hepatitis, tuberculosis and AIDS continue to occur less frequently in Hungary than in other countries of the central eastern European region.²⁵

AIDS is not considered a major health concern in Hungary. The first Hungarian HIV infection was identified in 1985. By the end of 2007, 1,453 HIV infections were officially registered, although the true number is believed to be at least three times higher. In Hungary, the main risk factors for HIV infection are sex between men and unprotected heterosexual sex, while the number of infections caused by intravenous drug use remains very low.²⁶ There are several anonymous HIV testing facilities in Hungary. However, if a person gets a positive result, his or her identity must be disclosed in order for him or her to receive treatment. All HIV/AIDS-related medical costs are covered by social health insurance.

Hungary's incidence of gonorrhea decreased from 46.9 cases per 100,000 people in 1990 to 8.9 in 2003. Syphilis data show a different tendency: while new syphilis cases steadily decreased from the 1970s until 1990, a sharp increase occurred between 1990 and 2002. In 2002, more than half of new syphilis infections affected people ages 25 to 44, with 21 percent among those under age 24.²⁷

Specific health needs of LGBT people are not recognized in Hungary. Safe sex campaigns for LGBT audiences are only conducted by LGBT organizations. According to a recent national survey, 28 percent of 1,122 LGBT respondents encountered discriminative treatment in the health care system, including the rejection of blood donations from people identifying as homosexual based on the alleged risk of HIV infection. Homophobic and transphobic reactions on the part of medical personnel were also common.²⁸

Before the 1990s, the Hungarian situation was characterized by the total lack of a health care system for transsexuals. In the early 1990s, when the first sex reassignment surgeries (SRS) took place, the rule was that in order for a person to change his or her birth certificate and other official documents, he or she should have undergone irreversible changes. This unfair arrangement, requiring patients to go through a medical process without any help or recognition, was abandoned because of the high rate of unsuccessful surgeries. Current practice, since 2004, leaves surgery as an option for which the state takes no responsibility. Today, SRS is not

a precondition of official sex change, which basically requires permission from the Ministry of Health based on two psychiatrists' expert opinions both stating that it is a case of transsexualism. For a few years, social health insurance could cover, in theory, at least some of the SRS costs of a person, but from 2007 a government decree referred the treatment of transsexuals to private health care; 90 percent of the costs to be paid by the individuals themselves.

POLITICS AND LAW

Criminalization

The medieval practice, death penalty for sodomy, ceased to exist in Hungary following a decree of the Austrian emperor and Hungarian king, Joseph II, in 1787. At the end of the 19th century there was no punishment defined for sodomy or perversion against nature, as it was referred to by the legal terminology used for centuries in the Hungarian penal code, and women could not be prosecuted for this kind of crime at all. The lack of actual penalization was explained by an 18th-century source, which noted that “the Hungarian people have attained virtue and chastity to such a degree that there was no need for a special law like this”; the penalty for acts of sodomy had to depend on the wisdom of the judge.²⁹

Between 1878 and 1961, three forms of perversion against nature were distinguished: sex with an animal, sex with a same-sex partner, and any sex act deemed unnatural. Consensual same-sex relationships were considered to be milder crimes and punishable with a maximum of one year of imprisonment, while coerced sodomy was punishable with up to five years of imprisonment.³⁰

In 1961, homosexuality was decriminalized;³¹ general prosecution of perversion against nature ceased, but different ages of consent were introduced: 14 for heterosexual and 20 for homosexual relationships, and men as well as women could be prosecuted. While perversion against nature with an animal was no longer penalized, two special clauses were introduced: one penalized sodomy conducted in a scandalous manner—that is, causing a public scandal—punishable by three years of imprisonment (the same as for having sex with a same-sex partner younger than 20). The second clause stated that coerced perversion against nature is only applicable if it is committed outside marriage (followed by a clause stating that, in the case of rape, if the perpetrator and the victim get married before the first judgment, the punishment can be mitigated). According to the ministerial explanation of the act, which cited medical arguments, homosexuality was considered a biological phenomenon that could not be handled legally as crime. In addition, it emphasized that the criminalization of homosexuality is dangerous in that it could provide grounds for blackmail.

In 1978, the age of consent for homosexual relationships was lowered from 20 to 18.³² In 2002, the Hungarian Constitutional Court found this legislation to be unconstitutional and ordered the equalization of the age of consent for same-sex and different-sex partners, which is 14 years of age today.

Antidiscrimination Statutes

In a broad sense, the development of sexual orientation–related antidiscrimination and equal treatment legislation can be traced back to 1989, when article 70/A

on the prohibition of discrimination became part of the new Hungarian constitution. Before the introduction of the law on equal treatment and the promotion of equal opportunities in 2003,³³ Hungary already had national laws prohibiting discrimination, such as in the constitution, the labor code, the Act on Public Education, and the Act on Public Health; however, only the last explicitly prohibited sexual orientation–based discrimination. The first Hungarian law explicitly recognizing the necessity of equal treatment on the basis of sexual orientation was the Act on Public Health, introduced in 1997.³⁴ In all other cases, the question of whether sexual orientation should be included under the heading “any other grounds whatsoever,” usually ending the list of discrimination based on “race, color, gender, language, religion, political or other opinion, national or social origin, financial situation, and birth,” was a matter for interpretation.

The first general antidiscrimination draft bill, the Hungarian Act on Equal Treatment and the Promotion of Equal Opportunities, was submitted to the Hungarian parliament in April 2001 and included the prohibition of discrimination based on sexual orientation and clear references to the 2000/43 Racial Equality Directive as well as the 2000/78 Employment Equality Directive of the European Union. By the time the draft bill reached parliamentary discussion at the end of 2003, besides the protected categories listed in the employment directive—including race, skin color, ethnicity, language, disability, state of health, religion, political or other views, gender, sexual orientation, age, social origin, circumstances of wealth and birth, and other situations—additional categories, such as family status, motherhood (pregnancy) or fatherhood, gender identity, part-time or limited period employment status, and membership of interest representing bodies, were inserted into the list of protected categories. The bill passed in December 2003 and came into force in January 2004. The Hungarian Equal Treatment Authority, which was stipulated in the act, started to function in 2005.

The Hungarian Act on Equal Treatment and the Promotion of Equal Opportunities was the first national equal treatment legislation in the world that included gender identity, specifically providing antidiscrimination protection for transgender and transsexual people. Another important feature of the act was the possibility of initiating *actio popularis*, providing societal bodies and special interest groups with the opportunity to start legal action without the direct involvement of victims.

Marriage

In 1995, in the constitutional examination of marriage between persons of the same sex, the Hungarian constitutional court denied that the definition of marriage as a communion of a man and a woman can be considered discrimination infringing on the constitution. At the same time, it was also stated that a lasting communion of two persons could constitute such values that they were entitled to legal recognition of their communion based on a fair recognition of the personal dignity of the involved persons irrespective of their sex. Thus, the parliament was ordered to make the changes necessary to recognize same-sex partnerships by March 1996. Since 1996, a legal framework, similar to common-law marriage, exists for same-sex partners who live together, but they must make extra efforts, typically in the form of private legal contracts, if they want to establish a level of family security similar to that inherently enjoyed by married couples. In January 2009 a new legal institution—registered partnership for same-sex and different-sex

couples—would have come into effect in Hungary, providing rights similar to marriage but excluding joint adoption of children and the automatic insertion of a partner’s family name. However, on December 15, 2008, the Hungarian Constitutional Court found the Act CLXXXIV of 2007 on Registered Partnership to be unconstitutional, arguing that registered partnership for different sex couples would duplicate the institution of marriage, and would thus contradict the special protection of marriage supposedly enshrined in the Hungarian Constitution. Significantly, the Court confirmed that the right of same-sex couples to legal recognition and protection follows from the constitutional principle of human dignity, and the related rights to self-determination and freedom of action. A new bill on registered partnership was submitted to the Parliament in early 2009 and it was passed on April 20, 2009. The Act XXIX of 2009 on Registered Partnership and Related Legislation and on the Amendment of Other Statutes to Facilitate the Proof of Cohabitation came into operation on July 1, 2009, and retains much of the content of the previous bill with one exception: the institution of registered partnership is only available to same-sex couples.

Speech and Association

The right to free speech and association is guaranteed by the Constitution of the Republic of Hungary. Perhaps because of Hungary’s state-socialist past, freedom of expression has been held in such high regard that this has prevented efforts to enact hate speech legislation. Hate crimes do exist as a criminal category, but only if the victim is a member of an ethnic or religious minority. A draft bill providing protection on the basis of other grounds, including sexual orientation, was submitted in late 2007.

Transsexuals

There is no consistent legal framework dealing with gender transition in Hungary. Practice tends to abandon medical requirements for complete official gender transition, being relatively easy and costless to achieve, and puts transsexual individuals in a personal status where they have equal rights and responsibilities with people with no experience of gender transition. The lack of legal arrangements regarding accountability, however, can raise concern for the consistency of this practice in the future.

RELIGION AND SPIRITUALITY

Major Christian churches in Hungary follow the “hate the sin but love the sinner” policy, at least in theory. Many LGBT people are religious, but far fewer are active members of a church community. According to the findings of national LGBT social exclusion research conducted in 2007, of 1,122 respondents one-third identified as religious, and 28 percent had experienced prejudice and discrimination within religious communities.³⁵

VIOLENCE

As instances of antigay violence and gay bashing are rarely recorded, there is little data on this phenomenon. However, the 2007 July Pride march was marred

by openly antigay violent attacks—for the first time in the 12-year history of Hungarian LGBT festivals. Given that antigay violence is typically socially invisible, the violence seen during and after the pride celebration was a great shock.

OUTLOOK FOR THE 21ST CENTURY

The main legal goals to achieve in Hungary in the 21st century are same-sex marriage and joint adoption of children by same-sex partners. However, legal emancipation is only one part of challenging the social heteronormativity still dominating everyday life. In the long run, cultural change can be as effective as legislation. Various aspects of inequality, like discrimination on multiple grounds, also have to be taken into account when raising awareness and working for an inclusive society.

RESOURCE GUIDE

Suggested Reading

- Anna Borgos, “Getting to Know Gays and Lesbians in Hungary: Lessons from a Gender-Informed Educational Program,” in *Multiple Marginalities: An Intercultural Dialogue on Gender in Education*, ed. Justyna Sempruch, Katharina Willems, and Laura Shook (Königstein/Taunus, Hungary: Ulrike Helmer Verlag, 2007).
- Lilla Farkas, “Nice on Paper: The Aborted Liberalisation of Gay Rights in Hungary,” in *Legal Recognition of Same-Sex Partnerships: A Study of National, European, and International Law*, ed. R. Wintemute and M. Andenaes (Oxford: Hart Publishing, 2001).
- R. Kuhar and J. Takács, eds., *Beyond the Pink Curtain: Everyday Life of LGBT People in Eastern Europe* (Ljubljana, Slovenia: Mirovni InSTITUTE, 2007).
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- Judit Takács, “The Double Life of Kertbeny,” in *Past and Present of Radical Sexual Politics*, ed. G. Hekma (Amsterdam: UvA—Mosse Foundation, 2004).
- Judit Takács, *How to Put Equality into Practice? Anti-discrimination and Equal Treatment Policymaking and LGBT People* (Budapest: New Mandate, 2007).
- Judit Takács, “The Influence of European Institutions on the Hungarian Legislation Regarding LGBT Rights,” in *The Gays’ and Lesbians’ Rights in an Enlarged European Union*, ed. A. Weyembergh and S. Carstocea (Brussels: Éditions de l’Université de Bruxelles, 2006).
- Renáta Uitz, “Hungary: Mixed Prospects for the Constitutionalization of Gay Rights,” *International Journal of Constitutional Law* 2, no. 4 (2004): 705–15.

Films/Videos

- A rózsaszín görény* [*The Pink Skunk*] (50 min.; 2003). Directed by Katrin Kremmler. Budapesti Leszbikus Filmbizottság. The first feature film by the Budapest Lesbian Film Committee, a crime parody on a lesbian detective (and her skunk) investigating the disappearance of a female politician.
- Egymásra nézve* [*Another Way*] (102 min.; 1982). Directed by Károly Makk. Mafilm Dialóg Filmstúdió. The first Hungarian film that referred to the events of 1956 as a revolution (not as a counter-revolution as it was officially regarded during state-socialism),

thus being groundbreaking in its portrayal of both sexual and political dissidence. The central theme is the love between two women, Éva and the married Lívia, leading to a disastrous ending in the aftermath of 1956. Polish actress Jankowska-Cieslak, playing Éva's character, won the best actress award at the Cannes Film Festival in 1982.

Eklektika Tánciskola [*Eklektika Dancing School*] (17 min.; 2004). Directed by Mária Takács. Budapesti Leszbikus Filmbizottság. Documentary on the first LGBT classical dancing school, which was opened in 2003 in the backroom of a Budapest café.

Halállal lakoljanak? [*Paying with their Lives?*] (55 min.; 2002). Directed by Bernadett Frivaldszky. Fórum Film Alapítvány. Documentary on the relationship between homosexuality and Christianity as seen by a former theology student.

Mielőtt befejezi röptét a denevér [*Ere the Bat has Flown his Flight*] (91 min.; 1989). Directed by Péter Tímár. Mafilm. Received a CICA Award from the Berlin International Film Festival in 1989. In the 1980s in Budapest, a single mother, Teréz, falls for a policeman, László, who becomes obsessed with her teenage son, Róbert.

Redl ezredes [*Colonel Redl*] (144 min.; 1984). Directed by István Szabó. Jadran Film. A fictional film inspired by John Osborne's play, *A Patriot for Me*, about the rise and the fall of Alfred Redl, the high-ranking homosexual intelligence officer. For this film István Szabó, the Oscar winning director of *Mephisto* (1981), was nominated for an Oscar and received the Jury Prize at the Cannes Film Festival, as well as a German Film Award in Gold in 1985, and a BAFTA Film Award in 1986.

The Kertbeny Story (10 min.; 2005). Produced by Douglas Conrad, SF CA. Documentary how Károly Kertbeny, who coined the words homosexual and heterosexual, got a new tombstone in 2002 in the Budapest cemetery where he was buried in 1882.

Zarándoklat a Kecskerúzs földjére [*Pilgrimage to the Land of the Goat Rouge*] (35 min.; 2005). Directed by Mária Takács. Budapesti Leszbikus Filmbizottság. Documentary on a Hungarian village, Szatina, where a small lesbian community was formed in the early 1990s.

Web Sites

Annual Hungarian LGBT Festival homepage, <http://www.budapestpride.hu>.

Budapest Gay Guide, <http://www.navegre.hu/index.php?m=guide>.

Gay.hu, <http://www.gay.hu>.

Forum for gay men.

GayRádió.hu, <http://www.gayradio.hu>.

Hiv+.hu, <http://www.hivpozitiv.hu/>.

Practical information on being HIV positive by people who are HIV positive.

HIV-pozitívak hozzátartozóinak baráti köre, <http://www.pozitivtars.tvn.hu>.

Forum for relatives of HIV-positive people.

Magyarországi Meleg Apák, <http://www.melegapa.eletmod.hu>.

Forum for gay fathers.

Mások gay magazine online, <http://www.masok.hu>.

Meleg vagyok—Coming out campaign.

Műegyetem Meleg Kör, <http://www.bbme.uw.hu>.

Gay group of the Budapest Technical University.

Pride.hu, <http://www.pride.hu>.

LGBT news portal, forum for LGBT people.

SHIVAMANTRA, <http://shivamantra.freeblog.hu/>.

“Being HIV-positive complicates your life, but it is not the end of the world”—

Personal blog and counseling for HIV-positive people.

TranSexual Online, <http://tsonline.uw.hu/>.
 Forum for gay men.
 Tranny Baráti Kör, <http://tranny.tuti.hu>.
 Forum for transvestites.
<http://melegvagyok.hu/>.

Organizations

- Atlasz LMBT Sportegyesület (Atlasz LGBT Sport Association), <http://www.atlaszsport.hu>.
 Officially registered in 2004. The association has 10 sections: running, rock climbing, soccer, cycling, handball, basketball, dance, badminton, hiking, and swimming.
- Budapest Lambda Meleg Baráti Társaság (Budapest Lambda Gay Association), <http://www.masok.hu>.
 Founded in 1991, this is the oldest Hungarian gay organization that is still functioning. Their main activity has been to publish the monthly gay magazine *Mások*, the first unofficial issue of which came out in 1989.
- Dél-Alföldi Meleg Baráti Kör (DAMKÖR Gay Association), <http://www.tar.hu/damkor>.
 First one of its kind functioning outside the capital of Hungary. It was established in 1999 in Szeged.
- Háttér Társaság a Melegekért (Háttér Support Society for LGBT People), <http://www.hatter.hu>.
 Established in 1995, this group has the largest number of members and most widespread activity in the country. From 1996, information, personal, and telephone counseling services have been operating. In 2000, the Háttér legal aid program was initiated.
- Labrisz Leszbikus Egyesület (Labrisz Lesbian Association), <http://www.labrisz.hu>.
 The only Hungarian lesbian organization was founded officially in 1999 but the core of the organization existed from 1996. Their main goal is to organize community-building activities and increase the social visibility of lesbian and bisexual women in Hungary.
- Magyar LMBT Szövetség (Hungarian LGBT Association), <http://www.lmbtszovetseg.hu>.
 Founded in January 2009, this is the largest Hungarian LGBT umbrella organization with nine member organizations.
- PATENT Egyesület (Association of People Challenging Patriarchy), <http://patent.org.hu>.
 Established in 2006 with the main aim to raise public awareness on violence against women and children, but also deals with sexual minority issues.
- PLUSS Magyarországi HIV-pozitívokat Segítő Egyesület (Association for Supporting HIV-positive People in Hungary), <http://www.pluss-hiv.hu>.
 Established by HIV-positive people in 1989 to represent the interests of people infected with HIV in Hungary. Their goals also include awareness-raising on HIV infection and HIV/AIDS prevention issues.
- Szimpozion (Szimpozion Society of Friends, Cultural, Educational and Leisure Time Organization of Gay, Lesbian, Bisexual and Transgender People), <http://www.szimpozion.hu>.
 Founded in 2002, it organizes the biweekly meetings of the Pocok Club, a youth club with a cultural orientation. In 2006 they started the *Bújjj elő!* (Come out!) campaign by launching the www.melegvagyok.hu ('meleg vagyok' = I am gay) internet portal.
- Szivárvány Misszió Alapítvány (Rainbow Mission Foundation), E-mail: kurator@gay.hu.
 Established by the Háttér Support Society for LGBT People, the Labrisz Lesbian Association, and the Lambda Budapest Gay Association in 2001 with the primary aim of organizing the events of the annual LGBT Cultural Festival and the Gay Pride Day.

NOTES

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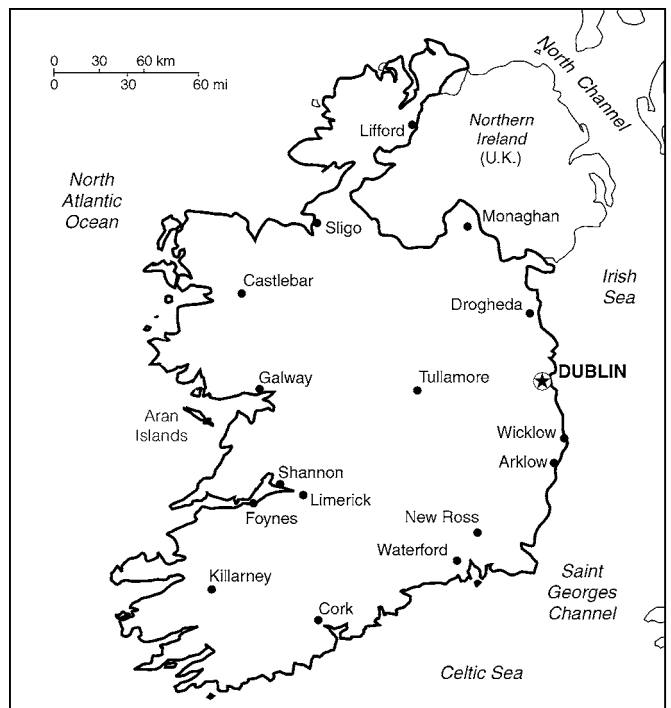
IRELAND

Ed Madden

OVERVIEW

Lying in the North Atlantic just west of Great Britain, the island of Ireland is part of western Europe. It covers an area of 32,599 square miles. Though traditionally divided into four provinces (Connacht, Leinster, Munster, and Ulster), the island is now politically divided between the Republic of Ireland, an independent country and a member of the European Union (EU), and Northern Ireland, which is part of the United Kingdom. With 26 counties (including three that were traditionally part of the northern province of Ulster), the Republic of Ireland includes most of the island; six counties of Ulster comprise Northern Ireland. The population of the island is about 6 million, with just over 4 million in the Republic and almost 2 million in Northern Ireland.¹ Since Northern Ireland is governed, to a great extent, by the laws of Great Britain, the Republic of Ireland is focused on here.

Modern Ireland, as a nation, finds its roots in two profound cultural and historical movements: Christianity and colonialism. Usually linked to St. Patrick's arrival in Ireland in 432 C.E., Christianity developed over the next several centuries in Ireland into an ethno-political sectarianism—as religion became part of the long struggle against British colonial occupation. During the Middle Ages, Ireland saw a flowering of monastic education and culture, which was cut short in part by the Viking raids that began in the early ninth century. Beginning in 1169, Ireland experienced the growing influence of Norman and then English invaders, marked by violent military campaigns and the



immigration of settlers from Scotland and England to English plantations. Through the 17th and 18th centuries, a British-aligned Protestant class solidified its political and economic power, and Irish Catholics were subjected to harsh and restrictive laws governing economic, religious, and political life. This ranged from an exclusion from voting to restrictions on inheritance and occupation, effectively barring them from participation in public life.

After the failed 1798 rebellion of the United Irishmen, Ireland's limited parliament was abolished and direct British rule established by the Act of Union of 1800—setting the stage for a nationalist struggle that would grow into a home rule movement. With anti-Catholic laws repealed in the late 1700s and Catholics allowed to hold public office after the Catholic Emancipation of 1829, the Catholic Church gained strength in tandem with growing Irish nationalism and anti-British sentiment through the 19th century. Nationalism was paradoxically strengthened by the mass starvation and emigration caused by the potato blight of the 1840s, which devastated the native Irish by the steady erosion of the Irish language (through English-language education) and by the continued British suppression of a series of political rebellions. Later, the failure of the 1916 Easter Rebellion set the stage for effective guerilla warfare that led to a treaty with Britain and the creation of the Irish Free State in 1922. Northern Ireland, partitioned off by the agreement, chose to remain part of the United Kingdom. In 1937, Ireland adopted a new constitution and declared its sovereignty, becoming a republic in 1949.

After centuries of struggle, Ireland maintains a position of political neutrality, though its small army² participates in multinational peacekeeping operations.

As a result of this history, ethno-political differences were (and, especially in Northern Ireland, sometimes still are) inextricable from sectarian religious difference—Catholicism often linked to nationalist politics and national identity. The Republic of Ireland is predominantly Roman Catholic, with over 87 percent of the population identifying as Catholic in the 2006 census.³ The influence of the Catholic Church was pervasive in Irish culture, politics, and society. The entanglement of national and religious identity was illustrated by public struggles over divorce and contraception in a series of divisive ballot referenda in the 1980s and 1990s, during which Catholic teaching overwhelmingly influenced discussions of public policy. After a series of very public scandals in the 1990s, however, the church began to lose its moral authority and political legitimacy, and a steady decline in influence and church attendance continues to the present.

From the early 1990s into the first decade of the 21st century—a period of economic growth called the Celtic Tiger—Ireland also experienced rapid economic and social transformations. The sustained economic prosperity, much of it based in the high-tech and information industries, has been marked by increasing urbanization, growing disparities in the distribution of wealth, immigration and the rapid ethnic diversification of metropolitan areas, and the globalization of Irish culture as a consumer culture—radical shifts in traditional Irish society.⁴

OVERVIEW OF LGBT ISSUES

For most of the last two centuries, the language and understanding of sexuality in Ireland has been confined to the language and understanding of the Catholic Church.⁵ In practice, that meant a general sense of silence and shame about sexual matters, as well as ignorance about basic sexual and reproductive issues.⁶ In theory, this means a focus on genital intercourse in heterosexual marriage as

the only appropriate sexual outlet and reproduction as the only purpose for sex. In public policy, this meant that state laws usually affirmed Catholic teachings.⁷ The heterosexual, patriarchal, reproductive family was enshrined in the Constitution of Ireland of 1937, which named the family as the fundamental social and political unit.⁸

In such a cultural context, discussions of homosexuality and gay and lesbian identity are constrained by silence and stigma. In the 1920s, Ireland instituted the Censorship of Publications Act and the Censorship of Films Act, in attempts to prohibit the publication or importation of materials seen to threaten Irish Catholic moral teachings. Although focused on foreign influences, censors could single out Irish authors—as Kate O’Brien was for one sentence in her 1941 novel, *The Land of Spices*. The offending sentence read, “She saw Etienne and her father in the embrace of love,” a very brief reference to a gay embrace.⁹ Although censorship efforts weakened in the 1970s, gay and lesbian texts were still subject to prosecution into the last decade of the 20th century, with the gay-positive children’s book *Jenny Lives with Eric and Martin* censored by authorities in 1990.¹⁰

Ironically, David Norris, a gay activist and openly gay Irish senator since 1987, appealed to the Irish constitution in his 1974 lawsuit challenging Ireland’s sodomy laws, grounding his case in a constitutional right to privacy. As was the case in Northern Ireland, however, it would take appeals to European authorities before homosexuality would be decriminalized. Homosexuality was decriminalized in Northern Ireland in 1982, and though Norris won his case in 1988, it was not decriminalized in the Republic of Ireland until 1993.

An earlier pivotal and galvanizing moment was the 1982 murder of a gay man in Dublin’s Fairview Park. The youths who beat Declan Flynn to death received suspended sentences, prompting public outrage and a protest march organized by gays, lesbians, and feminist allies—later characterized as Ireland’s Stonewall (a reference to the Stonewall Riots of 1969, often seen as a turning point in the U.S. gay rights struggle).¹¹

In 1992, the recently elected president of Ireland, Mary Robinson—who as an attorney had earlier helped argue the David Norris case—invited 34 representatives from the LGBT community to her official residence, Áras an Uachtaráin in Phoenix Park of Dublin. The meeting was largely ignored by the media but was celebrated by the community as signaling a turning point in their ongoing struggle for civil rights.¹² The 1993 legalization marked the culmination of two decades of grassroots activism.

Grassroots community organizations struggled to provide resources through the 1970s, looking to both England and the United States for models and information, but working to address the specific cultural and religious constraints of Ireland. While AIDS affected intravenous drug users more than gay men at the beginning of the epidemic in Ireland, it was gay organizers who early on addressed the problems of education and treatment in a country that frowned on all forms of contraception and restricted the sales and distribution of condoms until 1993.

Because of the pervasive association of Catholicism with Irish national identity in both history and culture, the construction of a specifically *Irish* gay identity has been central to the rhetoric of the LGBT civil rights movement in Ireland. As David Norris would remark in the early 1980s, “There remained in the minds of many people until recently a doubt as to whether the terms ‘Irish’ and ‘Homosexual’ were not mutually exclusive.”¹³ Though this theme of identity and the desire to recognize an Irish gay or lesbian identity may be especially evident in emigrant

communities (as in the struggles over the inclusion of gays and lesbians in New York St. Patrick's Day parades), it remains a central theme in Irish gay culture and politics.¹⁴ As homosexuality entered Irish public consciousness in the second half of the 20th century, it was often portrayed in political discourse as foreign, a threat or corrupt influence from outside the nation. In contrast, some early LGBT organizers repeatedly connected gay identity to pre-Catholic and precolonial cultures, characterizing homophobia as a product of colonization and thus suggesting that gay rights—despite the long association of Catholicism with Irish national identity—may be part of a continued anticolonial struggle.

EDUCATION

Most of Ireland's primary and secondary schools have denominational affiliations; the state's schools are mostly run by religious organizations and the Department of Education provides funding to all schools as required by the constitution. Religious instruction is permitted by law but not required, and students may be excused at parents' request.

Because of a legacy of religious censorship, repression, and silence, and a subsequent social reticence about sexual matters, until very recently Irish people could reach adulthood knowing very little about sex. For example, when 15-year-old Anne Lovett and her baby died in childbirth in a field outside Granard in the winter of 1984, this tragedy played a critical role in public discussions of abortion and sex education and the Irish government began to consider formal sex education for the secondary school curriculum (although it was frequently opposed and unevenly implemented). Again in the mid-1990s, against considerable opposition, the Department of Education tried to implement a national curriculum on sex and relationships. This came about because a 1994 survey found that Irish sex education was still failing to provide basic information to all students.¹⁵ More than a decade later, sex education still falls short, with many schools refusing to teach the established curriculum.¹⁶

Although youth services and education are included under the Equal Status Act of 2000, in 2002 the Equality Authority reported a severe lack of resources for LGBT youth. The report found few positive LGBT images in society, hostility from peers toward LGBT students, and the insistent pressure experienced by LGBT students to be normal. Further, because so many youth services are tied to religious institutions or grounded in a religious ethos, church teachings on sexuality make it difficult to meet the needs of LGBT youth.¹⁷ Significantly, in a recent study of homophobic bullying in Irish schools, two of the things listed among those that would make life easier for LGBT youth were challenging Catholic views on sexuality and challenging the silence and taboo around the discussion of homosexuality.¹⁸

For LGBT youth, inadequate education, institutional silence, and the resulting ignorance of their peers about sexual issues translates into misunderstanding and harassment. A 1998 survey found that the predominant reaction to homosexuality among Irish secondary school boys was one of disgust.¹⁹ Irish youth groups, such as the BeLonG To Youth Project, founded in 2002 and funded by the Department of Education, provide not only individual and group support, but also resources and initiatives directed at schools and other youth institutions—particularly in response to the bullying pervasive in school culture.

EMPLOYMENT AND ECONOMICS

In 1987, the Irish Congress of Trade Unions published guidelines on the protection of lesbian and gay workers. This act signaled one of the primary strategies of early LGBT organizing in Ireland: building alliances with feminists, trade unions, and other progressive organizations.²⁰

Equally important to LGBT rights in the workplace has been Ireland's membership in the European Economic Community (EEC) since 1973 and the European Union (the EU, which subsumed the EEC at its creation in 1993). The 1998 Amsterdam Treaty charged the EU with combating workplace and employment discrimination; that same year, Ireland passed the Employment Equality Act, which prohibited workplace discrimination based on sexual orientation. The Equal Status Act of 2000 and the Equality Act of 2004 expanded the reach of Ireland's antidiscrimination laws, extending protection against discrimination in the provision of goods and services, housing, and education. The employment equality acts include an exemption for the religious ethos of schools, an exemption that in effect allows discrimination against openly lesbian and gay teachers.

Of lasting impact has been the creation of the Equality Authority, an independent state body created under the Employment Equality Act to replace the Employment Equality Agency. The Equality Authority has continued to work against discrimination on a number of fronts and, in 2002, released *Implementing Equality for Lesbians, Gays and Bisexuals*—a critical analysis of the status of Ireland's LGBT community with recommendations for policy and action.

While early organizing depended on alliances with progressives, legal reform has also depended on the capital-driven economic imperatives of the EU, which makes tolerance a litmus test for national inclusion, and which hopes to extend antidiscrimination protection into health care, social security, and other areas.

SOCIAL/GOVERNMENT PROGRAMS

As the creation and work of the Equality Authority suggests, some government and institutional support exists for LGBT programs, though it is limited and increasingly imperiled by the most recent economic circumstances. Early responses to HIV education, constrained by the moral views governing most public attitudes about sex, would not have suggested the current status of government funding. Much of this funding is tied to health services and promotion—which includes mental health and suicide prevention—with funds coming from the Health Services Executive and the Department of Education and Science. Dublin's LGBT community center, the Outhouse, receives funding from the Health Services Executive, as does BeLonG To Youth, which provides support services to and advocacy on behalf of LGBT youth. The 2004 annual report for Outhouse, for example, documents funding from the Department of Social and Family Affairs, the Health Board, Dublin City Council, and the Department of Environment.²¹

SEXUALITY/SEXUAL PRACTICES

In a country in which Catholic authorities were incensed by a married woman's suggestion on a 1966 television show that she had not worn a nightgown on her wedding night, condemning this suggestion of marital sexual pleasure as an assault

on the nation's morals,²² and in a country in which, into the early 20th century, women who had given birth were considered impure until they had been to a church—sexuality and sexual pleasure (even in the context of heterosexual reproduction) could still resonate with the shame and silence instilled by Catholic moral attitudes.

Despite the urgency of the AIDS epidemic, Ireland also restricted the sale of condoms until 1993. Previously, condom sales had been allowed in 1978 but were restricted to people over 18 and only in pharmacies or medical clinics. Education about HIV and AIDS was left to struggling gay volunteer organizations in the face of silence and inaction on the part of government and other institutions (which were constrained by religious views on sexuality and contraception). Gay Health Action (GHA) formed in early 1985, years before an AIDS case had been officially diagnosed in Ireland. Although the AIDS epidemic in Ireland would echo situations in eastern Europe (the majority of infections tied to intravenous drug use rather than homosexuality), the bulk of AIDS organizing, education, and support was conducted by gay volunteer groups.

For the first years of the epidemic, GHA was the only organization providing advice on prevention and up-to-date medical information. In contrast, the media consistently offered inaccurate and antigay information and the health department refused to help fund early education efforts. Even still, later efforts excluded useful information about gay sexual practices. The Irish Names Project, Ireland's version of the AIDS Quilt, was started in 1990. The health department committed to working with gay organizations in 1994, and in 2006 the Equality Authority pointed to partnerships between the health department and gay community agencies as an example of good health promotion practices.²³

Family

The 1937 constitution enshrined a very traditional view of family in law. Article 41 recognized the family as the fundamental unit of society, and as “a moral institution” with natural and “imprescriptible” rights outside of and preceding those granted by law. The family is structurally defined by marriage and marked by patriarchal attitudes about gender roles. The constitution charged the state with protecting marriage—a constitutional ban on divorce was not relaxed until 1995. The constitution further states that the primary role and duties of women are within the home and it charges the state to guarantee that women not “neglect of their duties” by working outside the home. Although the fifth amendment of 1972 removed the Catholic Church from its special position in the document, Catholic teaching about sexuality remains central. The eighth amendment (1983) acknowledges the right to life of the unborn—thus institutionalizing Catholic opposition to abortion.²⁴

For several decades, the traditional large Irish family has been in decline, and marriage declined during the 1980s and 1990s. However, the economic boom at the turn of the century saw an increase in both marriages and childbirth. Ireland's divorce rate remains low compared to other nations. Both cohabitation by unmarried couples and childbirth outside of marriage are increasing, however, as are single-parent families.²⁵

Only married couples and single people can adopt children in Ireland. Irish gay couples cannot adopt as a couple, though they are allowed to foster children. Until

recently, gay and lesbian families in Ireland have had no legal standing or protection. A 2008 High Court of Ireland decision recognized a lesbian couple as a *de facto* family in a child custody dispute denying the rights of a gay male friend who was the sperm donor. Though the case may be appealed, it will likely help to shape ongoing discussions about the status and rights of gay and lesbian families, as well as unmarried heterosexual couples.²⁶

COMMUNITY

The first Irish gay and lesbian community organization, the Irish Gay Rights Movement, was founded in 1974. The organization established a Gay Centre in Dublin's Parnell Square that housed a disco, library, and telephone counseling line. The movement struggled through political, personal, and financial disagreements, with supplemental or sometimes rival organizations arising in the 1970s—such as the National Gay Federation, the Cork Gay Collective, and Liberation for Irish Lesbians. Briefly there were two community centers operating in Dublin, not only duplicating services but also squandering limited resources. In 1981, the first National Gay Conference was held in Cork.²⁷

As noted, the formation of a specifically Irish gay and lesbian identity has been central to Irish lesbian and gay culture. In both the Republic and Northern Ireland, homosexuality was frequently portrayed as foreign, a threat, and a corrupting outside influence. And the pervasive association of Catholicism with Irish national identity made it difficult to assert queer Irish identities. This conflict between national and sexual identities is especially evident in Irish emigrant cultures in England and the United States in which ethnic identification sometimes precluded homosexual identification.²⁸ For example, Irish gays and lesbians were prohibited from participating in the St. Patrick's Day marches in New York (though they were famously welcomed when they first applied to the 1992 march in Cork).²⁹

Today, there are visible gay and lesbian communities in most major cities in Ireland with gay pride celebrations held in Belfast, Cork, Dublin, Galway, and even Sligo. There is a growing number of organizations addressing various constituencies and needs in the LGBT community. LGBT people are less visible outside the urban centers, and often lack the resources and community found there. Dublin has also hosted a lesbian arts festival and gay and lesbian theatre and film festivals.

Though transsexuals are included in the common acronym LGBT, and even though a transsexual support group meets at the Outhouse in Dublin, awareness about transgender identity is not widespread. Indeed, some Irish transgender people resist inclusion with lesbians and gays. One transgender organization explicitly separates itself from the LGB communities.³⁰ Both inside and outside the LGB movement, some activists have begun to use the phrase *GID* community, drawing on the medical language of Gender Identity Disorder rather than the sometimes confusing terms transgender and transsexual.

HEALTH

Just as religious and political prejudices hampered organizing and education efforts related to HIV and AIDS, prejudice in health care can prove detrimental to lesbian and gay health. Homophobia among health care practitioners is the primary barrier to lesbian health in Ireland. Early accounts of lesbian health reported

that lesbians suffered additional trauma in hospitals and clinics, as they faced homophobic and heterosexist responses from hospital personnel.³¹ More recently, lesbian service providers have begun to offer advice and information about the particular health risks lesbian women face, including breast cancer, depression, and substance use.³²

Gender reassignment surgery is not available in Ireland to those diagnosed with Gender Identity Disorder although, in some cases, Irish health services have supported Irish people seeking surgery in England.

POLITICS AND LAW

Sodomy

Until legal reform decriminalized homosexuality, the laws governing male-male sex originated from British laws between 1861 and 1885 and stipulated penal servitude and hard labor for those convicted. (Female sexual behavior was not addressed by the laws.) Working with the Campaign for Homosexual Law Reform, David Norris filed a lawsuit in 1977 challenging the constitutionality of the laws, arguing that they violated constitutional protections—particularly the freedom and dignity of the individual guaranteed by the preamble and a constitutional right to privacy as established in a 1974 case involving marital privacy (which allowed for the legalization of contraception). He also noted that popular and political prejudice was grounded in the laws.

The laws were repealed in England and Wales in 1967, though that repeal did not extend to Northern Ireland. In 1976, after a series of drug raids led to the harassment, arrest, and intended prosecutions of gay men, Jeffrey Dudgeon filed a complaint with the European Commission on Human Rights that year. The European Court of Human Rights (ECtHR) ruled in 1981 that a ban on homosexual conduct violated the European Convention on Human Rights (ECHR) and, in 1982, sodomy was decriminalized in Northern Ireland.

Norris lost his case in both the high court (1980) and the supreme court (1983). He appealed to the ECtHR, winning his case there in 1988. Five years later, the Irish government finally addressed the issue. It not only decriminalized homosexuality but equalized the age of consent for heterosexual and homosexual sex. Irish Catholic leaders opposed the reform, releasing a statement emphasizing the position that homosexuality is morally wrong. Family Solidarity, a conservative advocacy group created in 1984, also opposed divorce and abortion. Before the legalization of sodomy in 1993, many Irish gays and lesbians left Ireland in order to live their sexual identities with more freedom and openness elsewhere. The impact of this reform, which removed not only legal stigma and juridical threat but also social disapprobation, led to rapid and dramatic transformations in the visibility of the Irish LGBT community.³³

Marriage

As in other nations, there is a growing movement for the recognition of same-sex couples through civil unions or marriage. When Ireland passed a Domestic Violence Bill in 1995, it recognized relationships outside of marriage—effectively acknowledging gay and lesbian relationships in Irish law for the first time.³⁴ Even

still, Ireland does not officially recognize same-sex couples. A recent court decision that described a lesbian couple and their child as a *de facto* family may affect public policy, as may a pending decision about a lesbian marriage from Canada. An Irish lesbian couple married in Canada in 2003, and filed a lawsuit in 2004 asking that Ireland recognize the legality of their marriage. The case was still pending at the Supreme Court of Ireland as this book went to press, though a 2006 decision of the Irish high court held that Ireland could refuse to recognize same-sex marriages from other nations.

Northern Ireland, as part of the United Kingdom, has offered civil partnerships since 2005 and, in 2006, the Equality Authority argued that the Irish government should provide similar protection. Civil partnerships legislation, which falls short of the attendant status and rights of full marriage equality, was introduced and rejected in 2007, but was introduced again in 2008.

Since the mid-1990s, opinion in Ireland about gay and lesbian families is beginning to shift to more tolerant, even supportive attitudes, with a majority of Irish in recent polls supporting same-sex marriage and over 80 percent affirming that children of lesbian and gay parents should have the same rights as any other children.³⁵ Further, in recent elections, every major political party supported some form of recognition for same-sex relationships, suggesting the promise of future legislative change.³⁶

Transsexuals

The most visible challenge to Ireland's lack of social and legal recognition of transsexual people is the case of Lydia Foy, who tried to get a new birth certificate for 10 years reflecting her change of gender. In 2007, the High Court of Ireland ruled in her favor, arguing that Ireland's refusal to offer her a new birth certificate violated the EHCR. The government of Ireland, however, failed to act on the court's decision and appealed back to the supreme court in early 2008.³⁷

RELIGION AND SPIRITUALITY

Religious prejudices—especially those grounded in Catholic moral teachings—have greatly affected lesbian and gay people, communities, and politics in Ireland. This is not only because of the pervasive social, political, religious, and cultural influence of the Catholic Church, and not only because of the majority affiliation with Catholicism, but also because Irish national identity has been consistently—if at times problematically—linked to Catholicism in both culture and history. This is not to indict the Catholic Church as the primary or only opponent of LGBT rights in Ireland. Indeed, other religious groups in Ireland have similar attitudes and, during the debates over legal reform in Northern Ireland, it was the Protestant reverend Ian Paisley of the Democratic Unionist Party who led a Save Ulster from Sodomy campaign.

Regardless, the Catholic position on lesbian and gay issues in Ireland is not monolithic. However, it is important to recognize the pervasive influence of the Catholic Church on social and public policy about sexuality and its effects on LGBT organizing. As a result of the official, institutional homophobia and heterosexism validated by religious attitudes, LGBT advocates in Ireland frequently connected gay identity to pre-Catholic and precolonial cultures in Ireland, suggesting that

homophobia is a product of colonization. They portrayed an Irish identity and culture that preceded Catholicism and colonization. In an attempt to counter the frequent perception of the Irish as backward on sexual and social issues, activists cited traditional Irish values of tolerance, fairness, and justice. They might characterize Catholicism's traditional centrality to Irish identity as a historically recent phenomenon, more the product of famine and political struggle than a national sensibility. And they often appealed to early Irish law—the traditional and pre-Christian Brehon laws—as more tolerant of sexual and family diversity. In speaking of justice, they might connect gay rights to a continued anticolonial struggle obviating the historical link of Catholicism to that struggle. It is a strategic and effective appeal to national identity detached from its Catholic supports.³⁸

Ireland has recently seen a dramatic shift in the political and social power of the Catholic Church. A series of very public scandals in the 1990s undermined the church's moral authority at the very moment Ireland was experiencing unprecedented economic growth and social change. Among the scandals undermining church authority were: the 1992 revelation that Father Eamonn Casey, bishop of Galway, had both a lover and a child; ongoing revelations about physical and emotional abuse in Irish institutions (the industrial schools for orphans and the Magdalene laundries for unwed mothers); the 1994 death of a priest in a Dublin gay sauna (where he was given last rites by two other priests on the premises); and the ongoing allegations of child sexual abuse and accusations of both church and government cover-ups of the abuse.³⁹

At the beginning of the 21st century, the Catholic Church has also seen a marked decline in attendance, with a 2003 survey showing that only 50 percent of Irish adults attended weekly mass.⁴⁰

VIOLENCE

On September 10, 1982, 32-year-old Declan Flynn was beaten to death in Fairview Park by a gang of Dublin youths between the ages of 15 and 20. Fairview Park was known as a cruising area for gay men (where they would meet sexual partners), and the murder was part of a systematic summer campaign of gay bashing and harassment, and represented a small group of youths' attempt to rid the park of queers. The charge against the youths was reduced from murder to manslaughter and, in February 1983, they were found guilty, given suspended sentences, and released. They held their own victory march through the neighborhood upon release.

Public outrage over the ruling and the subsequent march led to a protest march that was organized by gays and lesbians along with feminist and labor union allies. On March 19, 1983, several hundred people marched behind a banner that read, "Stop Violence against Gays and Women." (During that period, lesbian and gay organizations had built alliances with feminist organizations in the campaign against the abortion amendment and the incident also echoed a similar sentence in the murder of a prostitute about the same time.) The march proceeded from Dublin's city center, through the killers' neighborhood, and into Fairview Park.

It was a galvanizing moment for LGBT organizing in Ireland. It solidified coalitions being built, drew national media attention to homophobia and violence against gays and lesbians, marked a turn to direct action on the part of LGBT activists, and focused gay and lesbian energy and anger in a very public statement against violence and discrimination.⁴¹

In the wake of the Fairview Park murder, Ireland passed the 1989 Prohibition of Incitement to Hatred Act, which addressed written and visual incitements to hatred based on ethnicity, religion, and sexual orientation. Still, Ireland has no specific hate crime laws that would allow courts to consider bias and hatred when handing down sentences.

OUTLOOK FOR THE 21ST CENTURY

Recent studies of Irish public opinion found that Irish views on what are often considered to be moral issues such as abortion, divorce, and homosexuality became more liberal in the 1980s and 1990s. More importantly, the studies found that the liberalization did not reflect simply age difference and population replacement (younger, more accepting generations replacing older, more traditional voters). Instead, opinions actually changed *because of* the very public discussions around ballot referendum campaigns (on abortion and divorce) and *in relation to* institutional and legal reform (divorce and homosexuality).⁴² That is, public debate and—perhaps more interestingly—the implementation of progressive social policies resulted in increasing social tolerance. This suggests the ongoing impact of both corporate and governmental policies on diversity and equality, which affect not only workplace environments but also social attitudes.

At the beginning of the 21st century, LGBT organizers had begun to adopt the language of economic success and social well-being rather than that of tolerance and marginality. Although the increasing visibility of the community may belie ongoing problems, particularly those of young people and those living in rural areas, Irish LGBT organizations and their allies are encouraged by changing social and political attitudes.⁴³

RESOURCE GUIDE

Suggested Reading

- Suzy Byrne and Junior Larkin, *Coming Out: A Book for Lesbians and Gay Men of All Ages* (Dublin: Martello Books, 1994).
- Aongus Collins, *A History of Sex and Morals in Ireland* (Cork: Mercier Press, 2001).
- Sara-Jane Cromwell, *Becoming Myself: The True Story of Thomas Who Became Sara* (London: Gill & Macmillan, 2008).
- Dublin Lesbian and Gay Men's Collectives, *Out for Ourselves: The Lives of Irish Lesbians and Gay Men* (Dublin: Dublin Lesbian and Gay Men's Collectives and Women's Community Press, 1986).
- Equality Authority, *Implementing Equality for Lesbians, Gays and Bisexuals* (Dublin: Equality Authority, 2002).
- Chrystel Hug, *The Politics of Sexual Morality in Ireland* (New York: St. Martin's Press, 1999).
- Brian Lacey, *Terrible Queer Creatures: Homosexuality in Irish History* (Dublin: Wordwell Books, 2008).
- Íde O'Carroll and Eoin Collins, eds., *Lesbian and Gay Visions of Ireland: Towards the Twenty-first Century* (London: Cassell, 1995).
- Kieran Rose, *Diverse Communities: The Evolution of Lesbian and Gay Politics in Ireland* (Cork: Cork University Press, 1994).
- Éibhear Walshe, "Wild(e) Ireland," in *Ireland in Proximity: History, Gender, Space*, ed. Scott Brewster, Virginia Crossman, Fiona Beckett, and David Alderson (New York: Routledge, 1999).

Videos/Films

- Breakfast on Pluto* (129 min.; 2005). Directed by Neil Jordan. Pathé Pictures International. Based on the novel by Patrick McCabe, the story of an Irish transgender figure living during on political and sexual borders during the violence in Northern Ireland in the 1970s.
- Chicken* (3 min.; 2001). Directed by Barry Dignam. Bórd Scannán na hÉireann. Two Irish male teens drinking cider and posturing at the shore. A short film that makes complex connections between male vulnerability, adolescent machismo, and sexuality (can be found on YouTube.com.)
- Did Anyone Notice Us? Gay Visibility in the Irish Media 1973–1993* (74 min.; 2003). Directed by Edmund Lynch. Documentary. Survey of Irish media coverage of the Irish LGBT movement.
- Goldfish Memory* (85 min.; 2003). Directed by Elizabeth Gill. Goldfish Films. A gay and lesbian view of contemporary Dublin.
- Pigs* (78 min.; 1984). Directed by Cathal Black. Irish Film Board and RTE. Early Irish film representation of homosexuality and gay bashing, set in an abandoned house inhabited by squatters in inner city Dublin.
- Reefer and the Model* (93 min.; 1988). Directed by Joe Comerford. Berber Films. A group of social, sexual, and political outsiders seeking refuge and community on the isolated west coast.

Web Sites

- Alternative Parents, <http://alternativeparents.com>.
Information site for LGBT singles and couples who are or want to become parents.
- Bi Irish, <http://www.biiirish.com>.
For Irish bisexuals.
- Coalition on Sexual Orientation (CoSO), <http://www.coso.org.uk>.
Advocacy for LGBT people in Northern Ireland.
- Emerald Warriors, <http://ewrfc.ie>.
Ireland's competitive gay rugby team, founded in 2003.
- Gay Belfast, <http://gaybelfast.net>.
Resource and information site for Belfast and Northern Ireland, includes a summary of Belfast gay history by Jeffrey Dudgeon.
- Gay Community News*, <http://www.gcn.ie>.
Ireland's monthly gay magazine, a free publication, founded in 1988 and published under the auspices of the National Lesbian and Gay Federation.
- Gay Cork, <http://gaycork.com>.
Resources and information for Cork and surrounding region.
- Irish Queer Archive, <http://www.irishqueerarchive.com>.
Major collection of LGBT publications and ephemera, recently donated to the National Library.
- Irish Queers, <http://irishqueers.org>.
LGBT activist group based in New York, organizing around Irish queer issues in Ireland and Irish America. Site includes news blog.
- KAL Case, <http://www.kalcase.org>.
Summarizes the lawsuit of Irish lesbian couple Katherine Zappone and Ann Louise Gilligan, asking that Ireland recognize their marriage, which took place in Canada in 2003.
- Marriage Equality, <http://www.marriageequality.ie>.
Initiative seeking civil marriage for gays and lesbians in the Republic of Ireland.
- Out In Ireland, <http://www.outinireland.net>.
Ireland gay and lesbian sports network.

Queer ID, <http://www.queerid.com>.

Social networking and news site for gay men and women in Ireland.

Organizations

BeLonG To Youth Project, <http://www.belongto.org>.

For LGBT young people aged 14–23.

Dublin AIDS Alliance, <http://www.dublinaidsalliance.com>.

Volunteer organization working to improve the lives of people living with HIV.

The Equality Authority, <http://www.equality.ie>.

An independent state body established by the Employment Equality Act of 1998 and replacing the Employment Equality Agency. Addresses discrimination in employment, advertising, education, and the provision of goods and services based on gender, marital or family status, age, disability, race, sexual orientation, religious belief, or membership in the Traveller minority community. Published the essential strategic study on the status of LGBT people in Ireland, *Implementing Equality for Lesbians, Gays and Bisexuals*. Dublin: Equality Authority, 2002.

Gay Lesbian Equality Network (GLEN), <http://www.glen.ie>.

Irish LGBT civil rights organization, focused on legal reform in order to achieve full equality and inclusion and protection from discrimination. Web site includes a number of useful resources and studies related to LGBT issues in Ireland.

Gay Men's Health Project, c/o Outhouse, <http://www.gayhealthnetwork.ie>.

Health project targeting gay and bisexual men, based in Dublin. Sponsors sexual health clinics, personal development courses, outreach, and counseling.

Gay Switchboard Dublin, <http://www.gayswitchboard.ie>.

LGBT information and resource hotline based in Dublin.

Lesbian Advocacy Services Initiative (LASI), <http://www.lasionline.org>.

A lesbian advocacy organization for Northern Ireland.

L.inC (Lesbians in Cork) Community Resource Center, <http://www.linc.ie>.

Network and community resource center for women in Cork.

Northern Ireland Gay Rights Association (NIGRA).

Organization focused on gay and lesbian rights, with a special attention to legal issues.

Outhouse, <http://www.Outhouse.ie>.

Dublin's LGBT resource and community center since 1994; Outhouse includes a cafe, library, and Internet access. Home to several local organizations, including the Gay Men's Health Project and support groups for LGBT youth and transgender people.

QueerSpace, <http://www.queerspace.org.uk>.

LGBT volunteer organization for Belfast and Northern Ireland.

Southern Gay Men's Health Project (SGMHP), <http://www.gayhealthproject.com>

Health project targeting gay and bisexual men in the Cork and Kerry regions.

Transgender Equality Network, <http://www.teni.ie>.

Transgender support, education, and advocacy organization based in Dublin's Outhouse.

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ITALY

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OVERVIEW

Italy is a southern European country and, geographically, a peninsula: its eastern, southern, and western borders are bounded by the Mediterranean Sea (the Adriatic, Ionian, and Tyrrhenian seas). It has an extension of 116,306 square miles and a population of around 57,634,300 (according to the 2000 census). The capital of the country is Rome, though many often refer to Milan as the economic capital. Italy's peak of industrialization occurred during the 1960s, based essentially on the development of small and medium-sized enterprises. Like many other industrialized states, Italy has also been going through a transition toward a service-based economy.

Compared to other western European countries, Italy is a relatively young state. Until the 19th century the peninsula was divided into a number of political entities dominated by major European powers. In 1861, the unification process led by Giuseppe Garibaldi and politically and financially supported by the Kingdom of Sardinia established the Kingdom of Italy. This process was completed in 1871 with the annexation of Rome, which became the capital of Italy. The Vatican was allowed to maintain a formal sovereignty on a small portion of the city land around St. Peter's Cathedral (today's Vatican City State). The country was under the rule of the Fascist regime of Benito Mussolini between 1922 and 1943, when Italy was still fighting on the side of the Nazis against the Allied armies in World War II. Between 1943 and 1945 the



war continued between, on the one hand, the Nazis and the new Fascist Republic of Salò established in Northern Italy and, on the other, the Resistenza (Resistance) movement—led by Communist, Catholic, and liberal groups—and the Allied powers. On April 25, 1945, Italy was finally freed of Nazi Fascism. In 1946, Italians—including, for the first time, Italian women—voted for the establishment of a republic as their form of government. In January 1948, the new constitution entered into force. The constitution represented a compromise between the different political forces of the Resistenza. It guaranteed not only civil and political rights, but also economic and social rights.

OVERVIEW OF LGBT ISSUES

There are a number of social, cultural, and legal issues that LGBT people and the movement that represents them have long considered crucial but that have been relatively invisible in society and the political discourse. These issues are related to violence, discrimination, same-sex relationships, and family rights. Italy has not allowed formal discrimination by state legislation, as is typical of northern European countries such as in the United Kingdom and Germany, as well as the United States. Already in the 19th century, in 1871, the new Italian kingdom decriminalized sexual acts between men. The Italian penal code also set a common age of consent at 14 for both same-sex and opposite-sex sexual acts. With no formal bans or exclusion from educational activities or censorship of LGBT issues ever having been formalized in the public sphere, Italy was at the forefront of tolerant countries in this matter, despite instances of nonlegal persecution of homosexuals during the Mussolini era; even then, homosexuality was not formally criminalized. The status quo of the noncriminalization of homosexuality during Fascism was, however, accompanied by the strong repression of homosexual men through direct police enforcements introduced in 1926.¹ Homosexuality remained legal after the end of World War II.

While Italy has never formally prohibited homosexuality, in the Europe of today the country stands out for not providing any formal protection against discrimination on the grounds of sexual orientation, with the exception of labor legislation, following the transposition of the 2000 European Union Employment Discrimination Directive. It is also one of the few western European countries that have not provided any recognition of same-sex couples or families with same-sex parents. Italy also maintains a dubious position concerning certain practices, such as blood donation, that some may consider discriminatory. Medically assisted insemination is not accessible to single women or same-sex couples.

The combination of these legal and social conditions experienced by LGBT people in Italy has produced an indifferent attitude toward homosexuality, which has guaranteed freedom on the margins, but also a weakness in political organization and scant recognition in mainstream society.

A number of factors account for the invisibility of LGBT issues in Italy. First, the strong social, cultural, and economic influence of the Vatican still exercises its power through a capillary network of churches, schools, seminars, charity institutions, its properties, and its bank. The Catholic Church has a large institutional influence on public life, for instance where millions of workplaces directly depend on church authority. The Vatican has also had a major influence on the entire political system, which is largely focused on controlling the central Catholic vote. The

church has used its power not only to condemn nonheterosexual behaviors, but also to censor and silence any debate about LGBT issues in the educational system and in politics at large.

Some would suggest that Italians are less Catholic than the official discourse normally affirms, and that their acceptance of LGBT rights is stronger than the one expressed by the political leadership. Indeed, opinion polls on this matter generally show a tolerant attitude concerning homosexuality, roughly in line with other western European countries. Up to 72 percent of Italians think that homosexuality should be accepted by society.² Between 31 percent³ and 47 percent⁴ are in favor of same-sex marriage, while more than half support civil partnerships. But so far the state has not been inclined to adjust to the popular attitude. While in general the LGBT movement has cultivated relations with parties on the left, LGBT issues have never become a priority for any of the center-left governments from the mid-1990s on.

Second, a traditionalist, allegedly macho, and patriarchal cultural background still dominates the country, and the Vatican largely relies on this to enact its silencing policy. The patriarchal culture remains strongest in Italy's southern regions, while the regions of the north have gradually, though not completely, internalized a more western European mindset, based on individual freedom rather than families, clans and communities. The patriarchal culture also clearly accounts for the especially strong invisibility of lesbians in the country.

Third, the LGBT movement has a limited capacity to influence the political system due to its internal differences and divisions. With respect to this, the LGBT movement reflects the many differences and divisions of Italy: it is still largely characterized by localism, a high degree of conflict between left radical and moderate factions, extreme individualism, and, in some instances, the separation of the lesbian and gay movements. While these differences and divisions are meaningful and not without reason, it is indisputable that they have weakened the movement's capacity, for example, to have an impact on policy making. This is especially true at the state level, while at the local and city level LGBT associations have showed a stronger capacity to influence local administrations on LGBT issues.

There have been signs, however, that LGBT issues may gain more weight in Italian politics. In 2000, the Vatican openly requested that the state government prohibit WorldPride from taking place in Rome, claiming its incompatibility with the celebrations for the Great Jubilee in 2000. In response to this open attack, nearly all LGBT associations and networks operating at the national and local levels joined forces to participate in WorldPride. The LGBT movement was also able to involve non-LGBT movements and associations on the left, which considered the Vatican veto to be an unacceptable attack on democratic liberties at large. This event constituted a landmark passage for homosexuality and LGBT issues to find greater public acceptance. Since then, social, cultural, and legal issues related to homosexuality have gained a bit more of attention and visibility in the public sphere, although this has not led to a complete legitimization of homosexuality as a public issue. Since then, there has been a trend toward viewing homosexuality not so much as a value in itself, but as part of the need for a liberal reform of the state, a view shared by at least some of the national elites and represented in some major newspapers and magazines of social-democratic inspiration.

After 2000, homosexuality became more and more present in the Italian media, and some homosexual politicians came out, such as Nichi Vendola, who in 2005

was elected as the president of the Puglia region in the south of Italy. In cities such as Rome and Milan, openly visible gay and lesbian bars, cafes, and club venues have made their appearance since the late 1990s, replacing the mostly hidden bars that relied on insider knowledge, where patrons often had to ring a bell before entering through a locked door. In Rome, this trend, which comes after similar trends in other European countries, can be exemplified by the Coming Out bar opposite the Coliseum, whose visitors are openly visible to passersby.

In Italy today, several cities have a large LGBT scene—some sociologists have called Milan, Rome, and Bologna, among others, gay capitals. Milan is sometimes noted to have the larger gay scene; Bologna, with its tradition as a university town and home to many progressive social movements, is known as the gayest Italian city in relation to its size. Rome is Italy's largest city. It has had a continuously important tradition of homosexual culture in various subcultures, such as the arts scene, associations, outdoor sex, alleged homosexuality in church circles, and, as a rather newer phenomenon, in openly and exclusively gay and lesbian bars and clubs. However, many lesbians and gays attribute a growing social acceptance of homosexuality to an outside influence, as a series of interviews showed:

Young LGBT women and men in Rome nearly all argued that Italy was behind the times, and that the influence of the Church was an important factor, while they viewed the pressure from the European Union and Italy's interconnectedness with other European countries as a motor for social change toward a greater acceptance of homosexuality in Italy.⁵

Despite generational variations, most Italian lesbians and gays see their country in a phase of progress that stands in contrast with a homophobic past. Homophobic attacks are less frequent in Italy, or at least less reported on, than in some other European countries like the United Kingdom. On the societal level, it is difficult to generalize the degree of homophobia that lesbians and gays experience in Italy, as lived situations differ very radically depending on the region, city, or town, or on the sector of employment. But for most Italian homosexuals, the societal constraints remain important, where they feel strong expectations to conform to heterosexual society in families, friendships, at the workplace, and the like.⁶ And even in very liberal urban environments, despite many signs of a generational change, a "don't ask, don't tell" policy often dominates how LGBT people manage their homosexual identities.⁷

After the 2005 elections in which the center-left government of Romano Prodi took power, the question of recognition of same-sex relationships became the subject of a nationwide debate that has not led to any specific legislative intervention so far, but nevertheless has provided LGBT issues with some visibility. Interestingly, the parliament elected in 2005 includes the first transsexual member of parliament (Vladimir Luxuria), who was also the first transsexual to be elected to a national parliament in any European country. However, because of the relatively higher visibility of LGBT issues compared to the past, the Prodi government has been under attack by the Vatican. Due to the internal divisions of the centre-left coalition, the Prodi government lost its parliamentary majority support in February 2008, and since the newly elected right-wing government took power, cases of antihomosexual violence and racism have surged, and the progression of the past years is being questioned yet again by many observers.

EDUCATION

It is very hard to find anything that resembles gay and lesbian studies, as the subject has recently emerged in other Western countries, in Italy. Some researchers have recently produced studies in sociology, politics, and law concerning LGBT issues in Italy, but these are very few and isolated instances. Even gender studies are largely excluded from mainstream academia, and are left more to the initiative of individual researchers and professors at universities, whose networks are usually informal, but in some cases incorporate attention to lesbian and other issues. This situation reflects the general silence over LGBT issues in the Italian public education system, from primary school to university.

EMPLOYMENT AND ECONOMICS

Employment is certainly one of the areas in which LGBT people have met with most hostility and discrimination. There were cases brought to court by LGBT people who had been fired because of their sexuality. These people won their cases on the basis that private, noncriminal acts cannot be a valid reason for dismissal,⁸ although proper case law on the matter of employment discrimination is absent.

Legislative decree 216 of July 9, 2003,⁹ guarantees protection from discrimination based on sexual orientation, as is the case for religion and belief, age, and disability. As anticipated, this decree—which has the same value as an act of parliament—transposed the European Union Directive 2000/78/EC concerning employment discrimination.¹⁰ A directive is a type of European Union (EU) legislation that member states have to implement, sticking to some ground rules and principles while remaining free to adapt and adjust other provisions of the directive according to their preference and national priorities.

Although the decree clearly introduced an innovation in the Italian legislation, a 2004 report by Stefano Fabeni¹¹—who is part of a network of legal experts funded by the European Union—found several points of the law that were considered not fully in compliance with the directive's main content. The decree condemns both direct and indirect discrimination, and allows for positive actions in the field of antidiscrimination. However, in some points the decree departs from the directive, mainly in the direction of restricting the array of situations in which the law applies.

Special attention, then, should be paid to the question of recruitment in the army. Until a few years ago, military service in Italy was compulsory for all males. Presently, the army recruits only voluntaries and has become a professional army. Despite different attitudes of military districts on admittance of homosexuals to the army, the overall army policy on the matter has been one of rejection. When military service was compulsory, many gay men were reluctant to go into service because of both the homophobic and homoerotic environment of the barracks. On the basis of an informal pact between the army and Arcigay—the biggest gay association—one could be exempted from the service on the ground of homosexuality by presenting a letter from the association declaring that the man in question was a member of the association, supported by a psychologist's statement that the man in question had problems with his sexuality. While aiming to give a practical solution to both sides, this pact was both criticized as homophobic by other gay associations and of course could be abused by anyone.¹²

With the introduction of the professional army, homophobia against those outside and inside the army has not ended, and occasionally this attitude has appeared to be justified by comments of members of government and center-right-wing parties. In July 2008 Carlo Giovanardi—deputy secretary of the Ministry of Family of the new Berlusconi government—stated that homosexual men can be part of the army but also that there should not be “an overt, visible, and invasive manifestation of homosexuality.”¹³ Giovanardi went on to compare a tolerable type of homosexuality to the attitude of heterosexual men frequenting prostitutes.

SOCIAL/GOVERNMENT PROGRAMS

There is no major program targeting the LGBT communities and their issues at the state level. Occasionally, campaigns against homophobia were organized at the city and regional level out of the cooperation between local LGBT associations and local/regional authorities. In October 2007, the Tuscany region launched a poster campaign portraying a recently born baby wearing a bracelet on which the word *homosexual* was written instead of his or her name. The campaign was criticized by right-wing parties. However, some LGBT activists—including transgender activist Vladimir Luxuria—also raised concerns about the message of the campaign on the ground that it considered homosexuality to be a genetic and therefore immutable factor.¹⁴

SEXUALITY/SEXUAL PRACTICES

As of 2004, there were about 120,000 HIV-positive people in Italy, largely concentrated in the north-central regions. Since 1982, when the first Italian case of HIV infection was first diagnosed, the dynamics of the infection have changed. While in the early years, transmission of the virus was through drug injection, today it occurs largely via sexual relations, especially through casual sex relations. Both homosexuals and an increasing number of heterosexuals are HIV positive. A study from 2008 revealed that anti-AIDS therapies have reduced the mortality rate for AIDS from 100 percent to 8 percent. At the same time, the study calculated that there are about 40,000 people who ignore being HIV positive, with the consequence that they start therapies late and often put sexual partners at risk of infection.¹⁵

In light of this situation, many anti-AIDS associations, including LGBT associations, have advocated state-wide safer-sex campaigns and sexual education in schools. Although some campaigns were in fact organized by the state, these were criticized by many associations for being too reticent to include same-sex relations or to promote the use of condoms for sexual relations.

Another highly controversial topic in the political debate in recent years was that of reproductive rights and the access to new reproductive technologies. Concerning reproductive rights, Italy moved from a situation of a certain flexibility and freedom to the imposition of several restrictions following the approval of the first law on medically assisted procreation (*procreazione medicalmente assistita*) in 2004 by the center-right government of Silvio Berlusconi.¹⁶ The law reserves access to alternative insemination and reproductive services—in both public and private clinics certified and authorized by the state—to married and unmarried opposite-sex couples under strict conditions. Heterologous insemination is not permitted by

the law. Single men and women and same-sex couples are thus formally excluded from reproductive rights: if a doctor provides alternative insemination to singles and same-sex couples, she or he can be fined between 200,000 and 400,000 euros (US\$280,000 and \$560,000). Recently, some criticism has been raised about the lack of effectiveness of the law and the fact that those excluded had to travel abroad to access medically assisted procreation in countries with more liberal legislations, especially Spain and some central and eastern European countries.¹⁷ However, an immediate reassessment of the law is not on the political agenda and, in any case, there is little chance that these could ever lead to an opening up of reproductive services to lesbian women, not to mention gay couples.

FAMILY

There is presently a strong tension between the ideology of the family and the practice of family lives. On the one hand, the Italian state—in line with the family doctrine of the Vatican—promotes a family composed of an opposite-sex married couple with children as the cornerstone of society and center of Italian welfare and legislation. On the other, studies have showed the transformation of the Italian family within the wider process of modernization and the secularization of society. The introduction of divorce and abortion legislation in the 1970s and several reforms of the family code contributed to opening the family to a variety of forms and practices of de facto cohabitation and child rearing, which called into question the original model and called for adequate legal recognition. In the last years, the question of families centered on same-sex couples emerged—with children born in previous marriages or, in the case of lesbians, through donor insemination.

However, Italian legislation and public policies have been reluctant recognize new forms of family life. The government has not established any form of recognition of de facto same-sex and opposite-sex couples. In addition, Italian legislation provides that only opposite-sex married couples may adopt children. Therefore, lesbian and gay people have no right to adopt, either as individuals or as couples. There have been cases in which custody (*affido familiare*) has been granted to single people, and in some cases homosexuality was not considered an obstacle to obtaining custody.¹⁸

COMMUNITY

The LGBT community is highly fragmented and structured above all in cities around local groups concerned with advocacy and/or providing services (health and legal counseling, youth and discussion groups, and so on) to the LGBT community. The community has been particularly divided along political cleavages and priorities and objectives. While usually acting within a center-left political ideology, groups that claim to represent the LGBT community stay within a range that goes from the lobby approach to the grassroots and radical style. While, for example, Arcigay and Arcilesbica—the two best-known national coalitions of gay and lesbian associations—have strong political contacts and affiliations with leftist parties, other radical groups operate more at the margin, with a stronger leftist ideology and in a more oppositional and *movimentist* style.

With respect to radical groups, three years ago some these created the network Facciamo Breccia (which could be translated as something like “Let’s break the

wall,” making reference to the *breccia di Porta Pia*, the passage through which Italian soldiers slipped into Rome and ultimately annexed it in the 19th century, ending the formal Vatican sovereignty over the city). The network was a reaction to the attacks on the LGBT community by the Vatican and the new pope, Benedict XVI.

The relation between these two poles of the LGBT movement has not always been easy due to the fact that lobby-oriented groups privilege mediation and negotiation while groups more on the left have a more provocative style of doing politics.

HEALTH

AIDS, as much as other sexually transmitted diseases (STDs) has always been an issue for the LGBT population in Italy. The state has not produced many national, highly visible information and prevention campaigns on health and safer sex. When it has engaged in such campaigns, it has ignored the specificity of LGBT issues in such matters. However, in many instances, local LGBT groups received funding to print their own informational material. Some of these set up counseling services, providing information on safer sex and other health issues, while at the same time functioning as a link between users and gay-friendly health services. Some lesbian groups—like the association *Drasticamente* from Padua—focused on women’s health issues (such as breast cancer).

POLITICS AND LAW

Sodomy

At the time of the unification of Italy in the late 19th century, only two of the states that became part of the Italian kingdom had criminal legislation concerning sexual activity between men, including the Kingdom of Sardinia. Following the unification, this law was extended to the entire peninsula by the Kingdom of Sardinia. However, private and consensual sexual activity between men was decriminalized with the adoption of kingdom’s first penal code (the *Codice Zanardelli*) in 1889. This decriminalization was largely inspired by the Napoleonic code that was in force in the north of the peninsula before the unification.¹⁹

Antidiscrimination Legislation

At the moment, there is almost no mention of sexual orientation or preference in any antidiscrimination provision of the civil and penal codes. The Constitution of Italy does not explicitly prohibit discrimination based on sexual orientation in its article on equality (article 3), although the latter does cover factors such as race, gender, and religion.

Law 205 of 1993—the *Legge Mancino*—contains several antidiscrimination provisions concerning hate crimes motivated by racial, ethnic, national, or religious status. The attention of the LGBT movement to such laws increased between 2006 and 2007 due to the publicity given by the press to episodes of violence against lesbians and bullying against gay youth at school. In 2006, the government committed itself to adding sexual orientation as a protected category in the law.²⁰

However, after the fall of the Prodi government, there will probably be no implementation of this in the near future.

Finally, regional antidiscrimination legislation, although not so diffused, may represent a departure from the lack of initiative at the state level in some policy fields. Regions in Italy have extensive autonomy in social policies, including in the areas of education and health. In November 2004, the Tuscany region, which is governed by a leftist majority, approved a regional law banning discrimination based on sexual orientation and gender identity.²¹ On the basis of the law, the region targeted LGBT people with respect to inclusion in labor policies and formation, corporate social responsibility, and personnel training. In the area of health, the law also recognized the freedom of any person to indicate another person (outside the family circle) responsible for assisting him or her in case of illness. Designation implies the right of the designated person to make decisions concerning specific therapeutic treatment if the designating person is not in a condition to decide by him or herself. The region also commits itself to promoting cultural events. Finally, it prohibits discrimination by owners of public accommodations.

Same-sex Relations

Neither the Italian constitution²² nor any law recognizes same-sex marriage. Legal arguments against or in favor of such recognition have usually referred to following constitutional principles. Arguments against recognition usually stress that it is not permitted because article 29 of the constitution stipulates that “the Republic recognizes the rights of the family as natural society founded upon marriage”: this statement is interpreted as excluding the legal possibility of any recognition of alternative types of families and relationships. Marriage is assumed to be a union between two people of opposite sexes. Arguments in favor of recognition commonly rely on the supremacy of the equality provision of article 3—intended as implicitly granting equality on all grounds, including sexual orientation. They also make reference to article 2, which states that the republic recognizes “the inviolable rights of the man, both as single and part of those social formations in which he develops his personality” (*sic*). In support of the pro-recognition position, article 9 of the Charter of Fundamental Rights of the European Union—a nonbinding document at the moment—is often referred to as implicitly recognizing the diversity of family lives because it allows in principle for different regulations of marriage in different EU member states.²³

The recognition of the rights of same-sex relationships gained momentum in Italy early in 2007 during the 15th legislature with the approval of the first official government bill (*disegno di legge*) on the DICO (*diritti dei conviventi*, or rights of cohabitants).²⁴ Some proposals had already been presented by single members of parliament—especially from parties on the left—starting from the 1990s. However, no such proposal was ever scheduled for discussion and voting.²⁵ Before the 2005 elections, the center-left coalition of Romano Prodi included in its program the commitment to provide some form of regulation concerning unmarried couples of whatever sex. Between 2006 and 2007, the left and center parties of the governing coalition started a debate on the language to be used in the proposal and the rights to be accorded to the partners: while the left wanted a more advanced proposal, the center parties (and especially the Teo-dem members of the Margherita Party that, in principle, was against any legal initiative on the matter) pushed for

the recognition of a minimum set of rights and for the elimination of any possible equation between traditional family rights and the partners of a de facto couple. The mediation of the DICO was carried out by the minister of the family and the minister for equal opportunities.

The outcome was innovative for Italy but well below the prevailing western European standards. The law provided that the partners—of either the same or the opposite sex—must live together: they are actually called *cohabitants* by the law. A DICO must be filed at the civil register office by both or one partner. Each partner can be designated by the other as the person responsible for assisting him or her in hospital or carrying out arrangements after his or her death. The foreign partner can request a residence permit for cohabitation. Although the law recognizes the right of the surviving cohabitant to succeed in the tenancy contract, this right can only be enjoyed after three years of cohabitation (or immediately, if the couple has children). The right to inherit is subject to a nine-year previous cohabitation. Matters related to pension rights are left out of the DICO proposals and assigned to the next reorganization of the entire pension system. No adoption rights are provided under the DICO.

Currently, the DICO proposal is under examination by the Justice Committee of the Senate (the second chamber of the Italian parliament). In July 2007, the proposal was amended and substituted with the Contracts of Supportive Union (*Contratti di Unione Solidale*, CUS).²⁶ With respect to the DICO, the most relevant differences are that the CUS does not require the cohabitation of the partners, and that the contract must be stipulated by both partners either in front of a justice of the peace or a notary. These elements make the CUS closer to the contractual form of the French PACS (*pacte civil de solidarité*) than the DICO, while at the same time providing a higher public and quasi-marriage status. However, the fall of the Prodi government in February 2008 virtually closed any possibility of pushing either the DICO or the CUS proposal further.

Finally, it is interesting to look at the local registers for civil unions. At the same time as the first civil union law proposals were being presented in the national parliament, some municipalities—like Empoli and Pisa in Tuscany—introduced special registers in which same-sex partners could certify their cohabitation. Since then, other cities have adopted similar initiatives whose values, however, are mainly symbolic. In some cases, litigation started between the local administrations and the CORECO (Regional Supervision Committee) on the issue of the compatibility of these initiatives with national legislation.²⁷ Some municipalities have opened lists of public housing to cohabiting same-sex couples by relying on the more flexible definition of family according to administrative law.²⁸

Asylum

Article 10 of the Italian constitution provides that the stranger who is not permitted to exercise his or her democratic freedom in his or her country of origin has the right to asylum in Italy. However, Italy has no law that specifically defines the criteria on the basis of which asylum can be sought. The right to seek asylum has been recognized as a subjective right by courts, including the Supreme Court of Cassation (*Corte Suprema di Cassazione*), so that aliens can actually seek asylum by filing a request in the competent tribunal of their domicile. Because of the increasing number of migrants coming to Italy and the national government's effort

to distinguish between political and economic immigrants, the matter has become politically sensitive. In a recent 2007 decision that made headlines in Italy, the supreme court ruled that homosexuality is a valid ground upon which asylum can be requested. The court dealt with the case of a man from Senegal who claimed to be gay and did not want to be extradited to his country of origin because, there, homosexuality is punished with imprisonment. The man provided subscription to two gay organizations as evidence of his homosexuality. The court warned of the possible abuse of the general asylum procedure and questioned whether homosexuality per se can lead to imprisonment, or whether it is the overt and public display of homosexuality. At the same time, the court recognized that “sexual freedom is to be intended also as freedom to live without conditionings and restrictions of one’s sexual preferences” in line with article 2 of the constitution, and argued that homosexuality is a “condition of the man that deserves protection in conformity with constitutional precepts.”²⁹

Bisexuals

There is no legal provision in the Italian constitution or legislation that explicitly mentions bisexuals or bisexuality. Bisexuals are never referred to in political debates as a separate category deserving any particular rights, and they are not identified as a specific social or sexual category or group. In Italy, bisexuality is probably more of a practice than a legitimate and established public identity.

Transsexuals and Transgender People

Compared to the legal condition of lesbian and gay people, the recognition of the rights of transsexual and transgender people is relatively progressive. Italy was among the first European countries to legislate on sex reassignment with law 164 in 1982. The law provides that, upon request of the interested person and after the modification of the person’s sexual character has been certified, the court orders the rectification of the acts of the civil register. The court also authorizes the medical-surgical intervention if the adjustment of the sexual character of the person is necessary. Following the court’s judgment on the rectification of the acts of the civil register, the name and the sex of the person are officially changed. The same judgment causes the dissolution of the eventual marriage of which the person was a part.

However, the law and its interpretation have also showed some limitations and raised criticism and requests for change on the part of the transgender and transsexual movement. In particular, it is unclear in the law whether the medical-surgical intervention is a prerequisite for the rectification of the acts of the civil register and, in particular, for the name change. Case law has almost unanimously upheld the first interpretation, although the word of the law suggests, or in any case does not preclude, the second option. Therefore, the law seems inadequate to meet the need of transgender people who do not want to undergo a surgical change of sex. At the same time, the impossibility of changing names before the operation has been causing both psychological and social problems for transsexuals during the period of transition from one sex to the other. This has been especially true in searching for a job. In some cases, there were also episodes of discrimination in which transsexual and transgender people were accused of breaking an old legislation of 1931 that prohibits people from appearing in public in disguise.

Intersexes

There is no specific legislation in Italy dealing with intersexuality and the rights of intersexual people concerning sex assignment. There are three medical centers in the country specializing in intersexuality. The law imposes that sex assignment must be completed before the baby leaves the hospital. Sex assignment is conducted by a team of experts comprising pediatricians, urologists, geneticists, and legal doctors, together with the parents of the baby. According to transgender parliamentarian Vladimir Luxuria, the final choice is often made on the basis of the wishes of the family. There have been cases of mistakes, in which the Tribunal for Minors has had to intervene to reassign the sex. There have also been cases of originally declared females who sued their parents after discovering that they were actually males.³⁰

RELIGION AND SPIRITUALITY

There is no research concerning the relation between religious institutions and homosexual believers. However, anecdotal evidence and information show that a number of people are both homosexual and believers, and have come out as such both as individuals and by establishing groups that tend to be increasingly visible and structured. The Faith and Homosexuality Group of the 2006 Turin Pride committee is one example. Other groups of lesbian and gay believers have been formed locally and with respect to different religions and faiths, especially Christianity. Reactions by the official and organized religious institutions have been mixed. The Baptist, Methodist, and Waldensian Churches and communities of Italy have exhibited different positions among themselves concerning the adoption of a special blessing ceremony for same-sex couples. Waldensians, who have a liberal view on sex and sexuality in general, have been open to homosexual believers and their official recognition in Waldensian churches. Such openness is clearly unlike the Catholic Church, although the Vatican's official position rejects homosexuality but not homosexuals per se. The ambiguity of this position has caused different types of responses from both the church hierarchies and parish churches and dioceses. These have varied from occasional institutional meetings and confrontations between representatives of the church and of groups and networks of homosexual believers to a sometimes more intense dialogue and practical collaboration between the latter and some Catholic communities and associations such as the Abele Group (Gruppo Abele). In November 2006, the Abele Group publicly launched the project of the National Documentation Center on Homosexuality and Faith.³¹

VIOLENCE

Although there are no official statistics concerning episodes of either verbal or physical violence against LGBT people, some surveys have addressed violence against young LGBT people. A 1990 survey by Arcigay and the Institute of Political, Economic, and Social Studies (Istituto di Studi Politici Economici e Sociali, ISPES) showed that 24 percent of lesbian and gay people under age 20 had been the object of some violence. However, interviews were collected by approaching

people in gay and lesbian associations, meaning that those interviewed already socialized in a gay and lesbian environment, and therefore not representative of the overall homosexual population. Between 1998 and 2000, the Florentine association Azione Gay e Lesbica collaborated on an Internet survey on violence against LGBT youth as part of the EU Daphne project *Who's That Boy? Who's That Girl?* About one-third of the replies to the online questionnaires were from Italians, mainly from gay men but with a relatively high percentage of lesbian women (18.1%) compared to other EU countries (5.13%) and non-EU countries (2.6%). The Daphne survey tended to confirm the results of the 1990 survey, with 26.65 percent of people—29.73 percent of women and 25.83 percent of men—declaring that they had been victims of violence.³² More recently, Arcigay has started an international project on homophobic bullying called *Schoolmates*.³³ In a survey conducted between 2006 and 2007 on 500 high school teachers and students, Arcigay showed that 53.5 percent of respondents had often or frequently heard offensive words such as *finocchio* (faggot) that were used to address homosexual or perceived homosexual males in the school.³⁴ Local and national LGBT associations have started projects in schools to try to limit the phenomenon of bullying. These have included training for teachers, who are perceived as underestimating the problem. However, visible and constant public support for these initiatives has been lacking—especially at the national level—due to the usual institutional reluctance to lend visibility to homosexuality.

Not surprisingly, the data also showed a relation between violence and suicide. The Arcigay/ISPES survey revealed that 41.79 percent of the interviewees thought about suicide and 14.07 percent had actually attempted suicide. The Daphne survey showed a positive correlation between being the victim of violence and inclination to commit suicide: among those who were not subject to violence, 33.72 percent thought about suicide and 11.43 percent had attempted it, while victims of violence thought about suicide in 64 percent of cases and attempted it in 21.6 percent of cases.³⁵

Although the issue of violence against LGBT people has been largely invisible in the media and has received little attention by state authorities, things could soon change. Several recent episodes of violence were reported by the media and triggered a public debate on the issue of homophobic violence. One concerned physical attacks against lesbians in Torre del Lago, a seaside town that has become known as a place where many lesbians and gay people spend their summer holidays. In August 2006, one of these women was raped by a group of right-wing men.³⁶ The other incident occurred in April 2007 and concerned a 16-year-old boy from Turin, who was a victim of bullying and who committed suicide.³⁷ The most recent incident, in November 2007, involved a boy in Finale Ligure: his schoolmates stripped him and wrote the word *gay* and drew a swastika on his chest. The minister of education sent inspectors to the school.³⁸ All of these episodes provoked the mobilization of LGBT associations on the specific issue of violence. Gay, lesbian, and transgender members of parliament—Franco Grillini, Titti de Simone, and Vladimir Luxuria—requested the inclusion of sexual orientation among the factors that determine punishable acts of hatred. Sit-ins were launched in early December by Arcigay in support of the amendments to the Mancino law.³⁹ Again, however, the fall of the Prodi government in February 2008 put an end of all hopes that the law could be amended in the near future.

OUTLOOK FOR THE 21ST CENTURY

Italy is going through a phase of change and mobilization. From the 1990s on, there has been an increase in the visibility of LGBT people in society and the media. LGBT people have also come out at every level of society. Different components of the LGBT movement have been able to coordinate for national pride demonstrations, which, while not duplicating the numbers of WorldPride 2000, have nevertheless seen vast participation and an increased awareness of the need to capitalize on the previous gains in visibility. There are also signs of an increasing radicalization of the movement, as attacks against the politics of the Vatican and the requests to guarantee the secular nature of the Italian state and its institutions have become louder (as demonstrated by the visibility gained by the anti-Vatican “No Vat” movement over the last three years).

This increased visibility and degree of activism, however, have also provoked a negative reaction by conservative parties and forces, including violent groups. There is also little doubt that the Vatican—especially after the election of Pope Benedict XVI—has provided a crucial legitimization of these negative reactions by attacking homosexual behaviors and lifestyles in many instances and public arenas, and by trying to influence Italian politics in a way that hinders any possibility of recognition of LGBT rights. The impression is that, precisely because most western European countries—including a traditionally strongly Catholic country like Spain—have provided an increased recognition of LGBT rights, the Vatican will not easily give up Italy as the last bastion of Catholic civilization. This explains why, although LGBT issues gained some political visibility during the last center-left Prodi government, that same government ended up doing nothing on LGBT issues, and even faced a crisis triggered by its internal (and the external) Catholic political and conservative groups when it tried to pass LGBT-related legislation.

What Italian LGBT people may expect to gain in the future will probably depend on the capacity of the movement to unite and focus on specific political and legal issues, to forge alliances with non-LGBT movements, and to convince the country’s intellectual and political elites of the value of its requests. Chances of change will also vary depending on the political composition of any future government. Any movement’s claims to Europe may help, but will probably not be decisive.

RESOURCE GUIDE

Suggested Reading

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- Antagonismo gay*, <http://isole.ecn.org/agaybologna/index.php>.
LGBT/Queer group from Bologna.
- Arcigay, <http://www.arcigay.it>.
National network, with list of local Arcigay associations.
- Arcilesbica, <http://www.arcilesbica.it>.
National network, with list of local Arcilesbica associations.
- Azione Gay e Lesbica, <http://www.azionegayelesbica.it>.
LGBT association from Florence.
- Circolo Drasticamente, <http://www.drasticamente.it>.
Lesbian association from Padua.
- Circolo Mario Mieli, <http://www.mariomieli.org>.
LGBT association from Rome.
- Circolo Maurice, <http://www.mauriceglbt.org>.
LGBT association from Turin.
- Facciamo breccia*, www.facciamobreccia.it.
National network of local associations that organizes the No Vat annual demonstration in Rome.
- Movimento Identità Transessuale (MIT), <http://www.mit-italia.it>.
National transsexual/transgender organization.
- Open Mind, <http://www.inventati.org/openmind/open.htm>.
LGBT association from Catania.

NOTES

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KYRGYZSTAN

Anna Kirey

OVERVIEW

Kyrgyzstan is a landlocked, mountainous country in Central Asia bordering Uzbekistan, Tajikistan, Kazakhstan, and China. Its population of 5.3 million people represents over 60 ethnic groups, with 75 percent of the population identifying as Muslims and 20 percent as Russian Orthodox Christians. The predominant ethnic groups are Kyrgyz, comprising 67.4 percent, Russians at 10.3 percent, and Uzbeks at 14.2 percent of the population. Kyrgyzstan is a post-Soviet country with traditions rooted in nomadism, communism, and Islam, which represents a mix that makes Kyrgyz society diverse and unique. After the collapse of the Soviet Union, Kyrgyzstan found itself in dire poverty and slipping into authoritarianism; to this day the political situation is unstable and the inflation rate is high. The majority of the population is literate and the level of higher education attainment remains high due to the influence of the Soviet legacy. Since 1991, nomadic and Islamic traditions have been reviving, and the number of people who practice religion is on the rise despite decades of Soviet atheist policies. The country is divided into two distinct regions, with the north and south of Kyrgyzstan, which follow different cultural paths. While the north of the country was mostly nomadic until the end



of the 19th century, the south of Kyrgyzstan has been more settled and adheres to Islamic traditions in social relations and everyday practices. In nomadic traditions, women contributed to the well-being of the family and were expected to take an active part in the tribe affairs because of the difficult nomadic life. Men were expected to protect the settlements and hunt. The southern parts of Kyrgyzstan were populated by ethnic Uzbeks. Under the influence of Uzbekistani culture, in which women were expected to stay at home and take care of the house and the family, these regions were different from the other parts of Kyrgyzstan. In the south of Kyrgyzstan, Uzbek traditions were adopted by Kyrgyz families, and some women wore veils in the past and at present are adhering to strict gender roles. Russian (and other non-Asian ethnic minority) women in Kyrgyzstan had a privileged status and do not comply with the norms of the society, due to belonging to a different ethnic group.

OVERVIEW OF LGBT ISSUES

Kyrgyz society perceives the issue of sexuality as taboo, and sexuality is maintained within the marriage context and largely not discussed either inside or outside the family. Muslim and nationalist groups protest open information or education about sexuality for young people, while most of the newspaper kiosks feature adult magazines with explicit photographs. During the years of the Soviet Union, Kyrgyzstan used the Soviet criminal code, which criminalized *muzhelozhstvo* (anal sex between men). The criminal code was changed in 1998¹ and the article about consensual sex between men was dropped from the Kyrgyz criminal code, but the legislation continues to differentiate between homosexual and heterosexual sex in the sphere of sexual violence and assault. The family sphere remains the most dangerous place for LGBT people, due to the prevalent belief that a nonconforming child is a source of shame for the family. Some families send their LGBT children to remote villages to live with relatives; some force them to get married through threatening to stop financial and social support; and some pressure their LGBT children to conform through use of physical and psychological methods.

Despite the high level of intolerance toward LGBT people, Kyrgyz history offers a number of examples of transgender individuals and homosexual behavior. In Kyrgyz ancient epics, there are famous descriptions of two female warriors who were raised as men because their royal families were not able to produce male children. Kyrgyz historians also refer to homosexual relations between men and young boys who were dancers and who dressed in female clothes, a practice that was common in the Fergana Valley (in the south of Kyrgyzstan) in the 19th century. During Soviet times, most gay men were in the closet, and met in small groups to socialize or in cruising areas for sexual encounters. Lesbian women were usually sent to psychiatric hospitals for treatment if their relatives discovered their attraction to other women. Society became more accepting of LGBT people from the time of the collapse of the Soviet Union, due to access to information and the change in gender roles that followed the economic decline.

EDUCATION

No information about LGBT people exists in educational settings, including textbooks and school policies. LGBT people suffer from ostracism and bullying

in schools; this is usually not reported and no action is taken to prevent it. Many LGBT people do not complete higher education due to lack of family support and discrimination inflicted by their peers and professors.

EMPLOYMENT AND ECONOMICS

LGBT people are often discriminated against in employment due to their gender expression. There have been cases of firing from jobs on undefined grounds, rejection, lack of promotion, and lack of hiring due to having masculine looks (for women) or not being a man. LGBT people with higher education may end up working in car washes or cafes for years.

SOCIAL/GOVERNMENT PROGRAMS

The only domain where homosexual sexual contacts are part of the state discourse in Kyrgyzstan is legislation on HIV/AIDS prevention. This focus contributes to the stigma experienced by LGBT people by associating them with death and disease. To date, there is only one registered case of homosexual HIV transmission out of 1,800 cases in Kyrgyzstan.

SEXUALITY/SEXUAL PRACTICES

Safe sex has been on the social agenda since the beginning of the HIV epidemic in the 1990s. Numerous nongovernmental organizations (NGOs) in Kyrgyzstan work on providing information to the general public and young people about safe sex practices. The efforts are not systematic due to unstable financial support and the reluctance of the general public to make sexuality part of the public discourse. A teacher's guidebook for teaching about healthy lifestyles was published in 2000. It included information on safe sex and a drawing that depicted how a condom should be used. In May 2003, a number of Kyrgyz NGO activists, mostly from organizations of a nationalist nature, started protesting against state approval for the book's publication and distribution in schools. During one of the protests, the book was publicly burned, and the minister of education and culture decided to withdraw it from libraries and schools. The authors of the book were taken to court for violating the view, customs, and traditions of the Kyrgyz people. This example is indicative of the attitudes toward sexuality in Kyrgyzstan. Due to a lack of information and methods to communicate about sex, sexually transmitted infections (STIs) and HIV are on the rise in Kyrgyzstan.

Bisexuals

Bisexual identities are common among LGBT people in Kyrgyzstan, due to the social pressure to lead a double life (i.e., straight during the day and gay at night). It could be a challenge to define what bisexuality means to them and whether it is a protective or a forced identity.

FAMILY

Kyrgyz families are large, with many relatives (30 to 50) living within the same geographic area and meeting weekly for family events. Kyrgyz people are expected

to get married in their early 20s, and a model family has three or more children. Young women are expected to live with their own family until marriage, and then they are passed to the family of their husband and often are not allowed to go back. Most social networks are built on family and clan relations, leaving many LGBT people without social support because they are cut off as a result of leaving their family or being a source of shame for the family. Close and distant family members have the right to comment about the young members of the family and pressure their relatives into following the traditions and customs of the extended family. For LGBT people, this means extra pressure coming not only from the nuclear family, but also from a number of relatives who feel obliged to direct their lost relative to the true path. Men are expected to provide for the family and women to do most of the housework, in addition to holding a full-time job and raising the children. The youngest son has to stay with his parents to provide for them. Due to family pressure, many gay men, especially in smaller towns and villages, get married and lead double lives. In one study conducted by NGOs about the LGBT situation in Kyrgyzstan in 2007, more than 60 percent of the respondents noted that their family pressured them psychologically and emotionally in an attempt to change them, and the same number of respondents said that their main concern was their relations with their family and relatives.²

COMMUNITY

The different groups of LGBT people that exist in Kyrgyzstan are usually based on informal networks and are divided by age and ethnicity. Groups of friends spend leisure time together and usually do not communicate with anyone outside of the LGBT communities. The communities interact with each other through participating in leisure events organized by LGBT organizations, and gay men usually meet at one of three disco bars in the capital city. The links within communities represent the extended family in its structure. They are used for emotional and social support, including employment and access to resources and housing. Communities create certain norms for what being LGBT means in the Kyrgyz context, and LGBT people follow these norms, which sometimes resembling heterosexual relations or behavior common for the opposite gender in Kyrgyz society. Many of the LGBT people in Kyrgyzstan experience low self-esteem, feel that they do not deserve to be treated equally with heterosexual people, and do not seek recognition of their rights. This results in apathy, substance abuse, and the inability to secure and maintain a job. Many LGBT people see their difference as a sickness and a cross to bear and do not feel that they are entitled to a family or children. Many LGBT people themselves do not voice their concerns in relation to society's stigma. They believe that hiding and being invisible is the best survival strategy. The communities provide a space where LGBT people can be themselves without having to explain their identity and lifestyle; they can also interact and learn more about each other and the global LGBT movement. There are four organizations in the country working on LGBT issues. Two of them are based in Bishkek—one in Talas (in the northeast) and one in Karabalta (in the northwest); they focus on LGBT empowerment and provide space for social interaction. The community center in Bishkek has a shelter and a referral system for counseling, as well as testing for HIV and other STIs. The organizations based outside of the capital city do their work in secret and mostly focus on gay men who are living with their wives

and children due to social pressure to conform. The LGBT organization Labrys documents human rights violations and addresses concerns of LGBT people at the state and international levels through participation in international events and by providing information for various reports.

Transgender people in Kyrgyzstan are the most active group among LGBT people, due to their need to interact with the state to be able to transition medically and legally. A support group for transgender people started in 2005 from informal meetings, and at present is actively lobbying with the Ministry of Health and the Ministry of Justice to develop a system for gender transitioning. Transgender identities present a challenge to the LGBT community, and there is a resistance among other LGBT people when it comes to accepting them.

HEALTH

LGBT health, specifically gay men's and MSM (men who have sex with men) health, is the most researched issue concerning LGBT people in Kyrgyzstan, due to funding of HIV research. In 2007, a report was published on access to health care for LGBT people in Kyrgyzstan that highlighted the following issues as limitations to access to health care for LGBT people: homophobia and transphobia in Kyrgyz society and the medical system, discrimination, fear of discrimination and financial problems, and lack of knowledge among medical personnel about the specific health needs of LGBT people.³ The most critical health issues are depression and substance abuse. Transgender health is a particularly urgent concern because the majority of medical institutions have no knowledge or expertise when it comes to administering hormones or providing gender reassignment surgeries. Transsexual people can be diagnosed with transsexualism at the Kyrgyz Republican (National) Center of Mental Health, but after the diagnosis is issued there is no medical support for the transitioning process.

POLITICS AND LAW

The Kyrgyz government does not recognize that LGBT people exist and is reluctant to discuss LGBT issues. The only entry point where LGBT concerns have been allowed into the state discourse is through HIV prevention decrees, which specified MSM as one of the key groups for HIV prevention in the country. LGBT issues are only discussed as pathologies in medical programs. Official educational institutions do not offer any information about LGBT issues or sexuality. Another intersection of LGBT lives with the state is within matters concerning transsexual and intersex people. The Kyrgyz civil code has a provision for changing passport sex if a certified medical institution provides a certain document acknowledging that a sex change was performed. In reality, however, the document of certified format does not exist, and transsexual people are not able to change their documents officially.

RELIGION AND SPIRITUALITY

Due to the legacy of the Soviet Union, many LGBT people are atheist and agnostic. There are some LGBT people who are Muslim and Russian Orthodox Christian, but they are usually rejected by the religious institutions. An LGBT-friendly

priest of the Russian Apostolic Church offers religious service on Sundays in the community center run by the LGBT organization Labrys. There are no LGBT-friendly or affirming churches or mosques. Religious leaders of both Christian and Muslim congregations have openly expressed their disapproval of LGBT people through the media. When the first brochure on homosexuality in Kyrgyzstan was published by the Labrys, in an interview with the BBC, the Kyrgyz mufti called on Kyrgyz society to react to it. If there was no reaction, he stated, then Kyrgyzstan “has truly sunken below the level of animals.”⁴

VIOLENCE

Kyrgyzstani society is a neotraditionalist Islamic post-Soviet society with very specific and fixed gender and social behavioral norms. Lesbian and bisexual women are seen as women who are not getting enough attention from men (due to not following gender roles, such as not being pretty or modest, or being too aggressive) and turning to a perverted lifestyle to fulfill their sexual drives. It is also often the case that when an LGBT person looks masculine or feminine, and people find out that she or he is not a biological man or woman, they mock, harass, and sometimes physically violate the person. Human rights violation cases have been documented by LGBT organizations. The violence can take the form of rape, beatings in the street, domestic violence (including severe beating and rejection from the family), psychological pressure to stay in the closet and change, and treating homosexuality as a disorder and sending the individual to rural areas, where they may be kidnapped for brides or given away in an arranged marriage. Gay men are constantly blackmailed by the police, who stop them near the gay clubs. Feminine men, both gay and heterosexual, are often attacked. The data on violence are mostly anecdotal, because LGBT NGOs started collecting it only recently. However, in the future, reports will be issued about the LGBT situation in Kyrgyzstan by Human Rights Watch and other human rights organizations.

Due to fear of rejection and violence, most LGBT people stay in the closet. They do not demand any recognition of rights, and the general public is hardly aware of LGBT people’s existence.

LGBT NGOs are often targeted by the police, and threats of violence against LGBT activists have been documented.

OUTLOOK FOR THE 21ST CENTURY

LGBT issues are not seen as important by the government or human rights organizations in Kyrgyzstan, due to a variety of social and economic issues facing the transitional state. LGBT organizations in Kyrgyzstan will continue to struggle to put LGBT issues on the agendas of human rights organizations and the state. In the near future, transsexual and intersex people will be able to change their gender legally. It will take decades to secure LGBT rights because of social stigma and discrimination. Eventually, the state will acknowledge that LGBT rights have to be secured and protected, largely thanks to the influence of international organizations and LGBT NGO reports.

RESOURCE GUIDE

Suggested Reading

- COC-Netherlands, “Kyrgyzstan: The Country of Human Rights... But Not for Homosexuals,” COC-Netherlands, 2004, <http://www.iiav.nl/epublications/2004/Kyrgyzstan.pdf>.
- Open Society Institute, “Report on LGBT People Access to Health Care in Kyrgyzstan,” Open Society Institute, 2007, http://www.soros.org/initiatives/health/focus/sharp/articles_publications/publications/kyrgyzstan_20070731/kyrgyzstan_20071030.pdf.

Organizations

- Labrys, <http://kyrgyzlabrys.wordpress.com>.
Formed in 2004, offers a variety of community events including discos, support groups, social gatherings, and movie screenings. Twenty-four-hour shelter, community center, confidential referrals for counseling, STI and HIV testing and treatment. Advocacy and lobbying. Resource center on LGBT issues in Russian.
- Public Fund Avallon, <http://avallon.ucoz.com/>, <http://www.avallon.web.kg/>.
Formed in 2006, mostly offers STI and HIV testing referral for MSM.
- Public Fund Gender Vector, E-mail: gender_vector@mail.ru.
Since 2006, mostly works with gay men and offers community services.
- Public Fund Space, E-mail: atyncha@mail.ru, alfa18@ok.kz.
Has worked undercover since 2005, mostly with gay men who lead double lives.

NOTES

1. Article 130 (1), Criminal Code of Kyrgyzstan, <http://www.legislationline.org/ru/legislation.php?tid=1&clid=6579>.
2. “Access to Health Care for LGBT People in Kyrgyzstan,” July 2007, http://www.soros.org/initiatives/health/focus/sharp/articles_publications/publications/kyrgyzstan_20070731.
3. *Ibid.*, 35.
4. BBC Report [in Kyrgyz], October 8, 2007, http://www.bbc.co.uk/kyrgyz/news/story/2007/10/printable/071008_kyrgyz_gays.shtml.

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MOLDOVA

Julien Danero Iglesias

OVERVIEW

The Republic of Moldova is located in southeastern Europe between Ukraine and Romania. The only access to the sea is at the harbor of Giurgiulesti on a tiny strip on the Danube River. The population on January 1, 2007, was 3,518,100 people in a territory of 13,000 square miles, giving a density of population of approximately 270 inhabitants per square mile. The capital and largest city is Chisinau (Kichinev in Russian), with a population of 780,000. Other main cities include Balti in the north, and Cahul in the south.¹

The country gained independence in 1991 after the Soviet Union collapsed. Throughout its history, Moldova experienced different invasions and rules, being successively part of the Ottoman Empire, the Russian tsarist empire from 1812, Romania between World War I and World War II, and finally the Soviet Union. After independence, civil war occurred between 1991 and 1992, in which the regular Moldovan Army opposed Transdniestrian secessionists located on the east bank of the Dniester River. The conflict arose mainly for economic reasons, although the Russophile powers in Tiraspol, capital of the secessionist republic, made use of the ethnic argument. The new Moldovan powers were allegedly not recognizing rights for the Russophile minority. Tensions arose at the same time among the Gagauz minority, located in the south of the republic, which was claiming recognition of a particular national identity. A ceasefire was signed in 1992 between Moldova and the 14th Russian Army, but Transdniestria is nowadays a de facto independent republic, only recognized by Russia. The peace resolution process never proved to be efficient and, until now, no agreement has been made between Chisinau and Tiraspol. In the Gagauz case, a solution was found in 1995, when the



minority was granted a constitutional autonomous region, which enjoys mainly cultural powers.

The Republic of Moldova is now a parliamentary republic. The official language is Moldovan, while Russian has been granted the status of *language of interethnic communication*. Indeed, the country counts more than 100 different nationalities, among which Moldovans account for 75.8 percent, Ukrainians for 8.4 percent, Russians for 5.9 percent, Gagauz (Christian Orthodox Turks) for 4.4 percent, Romanians for 2.2 percent and Bulgarians for 1.9 percent.² Apart from Moldovan, the Russian language is the most highly visible in the country. The main minorities have the right to education in their own language.³

Since 2001 a neo-Communist party has been in power, and it appointed Vladimir Voronin as president, making Moldova the first new independent state (NIS) to be ruled by the Communist Party. Moldova is Europe's poorest country, and is generally referred as partly free. The Moldovan authorities have been condemned in more than 100 European courts for human rights violations.⁴

OVERVIEW OF LGBT ISSUES

The situation of the Moldovan LGBT community has to be understood in the context of a poor and newly democratic country. General attitudes toward homosexuals have been highly influenced by Soviet times, when homosexuality did not officially exist. Tolerance of ethnic minorities has been proclaimed since independence, but tolerance of sexual minorities is not yet a priority. The majority of Moldovans exhibit negative attitudes toward homosexuals, mainly due to lack of information about LGBT issues. GenderDoc-M, founded in 1998, is the only LGBT association in the country and its actions are opposed by national and municipal authorities as well as by a powerful Christian Orthodox lobby.

EDUCATION

Education in Moldova is compulsory for children from the age of five. Public education ranges from primary school to higher education. Doctoral and postdoctoral studies are available. In 2007, there were 31 higher institutions throughout the country, among which 17 were public.⁵

The Moldovan educational system is inherited from the Soviet educational system, which ensured an efficient initial formation and detailed databases available for research, particularly in exact sciences. Since 2005, the Moldovan authorities adapted to European educational standards, known as the *Bologna process*. Moldovan students may now pursue three years of bachelor's studies, two years of master's studies, and three of doctoral studies.⁶

The state supports all public high schools but, due to lack of state funding, Moldovan universities developed a system of admission with taxes. The best students may enter universities without paying taxes and the financial costs of their studies are supported by the state, which decides the number of students that will be supported every year. Others may enter university but must pay fees.⁷

LGBT issues are not tackled by the Moldovan educational system. Sexual education in general is not a priority.

Nevertheless, some workshops and information conferences have been organized by GenderDoc-M in partnership with Moldovan universities in order to present LGBT issues and to start a dialogue with the students. For example, in

2006, 15 seminars, in which approximately 15 persons participated per seminar, were held in GenderDoc-M office; the topic was *essential aspects of homosexuality and sexual diversity*.⁸ In the context of a general lack of information on the community and on its way of living, these informative sessions have been welcomed by students and professors.

These sessions are generally held without any official permission; they are made possible by a network of professors and psychologists who support the LGBT community.

EMPLOYMENT AND ECONOMICS

Moldova is highly economically dependent on its neighbors. The energy supply depends mainly on Russia. The country lacks mineral resources and is mainly agricultural, exporting fruits, vegetables, and wine. Following the 1991 and 1992 civil war and the secession of Transdnistria, the most industrialized region of the country, Moldova lost a 16th of its territory, reducing the industrial production by 36 percent, the production of electric energy by 87.5 percent, consumption goods by 28 percent, vegetables by 38 percent, and fruits by 24 percent. The total gross domestic product (GDP) was then reduced by 24 percent.⁹

Transition from a socialist economy to a free market economy was hindered by political instability throughout the 1990s, and the country suffered greatly from the Russian financial crisis in 1998. Since the neo-Communists came to power in 2001, the situation proved more stable, but their ambiguous foreign policy did not help the country in finding stable foreign partners.

The average monthly salary was about 1,697 Moldovan lei (approximately US\$140 in 2007). It was about 915 Moldovan lei (US\$75) in the countryside. The rural population makes up 61.5 percent of the population, and the trend toward a move back from the cities to the countryside is observed because opportunities in the cities are not satisfactory.

No research has been conducted in Moldova on discrimination at work based on sexual orientation. Some LGBT community members have claimed that they were fired because they were gay. Still, this reason was never openly given. Thus, LGBT people tend to live in the closet and prove reluctant to announce their sexual orientation.

SOCIAL/GOVERNMENT PROGRAMS

The Moldovan authorities have not yet implemented any program regarding LGBT issues. In September 2005, the Ministry of Health implemented a national control program for HIV infection and other sexually transmitted diseases (STDs).¹⁰

SEXUALITY/SEXUAL PRACTICES AND FAMILY

The Christian vision of sexuality and family still predominates in Moldova. Having a gay child is often seen as a cause of despair that could affect the family's reputation. While coming out is nowadays more common among a range of close friends, members of the LGBT community still hesitate in doing so to family.

In vitro fertilization and adoption are possible only in the case of a married couple. Laws on surrogate mothers and sperm donations lack precision, but interpretations of the family code make them possible only in the case of a married couple.

The only LGBT association in the country, the GenderDoc-M Information Center, has been fighting for recognition of the community and for the adoption of an antidiscrimination law by the government. Gay marriage, civil union, and adoption are not yet on the agenda.

COMMUNITY

According to some of the LGBT community members, gay life in Moldova was easier during Soviet times, when homosexuality was forbidden. The LGBT community was forced to meet in cruising areas, like parks and public toilets, avoiding home and public places where they could have been followed or recognized. Many homosexuals married and had families. Officially, homosexuality did not exist, apart from in penitentiary statistics.

Generally speaking, the Soviet era left a strong imprint on the people. Post-Soviet countries show evidence of deep individualism, and any sense of community is hard to create in general. This affects the LGBT community.

Nevertheless, the LGBT community is more visible nowadays, especially among young people. Some of them come out and are no longer ashamed of their sexual orientation. Following the publication of several articles in the Moldovan press and some positive documentaries about sexual minorities on Moldovan television, the population has obtained more information on LGBT issues and has a less negative point of view, even if research shows that the general negative attitudes of the Moldovan population toward homosexuality remain the main obstacle that keeps homosexuals from coming out.

Gay bars have opened and closed in the last 10 years; a few of them are still open in Chisinau. Furthermore, gay evenings take place every week in a club in the capital city. The Internet remains, nevertheless, one of the easiest ways for homosexuals to interact with one another.

GenderDoc-M provides free services for the LGBT community, provides help, and follows members of the community in case of discrimination. The center has a small library in the city center of Chisinau, and organizes public events in order to make the community more visible (such as conferences, an annual gay pride parade, film screenings, etc.).

While gay life is progressing little by little in Chisinau, it is completely absent from the countryside. Another LGBT association, GenderDoc-Ost, opened recently in Bender (Tighina in Romanian) in the self-proclaimed Transdniestran republic, but organizational and staff problems prevent it from being efficient at this moment. ATIS (Activi, Tineri, Informati si Sanatosi [Active, Young, Informed, and Healthy]), a center derived from the TDP association (Tineret Pentru Dreptul la Viata [Youth for Right to Live]), has just started dealing with the local LGBT population.

Compared to Chisinau, gay communities are much more visible in Bucharest, Odessa, and Moscow. Many members of the Moldovan LGBT community left Moldova for these cities.

HEALTH

HIV remains the main concern among the LGBT community in Moldova. Homosexuals in Moldova are often considered as HIV positive and as drug addicts. The Moldovan Center for AIDS Prevention showed that of the 2,780 HIV-positive

cases registered in Moldova in 2005, only 10 were contracted by homosexual relations.¹¹ Nevertheless, this information needs to be balanced with the fact that many homosexuals in Moldova do not want to inform their doctor of their sexual orientation. Thirty-four percent of the Moldovan gays and lesbians thought that their doctor was receptive to LGBT issues, 56 percent did not know, and 10 percent were afraid of visiting a doctor because of their sexual orientation.¹²

In 2002, the Moldovan Ministry of Health expressed in a letter to Gender-Doc-M that homosexuality is not considered a disease. The letter explained that the ministry “is unfamiliar with cases of employees who would have been fired because of their homosexual orientations. A homosexual orientation cannot be taken as a reason to be fired. Homosexual relations are studied in colleges and universities in the realm of psychiatry and are considered as sexual perversions. Persons presenting a homosexual orientation are granted medical assistance in the same way it is granted to every other patient.”¹³

Different types of guides (for families, for doctors, etc.) are provided by GenderDoc-M. The center also holds conferences on LGBT medical issues all around the country.

POLITICS AND LAW

In Moldova, the Soviet penal code prevailed until 1995. According to article 106 of this code, in force from 1961, “Homosexuality is an unnatural relationship between two men. The same deed performed with a minor, with implication of either physical or psychological force, or by using the unconscious state of the victim is punished with from two to five years deprivation of liberty.”¹⁴

In 1995, changes were introduced: the former heading of homosexuality was replaced by *forced homosexuality*; the first sentence was deleted; “the same deed” was substituted with “homosexual acts.” These particular changes were only a first step for Chisinau to comply with the Council of Europe’s standards, and they still kept the door open for abuse. In 2003, article 174 of the new penal code stated: “A sexual act, homosexual act, lesbian act and other sexual behavior with a person, whose age is known to be less than 14 years old, will be deprived of liberty for up to five years.”¹⁵ The new age of consent for both homosexual and heterosexual behavior is thus 14 years. Before 2003, discrimination against homosexuals existed, as 16 was the age of consent for heterosexuals and 18 for homosexuals. Furthermore, since 2003, the law mentions lesbian sexual acts and the notion of lesbian rape, which was not interpreted as intercourse before.¹⁶

These first changes were introduced through a lobbying campaign of Gender-Doc-M and other human rights associations. The LGBT community and others are fighting for real antidiscrimination laws that include sexual minorities as well as the disabled. Indeed, the law against discrimination up until now has concerned discrimination based on race, gender, language, religion, political and other beliefs, national and social origin, and other. This leaves room for interpretation, which could be seen as positive for the LGBT community—at this moment contending with freedom of expression and freedom of assembly—to defend its cause. A law including every kind of discrimination would nevertheless be a real step to the recognition of rights for the LGBT community.

As the Soviet article 106 was abrogated in 1995 to satisfy the Council of Europe, a law against discrimination could be drafted to comply with the European

Union's statements. This law has already been on the government's agenda, but the need for such a law was not completely recognized by the authorities, who argued that the current law was sufficient. Furthermore, Marian Lupu, the speaker of the parliament, stated at a university in Balti in May 2008 that the general opinion of the authorities with regards to LGBT issues was that "homosexuals' demonstrations in public are not possible in Moldova. Orientation does not matter in private. If tomorrow Brussels says that one of the conditions is to institutionalize or to take a law on sexual minorities' parades, this does not mean that we would do it." Lupu added: "This univocal position is shared by every politician in Chisinau, because these are the mentality and the values of the Moldovan society."¹⁷

RELIGION AND SPIRITUALITY

Moldova is a Christian Orthodox country, and 93.3 percent of the population self-declares as Christian Orthodox.¹⁸ This greatly influences the general view of homosexuality. Some Christian lobbies are promoting a strong anti-LGBT agenda in the republic.

One powerful Christian Orthodox lobby is acting against the LGBT community in the country, holding an Internet forum, sending letters to the national and municipal authorities, condemning any LGBT attempt to receive recognition. The argument of priest Vasile Filat, the leader of the movement, is purportedly based on the Bible and goes against, in his words, what "God calls disgusting practices." Quoting the Bible, the lobby argues first that Moldova is a Christian country, and fears that the country could be lost and suffer from God's anger if homosexuality were tolerated. Second, Filat argues that the LGBT minority goes against families, which are, according to the Bible's vision, composed of a father (man) and a mother (woman).¹⁹ GenderDoc-M is seen as promoting perversion and gay proselytizing. The Christian lobby organizes demonstrations in Chisinau and generally opposes any LGBT action.

Another association called English for a New Life generally opposes the LGBT community in Moldova. One of its leaders in Moldova, Elena Brewer, argues:

There is an organization in my country of Moldova that has been attacking the family and the country for the past ten years. The organization is made up of homosexuals and lesbians, funded from the highly immoral European Union, who are on a mission to destroy the country. They are attacking the foundation of society, the family, and if they are not stopped then there will be terrible consequences to pay.²⁰

This association generally attempts to stop LGBT demonstrations, writes letters, and holds a forum on the Internet.

Prejudices and stereotypes are numerous, mainly due to a lack of information regarding LGBT issues, but the Christian lobbies are expressing a minority opinion.

VIOLENCE

GenderDoc-M has been organizing meetings and festivals in Chisinau for 10 years. The first pride effort, A Rainbow over the Dniester, took place in 2002. Since 2005, the Chisinau city hall, the police, and state agencies expressed their opposition to such events.

In 2006, a report from the International Lesbian and Gay Association (ILGA)-Europe showed evidence “of what appears to be an increasingly concerted campaign by elements in government ministries, the Chisinau City Hall, and the police, co-operating with fundamentalist religious organizations, to deny freedom of assembly to Moldova’s principal LGBT organization, the GenderDoc-M Information Center.”²¹

Among others, the officials of Chisinau city hall violated the right of peaceful assembly by prohibiting the May 2005 and May 2006 pride demonstrations and the All Different, All Equal youth march, “almost certainly because of the participation of GenderDoc-M”; the Chisinau police exceeded their powers “in insisting that all outdoor activities by GenderDoc-M are impermissible,” and infiltrated the organization in a manner likely to intimidate; the Ministry of the Interior failed to exercise fair and nondiscriminatory governance by “absolving a senior police officer of manifestly inflammatory statements with the spurious reasoning that he was protected by the ‘religion’ ground in the antidiscrimination article of the Labor Code”; the Ministry of Education and Youth pressured GenderDoc-M to accept a compromise that would deny the information center any visibility while “the incidents described took place within the context of Moldova’s participation in the Council of Europe’s All Different/All Equal Program, a key purpose of which is to combat discrimination, and for which the Ministry has responsibility.”

After initially supporting the LGBT information center, the Moldovan courts did not uphold the right of freedom of assembly through the failure of the supreme court to support the appeals court’s initial ruling that the ban on the May 2005 pride demonstration was illegal, through the reversal by the appeals court of its initial ruling, and through the support of the supreme court for the appeals court’s second ruling upholding the ban on the May 2005 pride demonstration. Moreover, a fair hearing was denied to the president of GenderDoc-M when the appeals court did not allow him to give evidence regarding letters opposing the May 2006 pride demonstration. Finally, the courts did not observe their own time limits for reaching decisions in these cases.²²

In July 2006, GenderDoc-M organized a festival in Causeni, in eastern Moldova. All minorities were invited, especially the disabled and the Roma. Obtaining the support of a human rights nongovernmental organization (NGO) based in this city, the Causeni Raion Law Center, and the authorization of the local authority, the festival consisted of a roundtable, the screening of a film and an open-air concert. Two religious organizations, English for a new life and Equity, held a press conference and called the city mayor, arguing the festival was “an event for sexual minorities.” When the festival took place, the religious organizations interrupted the roundtable, insulted the president of GenderDoc-M, gave leaflets asking *Will Causeni Become Sodom?* and tried to convince the participants of the concert that the event was designed to promote homosexuality. The Causeni police did maintain order in an appropriate manner.²³

Concerning the 2005 and 2006 Chisinau prides and the Causeni Festival, ILGA-Europe argues that the religious organizations were supported by the government. Indeed, the European LGBT organization considers that “the insignificance of these organizations tends to suggest that the main influence in denying freedom of assembly to GenderDoc-M comes from within the government circles, rather than from these groups.”²⁴

In April 2007, the sixth pride was called; GenderDoc-M, among other events, inaugurated a new community center, held a pastoral service with communion, organized a meeting in front of the Chisinau city hall building, married two members of the community, and so on. As the city hall had banned the meeting, LGBT community members stood in front of the building with their mouths sealed by rainbow-colored tape. Eggs were thrown at the demonstrators and some people shouted: "Make mud at your place! Get out of here!" The police did not react. Furthermore, the police did not allow the LGBT participants to lay flowers at the monument to repression victims in Chisinau.²⁵

In May 2007, Human Rights Watch sent a letter to the president of the Republic of Moldova to express concerns about the ban on gay rights demonstrations in Chisinau and to urge the authorities to respect domestic and European law. The Intergroup on Gay and Lesbian Rights from the European Parliament also expressed such concerns in 2006 and 2007.

In May 2008, the seventh pride was organized by GenderDoc-M and was set to be the first legal gay pride event ever organized in Moldova, as Chisinau city hall did not forbid it. Participants intended to meet in Chisinau's main square in order to ask for an antidiscrimination law and to promote a spirit of tolerance. Fundamentalist religious organizations and an extreme-right organization, Noua Dreapta (New Right), stopped the bus in which the demonstrators were arriving at the square. They blocked it for 45 minutes. The Chisinau police did not react. The tension only lessened when the LGBT activists agreed to give up and destroy the materials they had prepared for the event. The remainder of the scheduled program did not take place due to security measures.²⁶

A few days later, another demonstration against homosexuality was organized by Vasile Filat's religious organization in Chisinau's main square. Leaflets asking whether Moldova will become Sodom were distributed.

Apart from these demonstrations and the violent opposition that they sometimes meet, violence against LGBT people in Moldova is not openly expressed. Still, verbal and physical violence against people that has occurred because of their sexual orientation is often reported.

The Scottish newspaper, the *Daily Record*, reported on the case of Andrei Ivanov in February 2008, a young Moldovan who sought asylum in the United Kingdom because he would "face discrimination if sent back to his native Moldova." The newspaper presented his case as follows:

Police there beat him up after he was seen holding hands with another man, he claimed. He also received death threats. After being warned his home would be torched, he fled and was smuggled into Britain in the back of a lorry, along with his younger sister. His plea to be allowed to stay was rejected when immigration officials said they did not believe his story. They also ruled being gay did not give Ivanov the right to be treated as a refugee because his fear of persecution was not based on grounds of race, religion, nationality, politics or membership of a social group.

The young Moldovan challenged the decision to the Court of Session. Judge Colin MacAulay QC gave Ivanov "a second chance to put his case for staying in Scotland," arguing that "there was evidence of police beatings and general prejudices against gays in Moldova."²⁷

There are many stories of young men being arrested by the police in parks or other cruising areas of Chisinau. If citizens do not present their papers, they are

asked to follow the officers. On the way to the police office, police officers threaten them with informing their family that they have sexual relations with men. Compromises are generally found by bribing the police officers.²⁸

In Transdniestria, despite organized Web propaganda presenting the country as a multiparty democracy with the opposition in control of the parliament, it is commonly seen as a closed authoritarian state, where mafia-controlled economics rule and an illegal weapons industry flourishes.

No information on LGBT issues in the region is available. Article 106 of the Soviet code was abrogated in 2003 and homosexuality was no longer formally punished. The country boasts an ombudsman on human rights and stipulates total tolerance toward sexual minorities. The authorities of Tiraspol would even have offered to host the gay prides that were forbidden in Chisinau.

Nevertheless, diverse reports on human rights in Transdniestria showed evidence that the situation was not as idyllic as presented in the propaganda. In a report from Amnesty International in 2007 about torture and illegal treatment that strongly blamed the Moldovan authorities, a few lines about the region state:

The report does not include any cases from the self-proclaimed Trans-Dniestr Moldavian Republic (Transdniestria). This is not because of the absence of torture and ill-treatment in Transdniestria, but because of a greater reluctance on the part of those living in Transdniestria to report cases of torture and ill-treatment, a lack of NGOs working on this issue and low awareness among lawyers. In its report on a visit to Transdniestria in 2000, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) stated that “a significant number of the persons deprived of their liberty interviewed by the CPT’s delegation alleged that they had been ill-treated by the police.”²⁹

Most of the homosexuals in Transdniestria have left for Chisinau or Odessa. Those who remained in the country are supposed to hide. There is no gay life in Transdniestria or any open LGBT community.

OUTLOOK FOR THE 21ST CENTURY

Tolerance and acceptance of sexual minorities have not yet been achieved in Moldova. The Moldovan LGBT community finds itself in a general context of pauperization and strong social and economic problems, which hinders any positive development. NGO reports in Moldova still show a huge lack of democracy throughout the country. The Communist authorities are often blamed for acting like the authorities did in Soviet times, against freedom of the press and assembly.

As article 106 of the Soviet penal code was abrogated in 1995 when Moldova adjusted to the Council of Europe’s statements, a new law against discrimination and any other protection or recognition will probably come from the authorities’ adaptation to the European Union’s decrees. The relationship between Moldova and the European Union is determined by the European Neighborhood Policy Action Plan. Ensuring openness toward sexual minorities and improving antidiscrimination laws are two of the many conditions for a stable partnership.

Homosexuals in Moldova still suffer from numerous prejudices and stereotypes from the rest of the population. This situation will change only slowly, helped by objective information from the Moldovan mass media. Mentalities are changing,

but the process takes a long time. A new generation has fewer negative attitudes toward LGBT issues, which seems positive as the community has begun to fight for recognition and rights, starting little by little to gain visibility.

RESOURCE GUIDE

Suggested Reading

- Igor Doncila, *Ghid pentru medici care lucreaza cu persoane de orientare homosexuala* [*Guide to the Doctors Working with Homosexuals*] (Chisinau, Moldova: GenderDoc-M, 2006).
- Charles King, *The Moldovans. Romania, Russia and the Politics of Culture* (Stanford, CA: Hoover Institution Press, Stanford University, 2000).
- Svetlana Rusnac and Svetlana Klivade, *Minoritatile sexuale: atitudini sociale si informarea populatiei* [*Sexual Minorities: Social Attitudes and Information of the Population*] (Chisinau, Moldova: GenderDoc-M, 2008).
- Svetlana Rusnac and Svetlana Klivade, *Particularitatile orientarilor valorice si trebuintelor de baza ale tinerilor din comunitatea LGBT* [*Particularities of the Values Orientations and of the Basic Needs of the Young from the LGBT Community*] (Chisinau, Moldova: GenderDoc-M, 2008).
- Dennis Van der Veur, *“We Need Cleaner Places than a Public Toilet”: Homosexuals in the Republic of Moldova* (Amsterdam: COC Netherlands, 2001).

Web Sites

- European Parliament’s Intergroup on Gay and Lesbian Rights, <http://www.lgbt-ep.eu>.
- GenderDoc-M, <http://www.gay.md>.
- GenderDoc-Information Center in Chisinau publishes a magazine in Romanian and in Russian, including some English features: *Dialog*.
- ILGA-Europe, <http://www.ilga-europe.org>.

NOTES

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3. Gheorghe Moldovanu, *Politica si planificare lingvistica: de la teorie la practica* [*Politics and Linguistic Planning: From Theory to Practice*] (Chisinau: ASEM, 2007), 207–31.
4. Deca-Press News Agency, “Autoritatile vor depune eforturi pentru a reduce numarul de condamnari a Moldovei la CEDO” [“Authorities Will Try to Reduce the Number of ECHR’s Condemnations”], Chisinau, March 21, 2008.
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6. See Ambassade de France en Moldavie, “Fiche Moldavie,” 2007, http://www.diplomatie.gouv.fr/fr/IMG/pdf/Fiche_Moldavie_2007.pdf.
7. Ibid.
8. GenderDoc-M, *Annual Report 2006*, GenderDoc-M Information Center, (Chisinau: GenderDoc-M, 2007), 139.
9. Nicolae Enciu, *Istoria Românilor. Epoca Contemporana* [*History of the Romanians: Contemporary Era*] (Chisinau: Civitas, 2005), 170.
10. Programul National de Profilaxie si control al infectiei HIV/SIDA si infectiilor cu transmitere sexuala pe anii 2006–2010, adopted on September 5, 2005, by the Moldovan Government.

11. Igor Doncila, *Ghid pentru medici care lucreaza cu persoane de orientare homosexuala* [*Guide for Doctors Working with Homosexuals*] (Chisinau: GenderDoc-M, 2006), 18.
12. *Ibid.*, 9.
13. *Ibid.*, 42.
14. Article 106 of the former Soviet Penal Code.
15. Article 173 of 2003 (Moldovan Penal Code).
16. Dennis Van der Veur, “*We Need Cleaner Places Than a Public Toilet*”: *Homosexuals in the Republic of Moldova* (Amsterdam: COC, 2001), 14–16.
17. Deca-Press News Agency, “Manifestarile homosexualilor in public nu sunt posibile, sustine spicherul Marian Lupu” [“Homosexuals’ Demonstrations Are Not Possible in Public, According to Marian Lupu”], Chisinau, May 26, 2007.
18. Biroul National de Statistica al Republicii Moldova, *Moldova în Cifre*, 10.
19. Vasile Filat, “Va Deveni Moldova ca Sodoma?” [“Will Moldova Become Like Sodoma?”], leaflet (Chisinau: Moldova Crestina, 2008).
20. See Erik and Elena Brewer’s blog, *Erik and Elena Brewer’s Weblog. An Encouraging Blog for Christians to Express their Ideas*, <http://erikbrewer.wordpress.com/>.
21. International Lesbian and Gay Association (ILGA)-Europe, “Moldova: Comprehensive Denial to Moldova’s Principal LGBT Organization of the Right to Freedom of Assembly,” report, Brussels, November 19, 2006, 2.
22. *Ibid.*, 6–9.
23. *Ibid.*, 9–12.
24. *Ibid.*, 4.
25. Galina Pavlova, “VIth Festival ‘Rainbow over the Nistru’. How it Was...,” April 2007, <http://www.gay.md/eng/story.php?sid=121>.
26. GenderDoc-M, “Human Rights Violations Alert. Moldovan Police Allows for Preclusion of a Public LGBT Manifestation,” May 2008, <http://www.gay.md/eng/story.php?sid=129>.
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THE NETHERLANDS

Gert Hekma

OVERVIEW

The Netherlands is a relatively small country of about 13,513 square miles that is located between Germany, Belgium, and the North Sea. A delta, the country is flat with many waterways, lakes, and polders. With close to 17 million inhabitants, it is the most densely populated country in Europe.

The Dutch Republic was the first European republic of modern times. Its foundation is generally considered to have been in 1581, during the 80 year Protestant insurgence against Catholic Spain (1568–1648). The 17th century was the country's golden age, when it was the leading economic power in the world and the arts were blossoming with painters such as Rembrandt and Vermeer. Between 1795 and 1806, it was called the Batave Republic, which found its inspiration in the French Revolution. In 1806, it became a kingdom, and between 1810 and 1813, Napoleon incorporated the kingdom in his French Empire. In the period between 1795 and 1813, many institutions of the modern state were introduced in the Netherlands, for example, a centralized democracy with voting rights for tax-paying men, new penal and civil laws, obligatory education, standardization of valuta, and introduction of the metric system. With the French penal code, the crime of sodomy disappeared in 1811 from the law books, while no new criminal laws specifically condemned homosexual practices. Only public indecencies remained punishable, while no age of sexual consent was mentioned in the law. In 1813, the Netherlands became an independent kingdom, being



merged in the period 1815–1830 with Belgium. After a century with no special laws regarding homosexuality, article 248bis, introduced in 1911, punished homosexual relations between minors under 21 with adults above that age. Since 1886, the age of consent for all sexual practices had been set at 16 years. The new article of 1911 was abolished in 1971. Some 5,000 persons (99% men; 1% women) were prosecuted under this article.¹ Between 1940 and 1945, the Germans occupied the Netherlands and introduced the German law against unnatural intercourse, which meant that all male homosexual practices became forbidden. This law was rarely used, most often against minors who were—under the Dutch law—victims and could be seen under the German law as perpetrators. The law was abolished after the occupation. The Netherlands was, in 1957, one of the six founders of the European Economic Community, forerunner of the European Union (EU)—meaning that a growing amount of legislation and regulation now came from Brussels, the capital of the EU.

Since 1971, the major legal changes were the right to serve in the army for gays and lesbians (in 1973) and the Equal Rights Law (in 1993) that pertained to women, ethnic minorities, and gays and lesbians. In 1997, a registered partnership was introduced for same-sex and heterosexual couples that could not (homosexuals) or did not want to (heterosexuals) marry; in 2001, marriage was opened for couples of the same sex.

The main political parties in the Netherlands are the Christian Democrats (CDA), the conservative liberals (VVD), the social democrats (PvdA), the progressive liberals (D66), the Green Left (GL), and the Socialist Party (SP). D66 and GL have especially taken up the cause of homosexual rights, while the other parties have shown meandering politics, with the CDA being most negative and the SP most uninterested in homosexual politics. While in the past, the more liberal and progressive parties supported the gay and lesbian movement, nowadays the right wing has taken its cause, partly because of its Islamophobia. Gay issues have proven to be a good stick with which to beat Muslims.

The religious composition of the Netherlands has changed enormously over the last 50 years. While most Dutch people were Protestant or Catholic until the sexual revolution, since then the number of nonbelievers has grown to about 50 percent of the population with only 20 percent being regular visitors of religious services. Some 27 percent are Catholic and another 16 percent Calvinist, a quarter of these Protestants belonging to orthodox denominations. About 5 percent are Muslim, mainly belonging to the 10 percent of recent immigrants and their offspring.² Although there is still opposition against LGBT rights coming from (orthodox) Protestant and Catholic groups, the fiercest opposition stems from Muslims, both in terms of the rhetoric of imams and of the queer-bashing by young men. The main ethnic minorities (from large to small) are Surinamese, Moroccan, Turkish, Antillian, and Chinese, while there is a broad range of refugees from different places (the Balkans, Iraq, Iran, Somalia, and many other countries).

The Dutch have a flourishing and modern economy. The country belongs to the 10 richest nations in terms of per capita income (national income \$38,500 per capita). The nation is a member of NATO, and the army participates in UN peace-keeping missions elsewhere in the world. The military is open for gays, lesbians, and transgender persons, and has an active policy to combat discrimination against them. This policy is not always successful. Homophobia in the army is covert and insidious rather than direct and violent.

OVERVIEW OF LGBT ISSUES

The Netherlands was the second country to have a homosexual rights movement, the Dutch chapter of the German Scientific-Humanitarian Committee (NWHK). It was founded in 1912 after the introduction of article 248bis of the penal code. Although some gay-friendly doctors and gay novelists were members of the NWHK, it was mainly a one-person organization of the lawyer Jacob Anton Schorer. The main goals were abolition of article 248bis and greater visibility for homosexuals. Schorer's lobbying remained largely unsuccessful and he stopped his activities with the German occupation, knowing the Nazi attitudes regarding homosexuals. His important library was seized and has never been recovered.³

Just before the occupation in 1940, a small group of homosexuals started a monthly called *Levensrecht* (the right to live), which was revived after the war. They began in 1946 in what is now the oldest gay and lesbian movement of the world, first named the Shakespeare club and later the COC (Center for Recreation and Culture). Its leaders, especially the chair Bob Angelo (pseudonym of Nico Engelschman), not only lobbied with politicians, religious leaders, psychiatrists, and police officers, but also published the journal *Vriendschap* (Friendship), organized lectures, meetings, and parties, and later owned their own dancing club that would be the largest gay institution of the Western world in the 1950s and 1960s. Their prudent policy worked, and in the 1960s both Catholics (among them a bishop and a leading psychiatrist) and orthodox Protestants began to support homosexuals, accepting—in their language—the sinners while not yet embracing their sins. Homosexuality, which had been defined as a sin, a crime, and a disease, was no longer any of these, and starting in the 1970s, it was rather considered the sexual orientation of a minority.

The 1960s meant a breakthrough for (homo)sexual rights because the majority of the population changed its mind between 1965 and 1975. Instead of rejecting homosexuality, pornography, prostitution, pre- and extramarital sex, contraception, and divorce, it accepted those sexual practices. Homosexuality went from being an unmentionable sin to something that was visible and could be discussed in polite society. Once article 248bis was abolished and gays and lesbians were allowed into the army, the main issues became sex education, gay and lesbian visibility, and individual and relational rights in the fields of housing, labor, insurance, inheritances, adoption, and asylum. From the late 1970s on, equal rights law was a main theme of contestation, in particular with Christian schools that opposed the possibility that they could be forced to hire homosexual teachers. The conclusion was that all schools had to accept homosexual teachers as long as they endorsed the school's philosophy. With the emergence of the AIDS epidemic, issues of health care, prevention, and research became pivotal. Although the health authorities wanted to close down gay sex places like dark rooms (rooms in gay bars where gay men can have sex, in the past mainly in leather bars but now also in more mainstream gay bars and discos) and saunas, the gay movement successfully resisted such demands.

By the mid-1980s, national and local governments started to give grants for gay and lesbian emancipation activities. Most money went to the Schorer Foundation, which specializes in psychological support for LGBT people and became active in prevention and care activities (such as the buddy system) related to AIDS. The

gay and lesbian movement received smaller grants for their activities, for example, for renting offices, festivals, educational activities, and so on. In recent years, most subsidies go to initiatives for the elderly, questioning youngsters, and ethnic minorities. The government has a part-time civil servant who is responsible for its homosexual politics. Many cities created diversity offices that are responsible for minority groups like nonwhites, women, LGBT persons, and the handicapped.

When marriage was opened for same-sex couples in 2001, many people, both gay and straight, thought this was the pinnacle of gay and lesbian emancipation, the struggle had ended, and the LGBT movement could close its doors. But it soon became clear that legal equality did not mean social equality. The Netherlands had remained a heteronormative society where the straight norm continued to marginalize LGBT lives.

Most media have been supportive of the gay and lesbian movement since the 1970s as long as the demands and targets belonged to the realm of the normal. This included issues such as same-sex marriage and entry into the army. Since the political right has become interested in gay issues, the media has paid more attention to them. Movies and documentaries rarely depict gay or lesbian topics. On the other hand, many major comedians are gay men and national celebrities including (the late) Jos Brink, André van Duin, and Paul de Leeuw. They are open about being gay and their shows often make the most of the gay-straight difference for a straight public. The problem of media representation remains, as elsewhere, that the gap between the media and everyday life is enormous. A gay comedian on television is something very different from the gay guy next door.

EDUCATION

The Dutch LGBT movement considers visibility as its main subject of contestation. This issue has been central since the 1970s. The main focus is on education. In secondary schools, sex education is obligatory and should include themes of homosexuality, but because of the large discretionary space for schools, little or no attention is being paid to gay and lesbian issues. The COC offers classes on gay and lesbian themes for schools, but only a small number of the schools make use of this opportunity. In Amsterdam, for example, only 20 percent of the secondary schools incorporate the COC classes. Moreover, most education focuses on biological issues (genitals, reproduction) and the prevention of sexual misery (sexually transmitted diseases [STDs] with a focus on AIDS, teenage pregnancies, sexual abuse), and not on the promotion of sexual pleasure or the acknowledgement of gender and sexual diversity. Topics of sexuality are generally not dealt with in disciplines such as history, citizenship, geography, or religion. The school climate (particularly in schools where ethnic minorities are in the majority) is unfavorable to the coming out of both teachers and pupils. On courtyards and sporting fields the most common slurs still are *faggot*, *homo*, and *dyke*. School administrations, in most cases, do little to counter this negative climate for all kinds of reasons, for example out of prudery or because they are afraid for the reputation of the school. The first gay/straight alliances to create solidarity across sexual boundaries were only founded in 2008. Although the Dutch government and cities have allocated financial support for initiatives to promote education on homosexuality, the budgets have been far too small to counter the prejudices and discriminations and were given for too little time to be enacted.

EMPLOYMENT AND ECONOMICS

Antidiscrimination legislation forbids discrimination in various fields such as the workplace, housing, and services. Few cases of discrimination based on homosexual orientation have been taken to court or the Equal Rights Commission (which has an advice function). Few gays and lesbians are eager to come forward with such cases. Cases often will prove to be complex and unclear because discrimination often remains hidden in a cloud of injurious jokes or subtle forms of opposition. The last case of straightforward labor discrimination dates back to 1982 when the Royal House rejected a gay social worker. Many gays and lesbians also report that they remain silent at their job, and when they have problems after coming out, they see it as their personal struggle to be accepted by their fellow workers and bosses.

Although some types of work are still largely straight and considered masculine (construction, the army, higher levels of management, male professional sports), stereotypical gay and lesbian jobs have become less so. There are now many straight male ballet dancers, comedians, and hairdressers in Holland. Nonetheless, some professions in the service sector continue to attract disproportional numbers of gays and lesbians, for example police officers for women or stewards and waiters for men. There has, however, never been a representative survey of workplace and sexual orientation conducted in the Netherlands, so these data depend on the hearsay of insiders. Most trade unions and workers deny the importance of questions of sexual orientation in labor relations.

SOCIAL/GOVERNMENT PROGRAMS

The main programs of national, provincial, and local governments target health and education issues. Next to those, special budgets regard projects for LGBT ethnic minority groups, for LGBT visibility, for queer youth, and for LGBT sport organizations. The establishment of the HomoMonument in 1987 and the Gay Games of 1998, both in Amsterdam, were lavishly supported by both local and national government. The EuroGames were held for the first time in The Hague in 1992 and in 2005 in Utrecht. Other cities now compete to organize the games as a way to demonstrate being gay-friendly. Diversity programs that in the past often overlooked queer issues now generally tend to include those, and many major companies now have pride groups as part of such policies.

SEXUALITY/SEXUAL PRACTICES

Public Sex

There is a set of sociopolitical issues that are not generally shared among gays and lesbians. The first is gay public cruising. Over the last 25 years, the Dutch police force has made some efforts to protect gay cruising areas against queer bashers. At the same time, the general population became more and more opposed to these sexual practices. In the past, it was argued that public cruising areas were used by married and closeted gay men who had no other place to go. Now, with the greater acceptance of gay men, many people see no need to endorse public sex. They oppose public sex as being offensive and sleazy. Although most cruising places are hidden and mainly used after dark, the idea of gay men having sex in the bushes

or in a public bathroom offers sufficient ground for gay and straight people to feel offended. Because of such opposition, some gay cruising places in urban parks or along highways have been closed down for gay use. Defending such gay public cruising places has become more controversial and the few politicians who did so faced fierce criticism and ugly insults. A contrary argument has become that gays can now marry and enjoy themselves in bars and discos and, as such, there is no longer any need to have cruising places. Some journalists have even argued for the elimination of dark rooms or saunas. The press is more often speaking out against such use of public places while denying that straights also use public space for sexual pastimes (they do, but often in less concentrated areas than gay men because they form the majority and can use sexually unmarked places for their pleasures). The general heterosexualization of Dutch society leads to a growing opposition against and revulsion toward gay cruising.

Doing “Normal”

The long-time exposure to straight norms has led to a growing sentiment among gays and lesbians that they have to behave normally, meaning they have to perform in gender-normative and nonsexual ways.⁴ The most common reproach against gays and lesbians is their nonnormative behavior. Gay men are seen as sissies, un-masculine men who talk too much about sex, while lesbians are looked down upon as butches—too masculine for a woman. The negative prejudices internalized by gay men and lesbian women produce personal misery, psychological problems, and rejection of behaviors that are considered extravagant or extreme by both straight and gay people. The norm has become that gay men should behave in masculine and lesbians in feminine ways. This norm leads to revulsion among gays against *faggots* and *sissies* and among lesbians against *butches*. The queer turn in the Netherlands is not a fierce critique of gender and sexual standards, but of people who diverge from such norms. Sexual and gender norms that mutually reinforce one another have led to a heterosexualization and a strict division of gender roles in Dutch society, which is also apparent in gay and lesbian life. Most straight people may continue to see gay men as sissies and lesbian women as butches, and the younger gay generation does everything to prove its behavior is normal—meaning conformist in sexual and gender performance, reproducing the problems they themselves have faced as young queers.

FAMILY

In the Netherlands, one is not allowed to speak of gay marriage because marriage is the same for gay and straight. During the sexual revolution, gays, and even more so lesbians, were opposed to the marital institution because it was viewed as sexist and homophobic. At that time, doctors advised gays to enter into heterosexual marriage as an effective way to eliminate homosexual desires. Slowly, psychiatrists who took a different and positive stance on homosexuality advised against marriage; they were aware that it would not heal homosexuals of their sexual preferences and would make the partners and children in such marriages unhappy.

For a long time, the COC propagated individualization instead of a focus on couple relations in some kind of marriage—that accumulation of special rights in

such diverse fields as housing, sexuality, education of children, insurances, legacies, and dozens of others. The LGBT movement was rather in favor of splitting up the diverse functions of marriage instead of this piling up of straight privileges. In the late 1980s, conservative gay men began lobbying for gay marriage. This was partly because gay men had learned from AIDS that couples needed rights, and lesbian couples wanted to secure parenthood rights for children born either in their own same-sex couple or in previous heterosexual relations. The success in this effort encouraged the gay and lesbian movement to follow suit and embrace the struggle for marriage. The government initially instituted registered partnerships in 1997, but soon realized such arrangements for homo- and heterosexual represented a second-rate marriage that mainly organized rights and rules for couples, whereas marriage had broader functions—in particular in relation to third parties. This halfway solution was repaired in 2001 when marriage was opened up for same-sex couples. The Netherlands became the first country to do so. In a legal sense, most differences between gay and straight were lifted by this legal inclusion. There were three exceptions where homo- and heterosexual couples were still unequally treated. First, the *biological fiction*—meaning that the legislator assumes the husband is the biological father of the child born in wedlock—was not extended to gay and lesbian couples, so they always had to deal with a third person (the biological father or mother of the child). The second difference is that gay and lesbian couples could not adopt children from countries that were opposed to such adoptions. A reparation of this inequality is now under way. The third exception is that the king or queen cannot be married to a person of the same sex. Such a position demonstrates how antigay the royal house is and reinforces in Dutch society that homosexuality is not equal to heterosexuality.

The number of marriages of same-sex couples has been quite low; close to 10,000 same-sex couples had been married by the beginning of 2007. There are no reliable data on the number of homosexuals, but assuming a percentage of 4 percent of the population, this would translate into 500,000 adult gays and lesbians. Comparing this to the 10,000 same-sex marriages, this works out to about 4 percent of all gays and lesbians getting married. This is surprising because there are advantages to marriage in terms of income and inheritance taxes, as well as legalizing a non-Dutch partner. It is thought that the primary reason for same-sex couples to marry may be for the financial or legal benefits, without an attachment to marital ideals. It seems that although the idea of coupling is strong, the eagerness to marry is weak among Dutch gays and lesbians. This is similar to the straight population, which does not show great eagerness to marry. In general, gays and lesbians who marry often report that their families and friends were supportive and sometimes even promoted their marriage. Still, some 20 percent of the general population is unfavorable to same-sex marriages. The only political issue has been resistance by some civil servants to consecrate same-sex marriage; they have asked for exemption from performing them. The exemptions have been allowed. Many in the LGBT movement and liberal parties see this as a continuation of discrimination against homosexuals because no other such exemption exists. If, for example, civil servants refused to marry couples of a different religion or ethnicity, the Dutch would never support such special rights. This shows how exceptional and discriminatory the exemption is. The new center-right government of CDA, PvdA, and a small orthodox Calvinist party (the PvdA is puritanical on sexual issues) supports this exception.

In the past, the stereotypical image of gay men was that they intensely pursued sexual possibilities, whereas lesbians were often seen either as lower-class and violent drunkards or as unhappy wives trapped in marriage. Nowadays, these views are changing as seen by all the successful gay men and lesbian women who often live in quite normal couples, including raising children. Concrete data on gay and lesbian lives are lacking, so the real situation is unknown. However, gay and lesbian lives are not yet completely normalized, as evident from mental health surveys that indicate a higher prevalence of psychological problems among gays and lesbians and of suicide among queer youngsters.

COMMUNITY

In the latest Dutch survey of 2006, 4 percent of the men and 2.6 percent of the women state they are homosexual, and some 3 percent of both claim to be bisexual. Eighteen percent of women feel attraction to and 12 percent have had sex with females, while 13 percent of the men say they feel attraction to males, and a similar number report having had homosexual encounters.⁵ What they do sexually has not been studied. From another survey, it seems as if the number of gays, lesbians, and bisexuals is growing from the oldest (65+) to the youngest generation (18–24), from 1.6 percent to 6.3 percent of the population, while the percentage of those who refused to indicate their sexual preference went down from 3.7 to 0.9 percent. Even if all those would be closeted gays and included as gays, there is still a substantial growth in two generations (i.e., from 5.3 to 7.2%).⁶ Comparing the surveys of 1991 and 2006, there are seven times more women who indicate a lesbian preference. It remains unclear whether this steep growth indicates a rising number of lesbians or of women who are open about their lesbian preference. Further, the latest survey indicates that gay men generally have more partners than hetero- and bisexuals or lesbians. They also have a bit more sex, masturbate more, and are substantially more active on the Internet than heterosexuals. Little can be said on kinky variations except that 7 percent of all Dutch engage in sadomasochistic behavior and 10 percent have such desires, whereas 10 percent of the men and 4 percent of the women get aroused by fetishes.⁷ For various reasons, the visibility of gay sexual variations is higher than those of heterosexuals and lesbians. The gay world has a subculture with leather and rubber shops and bars, sadomasochism, and sport sex parties that are largely not in existence for straights and lesbians. Another impression is that Dutch gay men focus less on anal sex than their North American counterparts, and have a broader sexual repertoire.

Male prostitution is legal in the Netherlands, as are other forms of prostitution, with the provision that only EU-citizens can officially work in the business and they have to be over 18 years of age. Most large cities have some male street prostitution, usually in and around railway stations in the past, and now mainly in parks. There were six bordellos in the country from the 1980s, but only one survives in Amsterdam now. Most of the bars that catered to male prostitutes and their clients have closed. The main reason for this is the growing number of prostitutes working as escorts and using the Internet to find clients. The Web is safe and anonymous, thus protecting hustlers from acquaintances who they would prefer not to know about their job. On the other hand, few hotels nowadays refuse to allow hustlers to visit clients. The escorts are expensive and professional, while prostitution in parks is cheap and incidental—mainly ethnic minority youth who want to earn

some pocket money. There have been various unsuccessful efforts to organize male prostitutes, who have been intermittently the object of care and prevention until the late 1990s—as long as AIDS was considered to be a major health risk.

Spaces

The Netherlands does not have gay ghettos or vicinities. At most, one can find a concentration of queer bars and discos, some shops, and gay people living in a certain district, but the concentration is always rather low and, even in the gayest street, LGBT people are at most a tiny majority. Although many cities and towns have gay bars, discos, and saunas, or local chapters of the COC, Amsterdam has by far the biggest gay and lesbian scene in the Netherlands. There is not a strong sense of community among gays and lesbians themselves, who always like to say they is so much more than only gay or lesbian. The problem is that major issues such as marriage, antigay violence, or public sex also divide the gay community. Right-wing politicians who defend gay rights against Muslims are seen by left-wing gays as promoting Islamophobia while doing little to counter the social problems gays and lesbians still face. Conservative gays—now probably the majority among gay men—support the right-wing leaders and parties. The left-wing parties who attract the votes of Muslims have become hesitant to speak in favor of sexual freedoms, afraid to lose these voters, and also because the left never had a clear cut philosophy on sexual issues. In the present day media-democracy, they depend quite a bit on popular opinion. The old and new rifts of Dutch society, even in the gay community itself, hinder gays, lesbians, and transgender persons from feeling united.

Although the feeling of community may be low, there is a wide range of organizations. Next to the COC, the largest one, De Kringen (The Circles), caters to men who come out. These are small groups that gather at someone's home and sometimes continue meeting for decades. There is a wide range of religious groups, varying from an organization of clergymen, groups that organize Catholic, Protestant, and Jewish services, an LGBT group that caters to persons from orthodox Protestant backgrounds to the Foundation Yoesuf for Islam and Homosexuality. The Arab bar Habibi Ana has its own cultural events and an independent group, Nafar, works for the emancipation of Arab queers. One Amsterdam-based Christian organization promises to heal homosexuals of their sinful life and make them happy heterosexuals. Bisexuals are organized, but their activities have by and large remained marginal, invisible for both straight and gay publics. A wide variety of gay and lesbian sport clubs, for example in volleyball, tennis, athletics, self-defense, and swimming provide leisure activities, and some also participate in regular competitions and/or organize their own national and international tournaments. There is no gay organized soccer, the most popular Dutch sport, which is particularly homophobic. Nonetheless, many lesbians have joined it. Some political parties have their own gay and lesbian groups; these were most active in the early 1980s and have recently shown new initiative. Many professions (teachers, soldiers, police officers), as well as big companies, have gay and lesbian groups. There is a lively kinky scene in Amsterdam, mainly organized by the leather and rubber shops in town. However, the major kinky sex place, Vagevuur (Purgatory), is in Eindhoven (although it was recently closed after 25 years of business). The Amsterdam bar scene is divided in two groups who compete for control of the annual canal pride parade, which is the main gay event of the Netherlands, always organized in the

first weekend of August. The second most important event is Pink Saturday, organized each year in a different town during the last weekend of June.

In the past, the gay and lesbian movement had a wide range of specialized publications. Some still do exist: COC's *Update*, the lesbian *ZijaanZij*, the conservative *Gay Krant*, and the gay glossies *Squeeze* and *Winq*. The low key, artsy, and semipornographic *Butt* is an English language publication from the Netherlands. The main media are on the Internet nowadays, the leading one being *gay.nl*. For lesbians, the main providers are *zijaanzij.nl* and *femfusion.nl*. Most of these sites provide platforms for profiling and messaging.

Drag Queens, Transsexuals, and Transgender

In 1959, the first bar with drag queen shows was established, Madame Arthur, after a Parisian example. It catered mainly to a straight public. Cross-dressing was at that time a popular gay pastime for special parties in the homosexual subculture. This tradition continues to this day although, since the radical faggot movement of the 1970s, the transformation of a man into a woman has to be less perfect in term of gender inversion, aptly summarized in the 1970s term *gender-fuck* or in the terms of Dolly Bellefleur, one of the leading ladies in the contemporary scene, *gender transformation art*.

In 1960, the first transsexual operation took place. After much medical and political debate, such operations were legalized in 1982: transsexuals could change their sex legally and the health insurance would pay for the medical costs if some medical and psychological criteria were fulfilled. Transsexuals had to perform the real life test, living as a person of the other sex for one year; they could not be married at the time of the sex change (to prevent same-sex marriages); and they could not be able to reproduce after the operation—which would open the possibility that a father could mother a child. In summary, the law upheld the gender dichotomy and the straight norm. Since the 1980s, the Gender Foundation is the main institution to take care of transsexuals. Some other foundations have emerged that see to social and psychological support for transsexuals.

The first organization in the early 1970s was Travesty and Transsexuality (T&T), a subdivision of the Dutch Society for Sexual Reform (NVSH). It is functioning to this day, now also including transgender persons, who began to join in the 1980s. The political success of transsexuals marginalized the other groups, which have only become more prominent in the last decade. Transgender persons initiated the group *Het jongensuur* in 1994 (named after *The Boy's Hour*, a famous transgender novel written by Andreas Burnier in 1969) and a journal called *Continuüm* in 1996. They mainly cater to females interested in male or boyish gender roles. Since 2001, a biannual transgender film festival has been organized in Amsterdam, which produced a new transgender group: The Noodles. There is a small but lively transgender community in the Netherlands that publishes a series of quality Internet journals and newsletters. Transgender themes have also made an entry in the art world with artists, museums, and galleries occasionally paying attention to gender blendings and transgressions. In art schools and gender courses, the topic has become popular, but less so on the street or in families. Violence and discrimination against transsexuals and transgender people remains common in the Netherlands, with male-to-female transgender people being the main target.

Young Queers

An important question concerns the age of sexual consent. Young people come out earlier and earlier, while their sexual majority is legally set at 16 years. Young queers have no chance to visit gay places like bars, gay organizations, or gay Internet sites because of the set age limits. They are left alone until they turn 16, and remain exposed to the straight institutions of families, schools, and sport clubs where youngsters with homosexual preference face prejudice and have little chance to learn anything positive about gay life. In 2007, LGBT youth became a major news item as, for the first time, they had their own 16-minus boat in the gay canal parade. The LGBT movement fears that any effort to lobby for lower ages of sexual consent so that young people can join the gay and lesbian community will be faced with the critique of supporting pedophile interests. Because of the demonization of pedophilia in the Netherlands, birthplace of the pedophile movement in the late 1950s, such a reproach is lethal. Few people from the gay and lesbian world dare to face such verbal straight terror. In name of the protection of children, sexual diversity is impeded and gay and lesbian youngsters remain exposed to straight norms until they turn 16. But due to the success of the 16-minus boat, a lively movement of young queers, Jong&Out, has been started.

Visibility in Public

Gay men are most visible in popular TV programs and magazines, but much less in newspapers or on the streets except in gay streets. In some gay-friendly workplaces, gays are outed as soon as they start their jobs. Being openly gay entails the condition that they should behave normally—in the sense of gender and sexual performance. This means that gay males have to act in normative masculine and straight ways so as to be invisible. Lesbians are much less visible than gay men in both media and public life. They are made invisible, but also tend to keep themselves invisible. In the absence of a lively street and bar culture, most lesbians dress to fit into mainstream culture. Although visibility is a major issue for the LGBT movement, it is far from being realized, even in the lives of most LGBT people themselves.

Screaming queens are rare birds, even in Amsterdam, where blue jeans have been the pinnacle of fashion for 40 years. Since the extension of the kinky scene from leather to rubber and skinhead and sport clothing, even kinky apparel has become less visible in Amsterdam's streets. Both gay and straight often say that they oppose queer provocation, another way of indicating that homosexual visibility is unwanted. One could reformulate the public visibility of queers in the following way: because straight people, in particular young men, are much more aware of homosexuality nowadays, gays have made themselves less conspicuous to prevent unpleasant situations or insults. Surveys show that although 95 percent of the Dutch consider themselves to be tolerant of gays, 43 percent still object to two men kissing in the streets, and only 8 percent have objections to a straight couple doing the same. Dutch gays wonder how many of the 57 percent non-objectors may change their minds when they see two men kissing in real life instead of reading about it a survey. Thus, it remains streetwise not to make homosexuality too visible.⁸

HEALTH

Although the AIDS epidemic continues, it has come to be considered as a less important issue. AIDS has changed from a mortal into a chronic disease since 1996, so the attention to the epidemic has diminished and the focus is now on other countries, in particular some countries in Africa. In the Netherlands, AIDS has remained largely a gay disease, with virtually all cases related to homosexual behavior. Since 2000, the 200 new annual cases are divided equally between homo- and heterosexuals.

The Schorer Foundation began in 1967 to serve gays and lesbians with specifically homo-psychological problems. Since 1980, it has become the main institution to provide care and support for AIDS patients and prevention for the gay community. Since the emergence of the epidemic, there has been cooperation between the government, health authorities, and the gay movement. Although there were some points of controversy, the epidemic was handled well in general. Two points of debate have been whether condoms should be provided widely—the Dutch believed safe sex would entail no anal sex, with or without condoms—and whether the gay sex places should be closed—something the health authorities very much favor. On the last issue, it was decided not to do so because bedrooms with no third parties present could be more dangerous than a sauna or dark room, and because sex places were the best locations to provide information on AIDS, safe sex practices, and health care.

The main point of controversy remains *barebacking* (engaging in unprotected anal sex). Also in the Netherlands, a group called *poz and proud* has emerged within HIV-positive society (a client organization), suggesting that HIV-positive gay men can engage in unsafe sex among themselves. This organization received full media attention in 2007 after a scandal in which three gay men not only infected each other, but also raped other gay men and injected them with their blood in an apparent crazed effort to enlarge the group of HIV-positive people with whom to have unsafe sex. Surprisingly, health authorities had known of these unsafe encounters for more than a year, and warned the local gay community in Groningen. The raped and infected gay men were so closeted or afraid of the consequences of coming forward that none of the 15 victims who reported the attacks to the police felt the responsibility or had the courage to immediately indict the perpetrators. This case shows the limits of openness for homosexuality in the Netherlands. When it comes to the provision of medical and social support for AIDS patients, the situation has, in general, been positive since the late 1980s.

The physicians of the Gender Foundation now engage in treatments for adolescents who may become transsexual; they can obtain medication to slow down their gender development, so the sex change will be easier once they decide on their sex at 16 years. The foundation is also involved in the treatment of intersexual people, where they take the rather strict position that one sex needs to be determined and medically imposed on the baby soon after the birth.

POLITICS AND LAW

The Netherlands has had an equal rights law since 1993. It has been used successfully by women, ethnic, and religious minorities. Gays and lesbians, however, have rarely used this approach to complain about discrimination. The same is true

for lodging complaints to the police about slurs and hate crimes. Dutch gays and lesbians were for a long time too closeted or too complacent to denounce queer bashers or persons who insulted them. According to some surveys, one-fourth of gays and lesbians have been confronted with forms of abuse that merit official attention, but the number of complaints being filed with the police is very small. For example, in a city like Amsterdam, only about a dozen complaints are filed each year.

Since 2007, the police have actively request that the LGBT community lodge complaints about antigay abuse and insults. Further, the police have promised to be more aware of such cases and to register them specifically as antigay violence. The same is true for the Equal Rights Law. There have been few gay or lesbian cases because the concerned persons appear to be too closeted or complacent (e.g., thinking that this is how [gay] life is). LGBT people have internalized the straight norm and have not learned to stand up for themselves and their issues.

RELIGION AND SPIRITUALITY

The main Protestant denomination, The Protestant Church in the Netherlands, allows gay and lesbian ministers and the celebration of same-sex marriage. Local churches, though, have some free space to maneuver around these doctrines. In the 1960s, the Catholic Church was open to homosexuality, accepted the homosexual person, and had an institutional open door policy that catered to homosexuals with personal problems. The main Catholic psychiatrist asked for acceptance of homosexuals, including gay couples. It was a time in which the Catholic Church, especially in the Netherlands, was more engaged with social issues. It was the progressive wind of Vatican II that allowed the clergy some space, but within 10 years, the tables turned and the Dutch province was again under the reign of conservative bishops who kept to the strict morality of the church. One of the results was a massive dropout of Catholics from the church. Since then, bishops have expressed their negative views of homosexuality on several occasions. For example, a bishop declared that homosexuality is a neurosis, and the archbishop declared that Catholics should not rent rooms to homosexuals. The other religions go from very progressive (Remonstrants, Mennonites) to very conservative (orthodox Protestants and Jews). Most of the Muslim imams agree that homosexuality is forbidden in Islam, while some vehemently denounce the tolerance for gays and lesbians and state that Europeans are worse than dogs and pigs because they allow gay marriage.⁹

The influence of religion is strong in the Netherlands, as the social system was traditionally based (and remains so) on a division of the major institutions according to religion, including schools, hospitals, political parties, media outlets, sport clubs, and even economic activity. Although this *pillarization* has been losing ground since the 1960s, there are still important ramifications. For example, half of the schools remain religious, with another half being public. The system continues to be used by orthodox Protestants and is being revived by Muslims. This pillarization and the freedom to decide on the contents of education by schools continue to impede sexual openness in the educational system. It affected the coalitional political system because only in the period 1994–2002 were no Christian parties in government. This is in contrast with all other governments since World War I, which included Christians who used their influence to promote religious values that were most often detrimental to sexual freedom.

VIOLENCE

The issue of antigay violence was initially viewed by police as violence perpetrated by gay men cruising in parks or around urinals, and queer bashing as gay men's fights among themselves or with straight lovers. The latter kind of violence continues to this day in the world of male prostitution. Male hustlers often attack and sometimes murder their clients. Research in Amsterdam from the 1980s indicates that two gay men were murdered each year by young men for whom prostitution often was an irregular trade. At that time, the topic of queer bashing came on the political agenda.

There have never been reliable statistics on the number of such incidents, as neither the police nor the gay movement keeps track of them. There have been some cases where gay men were murdered in cruising places, while less violent incidents have been reported from streets with a high concentration of gay bars. In 2007, a transgendered person was murdered in the streets of The Hague. Gay men or lesbian women holding hands outside gay districts also face violence. Another form of threats concerns gay men, transgendered people, and lesbians in their homes; they face the insults and aggression of neighbors and sometimes move to other districts. The number of cases reported to the Amsterdam police was 15 for 2006 and 24 for the first eight months of 2007. The police believe that the real number is 96 percent, meaning that the real number of antigay incidents would be 25 times higher.

With the gay canal parade of 2007, four gay tourists who visited Amsterdam were beaten up by local youth. The media reported extensively on these and earlier incidents. The Amsterdam City Council, police, and justice showed great indignation and promised stricter measures of control and prevention. This violence was seen as an attack not only on the queers, but also on the reputation of Amsterdam as a tolerant and gay-friendly city. The authorities promised more education on homosexuality, more preventive measures in ethnic minority schools and families (whose male sons are seen as being more prone to this kind of violence than young white men), and to keep a stricter record of such cases while asking gays and lesbians to report experiences of discrimination more often. This violence, however, is not restricted to the city of Amsterdam; furthermore, not only ethnic minority male youth are involved in it, but also young ethnic majority males. Some young straight men feel their masculinity and heterosexuality are threatened by gay men—another example of the continuing lack of social acceptance of homosexuality in Dutch society.

OUTLOOK FOR THE 21ST CENTURY

Although the Netherlands has seen the legal changes that have made homo- and heterosexual citizens nearly equal, the country needs still the social changes to implement this equality throughout the heteronormative character of most of its institutions. Moreover, an effort is needed to counter antihomosexual prejudices that often remain under the surface but sometimes are very visible—such as the hate crimes and insults directed at LGBT people or the utter lack of gay education in schools. The main theme, however, seems to be the broader sexual emancipation of the Dutch. Similar to other Western societies, the perspective on sexuality in the Netherlands remains one sided, which impedes the citizenship rights of different groups, in particular LGBT people. Sexuality is seen as something more typical for

men than for women, so it remains not only homophobic but also sexist. The common belief is that sex and love should belong together. This leads to unwarranted criticism of those who like sex but not necessarily in loving relationships. The view is that sex is a private affair that not only leads to discriminatory legislation on public indecencies, but also to an absence of perceptive political debates on sex and of sensible sex education. Sex is seen as an identity, and this hinders a more open sex culture where people are able to experiment beyond their identities. The French utopian socialist Charles Fourier suggested two centuries ago the idea of rallying or plural love as a way to go beyond the egoism of the couple and create social cohesion in society. But the present-day insistence on identities is even impeding lovers from finding common ground because it is sexual curiosity rather than identity that creates bridges between citizens.

RESOURCE GUIDE

Suggested Reading

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- Jan Willem Duyvendak, "Identity Politics in France and the Netherlands: The Case of Gay and Lesbian Liberation," in *Sexual Identities—Queer Politics*, ed. Mark Blasius (Princeton, NJ: Princeton University Press, 2001).
- Gert Hekma, "The Demise of Gay and Lesbian Radicalism in the Netherlands," in *New Social Movements and Sexuality*, ed. Melinda Chateauvert (Sofia, Bulgaria: Bilitis Resource Center, 2006).
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- Gert Hekma, "How Libertine is the Netherlands? Exploring Contemporary Dutch Sexual Cultures," in *Regulating Sex: The Politics of Intimacy and Identity*, ed. Elizabeth Bernstein and Laurie Schaffner (New York: Routledge, 2005).
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- Pieter Koenders, *Tussen Christelijk Réveil en seksuele revolutie. Bestrijding van zedeloosheid met de nadruk op repressie van homoseksualiteit* (Amsterdam: IISG, 1996).
- Harry Oosterhuis, *Homoseksualiteit in katholiek Nederland. Een sociale geschiedenis 1900–1970* (Amsterdam: SUA, 1992).
- Judith Schuyf, *Een stilzwijgende samenzwering. Lesbische vrouwen in Nederland, 1920–1970* (Amsterdam: IISG, 1994).
- Judith Schuyf and André Krouwel, "The Dutch Lesbian and Gay Movement. The Politics of Accommodation," in *The Global Emergence of Gay and Lesbian Politics*, ed. Barry D. Adam, Jan Willem Duyvendak, and André Krouwel (Philadelphia: Temple University Press, 1999).
- Steven Seidman, *Difference Troubles. Queering Social Theory and Sexual Politics* (Cambridge: Cambridge University Press, 1997).
- Rob A. P. Tielman, *Homoseksualiteit in Nederland. Studie van een emancipatiebeweging* (Meppel, Netherlands: Boom, 1982).
- Alex X. Van Naerssen, ed., *Gay Life in Dutch society* (New York: Harrington Press, 1987).

Video/Film

- In dit teken...* (45 min.; 1949). Directed by Piet Henneman and Jan Lemstra Documentary on the COC, its views and activities. Not available on DVD.
- Two Women* (113 min.; 1979). Directed by George Sluizer. Based on a novel by Harry Mulisch. Two women fall in love but one runs off with the ex-husband of the other.
- Spetters* (105 min.; 1980). Directed by Paul Verhoeven. Movie about three young guys, one of whom discovers he is gay after being raped. Controversial at the time it came out.
- The Fourth Man* (105 min.; 1983). Directed by Paul Verhoeven. Based on a novel of leading Dutch gay novelist Gerard Reve. A gay writer engages in a sexual relation with an adorer.
- For a Lost Soldier* (93 min.; 1992). Directed by Roeland Kerbosch. Based on a novel by Rudi van Dantzig about the love between a Canadian soldier and a Dutch adolescent just after the liberation of Holland from the German occupation (1945).
- Yes Nurse! No Nurse!* (102 min.; 2002). Directed by Pieter Kramer. A campy Dutch movie based on a 1960s television comedy series.
- While living in Holland, the Flemish novelist and film critic Eric de Kuyper made four experimental movies with strong queer undertones: *Casta Diva* (1983), *Naughty Boys* (1983), *A Strange Love Affair* (1984) and *Pink Ulysses* (1990).

Organizations

- COC, <http://www.coc.nl>.
National LGBT organization site with news and relevant information on the COC and links to most other Dutch Web sites of professional, religious, political, sport, health, and youth groups, for gay and lesbian parents and community events.
- IIAV. International Information Centre and Archives for the Women's Movement, <http://www.iiav.nl>.
Material on the lesbian movement and other women's sex organizations.
- Landelijk Netwerk Biseksualiteit, <http://www.lnbi.nl>.
National organization of bisexuals.
- LKG T&T, <http://www.transgendernederland.nl>.
National Web site of transgendered people with links to other clubs and newsletters.

NOTES

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2. Jos Becker and Joep de Hart, *Godsdienstige veranderingen in Nederland* (The Hague: SCP, 2006).
3. Theo van der Meer, *Jonkheer Mr. Jacob Anton Schorer. Een biografie van homoseksualiteit* (Amsterdam: Schorer Boeken, 2007).
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6. Jan Janssens, Agnes Elling, and Janine van Kalmthout, "Het gaat om de sport." *Een onderzoek naar de sportdeelname van homoseksuele mannen en lesbische vrouwen* (Nieuwegein, Netherlands: Arko, 2003), 55.
7. Bakker and Vanwesenbeeck, *Seksuele gezondheid in Nederland 2006*.
8. Keuzenkamp, Bos, Duyvendak, and Hekma, *Gewoon doen*.
9. Gert Hekma, "Imams and Homosexuality: A Post-gay Debate in the Netherlands," *Sexualities* 5, no. 2 (2002): 269–80.

NORWAY

Tone Hellesund

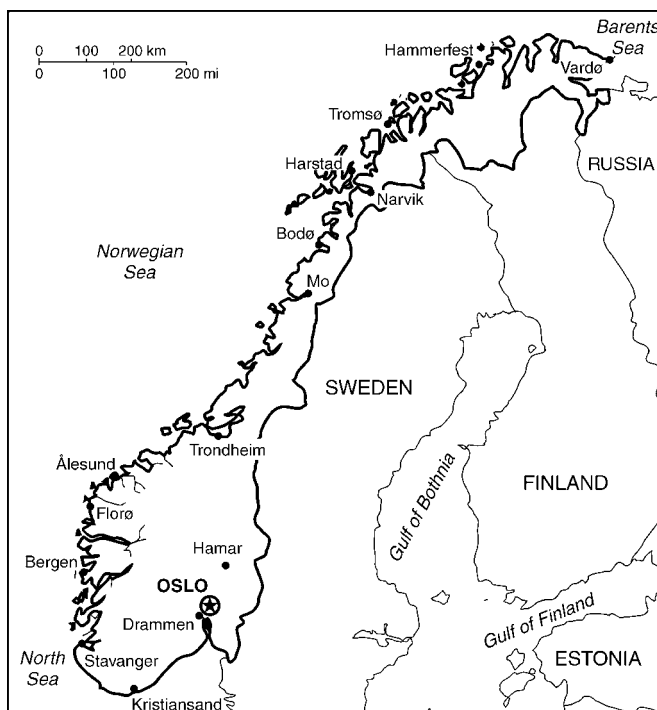
OVERVIEW

As of 2007, Norway has a population of 4.7 million people. It has a total area of 148,709 square miles, meaning that there are approximately 31.6 persons per square mile. Norway shares borders with Sweden, Finland, and Russia, but is mainly surrounded by sea. The capitol is Oslo, with 540,000 inhabitants. The population growth is currently 0.7, well below the replacement value. The average life expectancy in 2005 was 82.5 years for women and 77.7 years for men.

Norway is a constitutional monarchy and the formal head of state is King Harald V. The king mainly has ceremonial functions. The heir to the throne, Haakon, and his wife, Mette-Marit, are explicitly supportive of gay/lesbian/transsexual issues. The prime minister is the leader of the government, and as such the executive leader of the nation. Norway has a multiparty system and had seven political parties represented in the parliament in 2007.

Norwegian is the official language (two versions: Bokmål and Nynorsk), and in some districts, Sámi (spoken by the indigenous Sámi population) is also an official language.

The royal family was reintroduced in Norway in 1905, when the country again became an independent nation after 100 years under the Swedish government and 400 years under the Danish government. The Norwegian constitution was based on the French and U.S. constitutions and was sanctioned while the nation was still under Swedish government on May 17, 1814. May 17 is Constitution Day and a major holiday in Norway.



All men are called to military service when they are 18 years old. They have to serve 12–18 months in the Norwegian armed forces. Women are also allowed to join, but service is not mandatory for women.

Until the 1880s, Norway was a society mainly composed of peasants, farmers, and fishermen. Up until the 1960s, the main part of the population still lived in the countryside. There is no nobility in Norway apart from the royal family, and egalitarian values have been a major component in the national identity.

Between 1825 and 1925, approximately 800,000 people emigrated from Norway to the United States in the hope of a better life. Most left Norway between 1865 and 1910. Considering that the Norwegian population was 1.7 million in 1865 and 2.4 million in 1910, most Norwegian families were affected by the massive emigration.¹ Until World War II, emigration remained high, and then almost came to an end during the economic crisis of the 1930s. According to the U.S. census, there were 3.9 million Americans of Norwegian descent in 1990.

In 1970, a gigantic field of oil was found in the North Sea. Oil has made Norway one of the world's richest countries per capita. In 2006, Norway was the fifth leading oil-exporting country in the world.

During two referendums (in 1972 and 1994), the people of Norway voted against joining the European Union (EU). However, Norway has extensive agreements with the EU on a range of economic and social issues.

Since the end of the 1960s, Norway has experienced new immigration. This represented 1 percent of the population in the 1970s and the early 1980s. In 2007, the immigrant population (persons with two foreign-born parents) in Norway was 8.3 percent, or 386 000 persons, consisting of persons with backgrounds from over 200 different countries. Immigrants live in all the different counties, but Oslo has the largest share with 23 percent of the population. An official ban on immigration was implemented in 1975. This ban remains in effect today, but does not apply to specified refugee groups and asylum seekers. There are small annual entry quotas for these groups. Another way of gaining entry to Norway is through family reunification. Norway is regularly criticized by the UN chief of refugees for being too strict and not conforming to the recommendations of the UN.²

While roughly 82 percent of the population belongs to the state Protestant Church of Norway (Evangelical Lutheran), only 10 percent attend church services or other Christian-related meetings more than once a month. Some 8 percent of the population belongs to other religious communities, while about 10 percent do not belong to any religious community at all.³

OVERVIEW OF LGBT ISSUES

The modern homosexual movement appeared around 1950. In 1951, the newly started lesbian/gay organization DNF-48 (Norwegian Association of 1948) published the first Norwegian pamphlet about homosexuality. Here they also introduced the concept *homofil* (homophile), much used by liberation movements of the 1940s and 1950s in western Europe and the United States. Norway might be the only country still using this as the main concept for same-sex sexuality.⁴ The word *homofil* was created from Latin, *homos* meaning same, and *philein* meaning to love. The term was first used in a Norwegian newspaper in 1965.⁵ DNF-48 wanted this word to replace the term *homosexual*, to get rid of the negative sexual connotations of the latter. *Homofil* is the most common and—apart

from in (academic) queer circles—also the most politically correct term for same-sex lovers in contemporary Norway.

The term *legning* (inborn disposition) is also almost universally used in Norway, despite its strong links to essentialist views on homosexuality. It is frequently used in public debates concerning homosexuality. It was probably introduced by homophile activists to replace the view of homosexuality as a sin or a diagnosis. *Legning* can also be translated as sexual identity, if *identity* is understood in strictly essentialist terms.

Until 2005, the main organization for trans people was called the National Organization for Transsexuals. At their annual meeting in 2005, they decided to change the name to the National Organization for Transgendered People. This was explained by a wish to move away from a highly stigmatized and sexualized image and to underline that being transgendered is about gender identity, not about sexuality.

The Norwegian language differs from English on important points in terms of intimate life. Although the specific language around homosexuality seems quite traditional or old fashioned from an Anglo-American perspective, public language around intimate life and intimate policy in many other contexts seems quite inclusive of same-sex relationships and same-sex families.⁶

EDUCATION

Norway has 10 years of compulsory elementary and secondary school, starting when the children are six years old. Two percent of Norwegian pupils are enrolled in private schools, the rest in public schools (2005–2006). The private schools also get public funding. To do so, they have to offer particular programs not offered in the public schools (e.g., religious, pedagogy, elite sports).⁷ Some private schools have been established in densely populated areas where the children would have a long trip to the closest public school.

As of 2006, 70 percent of the pupils finished the three years of education after secondary schools. After this three year school, depending on grades and chosen subjects, students have access to universities and colleges. Some choose a theoretical high school while others choose to be trained as skilled laborers (electricians, hair-dressers, carpenters, etc).

The Norwegian constitution is linked to the Church of Norway, and until 1997 all pupils in Norwegian schools were educated in Christianity. Non-Christian pupils could get an exemption from these classes. In 1997, a new subject called *Christianity, religion, and philosophies of life* replaced Christianity as a school subject. This was supposed to be a more inclusive subject, and it became harder to get an exemption from these classes. In June 2007, the European Court of Human Rights (ECtHR) judged that this arrangement violated human rights. The government has now toned down the focus on Christianity and renamed the subject *Religion, ethics, and philosophies of life*.⁸ Parallel with this debate is a debate over whether Norway should continue to have a state religion and state church. Relevant institutions have been asked to contribute to a hearing both concerning the state church and the constitutional link between the nation and the Christian religion.

There is a national curriculum for the 10-year compulsory school with which all schools must comply. LGBT issues are on the agenda from the fourth grade and in various subjects. Despite the focus in the national curriculum, research has shown

that both textbooks and teachers tend to ignore nonheterosexuality or to represent it in negative and problem-oriented ways.⁹

EMPLOYMENT AND ECONOMICS

National laws are established to prevent the LGBT population from being discriminated against in the workplace and in the housing market. Both public and private companies have to comply with the laws, but religious communities have been exempted.

Despite the laws, lesbian, gays, and bisexuals still experience discrimination in many areas of life, and a few discrimination cases have been taken to court.

Several towns and cities have recently developed action programs to promote the living conditions of all lesbian, gay, and bisexuals in their area.

Military

The national defense granted full rights for homosexuals in 1979. Formal acceptance did not mean an end to all discrimination, and several gay/lesbian soldiers have reported problems with being accepted in the organization. In the last couple of years, the national defense has worked to promote softer values and claims to seek diversity among recruits and employees. They particularly underline the need for more lesbian/gays and immigrants among the ranks.¹⁰

SEXUALITY/SEXUAL PRACTICES

The age of sexual consent is 16 years for both same-sex and opposite-sex sexual contacts. In modern times, there have never been any laws against specific sexual practices (like oral or anal sex). The paragraph on rape in the Criminal Act includes not only intercourse by force but also sexual acts such as masturbation. The law is gender-neutral, both concerning perpetrator and victim, and is also in force if the parties are married to each other. The paragraph expresses that if a person (with certain means) forces the other to sexual relations, this can be treated as rape under the law (section 192). There are no laws making it illegal to make sexual proposals to others—in bathrooms or other places—and no laws making it illegal to sell sex toys.

Two paragraphs in the Criminal Act deal with pornography, one concerning adults and one concerning children under 18 years old. Section 204: It is illegal to publish or sell pornography or to give it to persons under 18 years old. Pornography is here defined “as humanly degrading sexual descriptions such as sexual activity including corpses, animals, violence, or force. Sexual descriptions defined as art, science, or information are not seen as pornography.” Section 204a: It is illegal to obtain, own, produce, or distribute sexual descriptions involving children under 18 years old. Gender/sexuality is not an issue in regard to pornography. There are no porn theaters in Norway.

Prostitution is defined as a person having sexual relations (defined to include a wide range of sexual activities) with another person for payment. The law does not mention genders, and the law is equal regarding both male and female prostitution. Until 2009, it was illegal in Norway to promote the prostitution of others, to rent out housing/rooms used for prostitution, and to publicly offer, arrange, or

demand prostitution. In 2007, there was a heated public debate around a proposal to make it illegal to buy sex. While most prostitution researchers and organizations for prostitutes were strongly opposed to this (arguing that it would make it much harder and much more dangerous to be working as prostitutes), it became more and more accepted that the general feminist/politically correct standpoint should be prohibition. The new law prohibiting the purchase of sex was passed in the parliament in 2008, and became effective in January 2009.

FAMILY

About 60 percent of the Norwegian population lives with a partner, while 18 percent of the adult population lives alone. Of all couples living together in 2004, approximately 26 percent were cohabitants and 74 percent married couples.¹¹ Approximately 40 percent of Norwegian children are born to cohabiting parents, approximately 10 percent to single mothers, and approximately 50 percent to married parents. Of children under 18 years old, 75 percent are living with both of their parents.¹² Approximately 12 percent of Norwegian women (at 45 years), and 18 percent of Norwegian men (at 50 years) do not have biological children.

Between 1993 and 2007, 3,404 persons had registered as partners, the lesbian and gay version of marriage.¹³ The majority of these were male couples. Female couples living as registered partners were 2.2 times more likely to divorce than male couples.¹⁴ Until 2005, 70 children had been born to a mother living in a registered partnership. In January 2009, a new gender-neutral Marriage Act has come into force, making the Act on Registered Partnership redundant.

The Act on Adoption and governmental regulations and guidelines constitute the legal framework for adoption in Norway. Adoption is managed through cooperation between the state and three private adoption organizations. The Act on Adoption, section 5, states that only married couples can adopt. The marriage should have lasted for a minimum of two years. This excludes both registered partners (lesbian/gay marriages) and the vast number of cohabiting couples (heterosexual and homosexual). The authorities and the private adoption agencies take care of different parts of the adoption process. Potential parents have to apply to the authorities to get approval to go ahead with the process. The authorities determine whether the applicants are fit parents; this is done through interviews and home visits. The applicants must have normal/good health both physically and mentally and a stable financial situation. They must have a good conduct and a clean police record. Single persons have increasingly—although still extremely rarely—been allowed to apply for adoption since 1998. If they are judged as fit parents, one of the adoption agencies can get them a child. An adoption is quite costly for the couple adopting and usually takes several years.

There is virtually no national adoption in Norway. Most of the children who are taken away from their parents are placed in foster care, and only in extremely rare cases are babies born in Norway put up for adoption. It is seen as highly immoral for a mother (or father) in Norway to give up a child for adoption.

The adoption regulations seem to promote a more narrow understanding of family than many other parts of the Norwegian intimate policy arena. There can be several reasons for this, and one of the reasons is an increased focus on parenthood and biology. Another reason is the claims set by the nations adopting away their children. No countries currently allowing children to be adopted in Norway accept

same-sex couples as parents. Following increased demand, China has tightened their claims and will no longer accept single applicants. China has been the main source of children for single adoptive mothers in Norway until the present. China will also make it harder for overweight people and people with lower incomes to adopt a child.

Fostering of children is state-regulated and organized by the state. Theoretically, lesbian/gays can become foster parents, but it has proved very hard for same-sex couples to be approved by the authorities.

Since the new Act on Biotechnology from 2003, assisted conception has been allowed for stable cohabitating heterosexual couples as well as for married couples (before 2003, only married couples were allowed). All assisted conception takes place in public hospitals. After the new, gender-neutral Marriage Act was passed, all married couples will have the same right to assisted conception. There are no legal regulations on the private provision of assisted conception, and egg-transplantation is illegal in Norway. Since 2003, the former rule on sperm donors being anonymous has been changed to no option of anonymity. All children conceived from donor sperm are now entitled to the name of the donor when they turn 18.¹⁵ Surrogacy is prohibited in Norway, as in the rest of Scandinavia. The Act on Parents and Children also states that the mother of a child is the woman giving birth to it, thus making surrogate mothers legally impossible.¹⁶

On one hand, it can be argued that the nuclear family is still strong in Norway, but that the definition of *nuclear family* has been broadened during the last three decades. Neither marriage nor heterosexuality is a necessary condition in many policy contexts, nor are biological bonds necessary to constitute a parent-child relationship. Although the policies supporting single parenthood is quite strong, it is also clear that partners in a romantic relationship are seen as one of the foundations for *family*. These partners are assumed to be living together. Children are also seen as a preferable ingredient in a family. Families with children have been the main target for supportive stately policies.

At the same time, this wide and democratic definition of *family* has competition from another discourse: the increased focus on biology. In some policy areas, biological bonds are highly stressed, particularly in the policy areas concerning fatherhood, national adoption, and assisted fertilization.

Adults not living in romantic relationships and not having children are invisible in the policy field of intimate citizenship. This also seems to reflect a major ideological marginalization of this group. The field of public focus and policy on intimacy in Norway marginalizes all intimacies that fall outside the couple (two partners) or parent-child relation.

COMMUNITY

Different forms of communities around same-sex lovers can probably be traced quite far back in history. Only a few historical studies of same-sex sexuality have been performed in the Norwegian context. The modern homosexual identity movement can be traced back to 1950, when a branch of the Danish homophile organization Forbundet af 1948 was established in Norway. The Danish organization was named as a reference to the declaration of human rights from 1948.¹⁷ In 1952, the Norwegian branch was formalized as a separate organization called the Norwegian Association of 1948 (DNF-48). New forms of activism took place

during the radical waves of the 1970s and 1980s, and the lesbian and gay movement experienced major divisions and conflicts, as well as diversity and creativity. After much turmoil during the 1970s and 1980s, different parts of lesbian and gay Norway were reunited in 1992 in the organization now called LLH (Norwegian National Association of Lesbian and Gay Liberation). LLH focuses public and government attention on cases of discrimination against LGBT people by asserting political/diplomatic pressure, providing information, and working with other organizations and national media. Since 1992, LLH has been responsible for a very successful identity politics, with strong ties to powerful political allies. The Norwegian lesbian and gay organizations have a strong tradition of lobbying authorities as the main strategy for gaining support and influence.

LLH is presently the only national lesbian/gay rights organization. It has about 2,000 members, spread out over 15 local chapters. Some of the local lesbian/gay/queer organizations are associated with the LLH, while others are autonomous entities. New forms of LGBT communities can be found on the Internet. The main lesbian/gay Web site gaysir.no has more than 44,000 registered users.¹⁸

Both on a national and local level, the state provide funding to lesbian and gay organizations and their activities. This includes health work, information work, cultural work, and the running of the national lesbian and gay organization (LLH).

There has been little focus on bisexuality in the Norwegian context, and no lasting organization exclusively for bisexuals has been established.

The main national organization for transsexuals is the Harry Benjamin ressurscenter (The Harry Benjamin Resource Center). The organization has close contact with the authorities and the one state hospital that performs gender-reassignment surgery. It was founded in 2000 and has mainly worked to lobby politicians and medical experts. It emphasizes that it is not an organization for all transpersons, but an organization for transsexuals who have received the ICD diagnosis F64.0.¹⁹

Until 2005, the Harry Benjamin ressurscenter was called LFTS, The National Organization for Transsexuals. At their annual meeting in 2005, they decided to change their name to The National Organization for Transgendered People, to avoid sexual connotations to their cause. In 2009 they changed their name to the Harry Benjamin ressurscenter. The organization does not want to be included in a LGBT community, and stresses that their cause is related to gender only, and they insist that this is something entirely different from sexuality.²⁰

There are patient organizations for the different intersex groups,²¹ but there is no intersex movement as such in Norway.

HEALTH

All Norwegian citizens and individuals working in Norway are automatically qualified for membership in the Norwegian National Insurance Scheme, a government insurance program entitling members to pensions (e.g. old age, survivor, disability), as well as benefits in connection with illness, accidents, pregnancy, birth, single parent families, and funerals. Together with the insurance programs for family allowance and the cash benefit to parents of young children (*kontantstøtte*), the National Insurance comprises the most important general insurance program in Norway. It is financed by membership fees from employees, self-employed individuals and other insured parties, employers' contributions, and government allocations.²²

When admitted to hospital and members of the National Insurance, patients do not pay for treatment, medication, or hospital accommodation. For visiting doctors and psychologists outside a hospital, a fee is paid, but if the fees exceed the annual upper limit (currently approximately US\$270), a patient is entitled to a fee exemption card (*frikort*). Expectant mothers do not pay for pregnancy check-ups.²³ Testing for sexually transmitted diseases (STDs) and HIV is also free of charge.

Gay and Lesbian Health Norway (GLHN) was founded in 1983 and has become an important organization in the Norwegian context. Several lesbian and gay organizations as well as individuals joined forces to address health issues relevant to the lesbian and gay community.²⁴

To qualify for sex reassignment treatment in Norway, one has to be accepted as a patient by the state hospital Rikshospitalet, which performs the treatment. Surgical treatment started in Norway in 1962. Since then, more than 400 transsexuals have undergone hormonal and surgical treatment. Hormone treatment is not started until the patient is 18 years old.

Intersex conditions in Norway are divided between genital anomalies (atypical reproductive anatomies) and disorders of sex development (Turner's syndrome and Klinefelter syndrome). About 11 children are born each year with atypical reproductive anatomies, about 12 girls with Turner's syndrome, and an unknown number of boys with Klinefelter syndrome (which is underdiagnosed).

POLITICS AND LAW

Sexual relations between men were illegal in Norway from about 1100 until 1972. Sexual relations between women have never been formally illegal.

In the Norse era (700–1350 C.E., also known as the Viking era), accusation of unmanliness was the worst form of defamation. The term *Ergi* was used to describe unmanliness or weakness, and it was often used to describe a man who “let himself be used as a woman,” the passive partner in anal intercourse. In the middle ages, the understanding of sex between men as *Ergi* was replaced by a Christian-based understanding of sex between men (and between men and animals) as sodomy or *fornication against nature*. In the late 19th century, this understanding was again replaced by an understanding of same-sex relations as a disease,²⁵ which again was replaced during the 20th century by an understanding of homosexuality as an inborn disposition (*legning*), no longer seen as a disease.²⁶ A new law concerning male homosexuality was introduced in 1902. It stressed that homosexuality was only to be prosecuted if the actions performed did public damage.²⁷ In this regard, the law differed significantly from laws on homosexuality in many other countries (e.g., Sweden), and it meant that only very few cases of homosexuality were taken to court. During the debates around the new law in 1902, some suggested that sex between women should also be included in the new law. A prominent cabinet minister then declared: “Sexual relations between two women—have you ever heard such a thing? It is an impossibility.”²⁸

When the first organization for homosexuals was founded in 1950 (DNF-48), it immediately started work to remove the paragraph making sexual relations between men illegal. In 1953, the penal code committee suggested removing the paragraph, but then wanted the age of consent set to 18 (instead of 16 as for heterosexual relations) and to prohibit homosexual propaganda. The fear of the spreading of homosexuality was behind these discussions. DNF-48 felt that this was worse than the existing (mostly unused) paragraph, and the work for decriminalization died

down. In the late 1960s, it was taken up again, and in March 1972 removal of section 213 was passed in the parliament (*Odelstinget*) with 65 votes versus 13. No new paragraphs on the issue were introduced.²⁹

Antidiscrimination Statutes

Norway has one big law on equality, the Gender Equality Act of 1978. The law only set out to hinder discrimination based on gender. Discrimination toward other groups is partly taken care of through:

- An act on prohibition of discrimination on the basis of ethnicity, religion, and so on (the Anti-Discrimination Act)
- The Working Environment Act's equal opportunity chapter (chapter 13)
- The antidiscrimination provisions in the Tenancy Act, Owner-Tenant Act, Housing Cooperative Act, and Home Building Association Act

On its Web site, the Equality and Anti-discrimination Ombuds office claims that, "The Ombuds Office contributes to the promotion of equal opportunity and fights discrimination. The Ombuds Office combats discrimination based on gender, ethnic origin, sexual orientation, physical handicap, and age. The Ombuds Office upholds the law and acts as a proactive agent for equal opportunity throughout society."³⁰ The current ombudswoman (2009) officially describes herself as a lesbian, and she has focused particularly on lesbians/gays and disabled people.

In the Norwegian law, hate crimes are mainly defined as *utterances*. Hate actions are taken care of in other parts of the law, but section 135 of the criminal code states that it is illegal to utter a hateful or discriminatory statement concerning skin color, national or ethnic origin, religion, "homophile legning," lifestyle, or orientation.

The punishment could be fines or prison up to three years. So far, the law has only been used a couple of times.

The current socialist government (2009) wants to strengthen the work against hate crimes, and has given LLH money to map out the scope of hate crimes against homosexuals.

Marriage

In 1993, the Act on Registered Partnership was passed in parliament. Thus, Norway became the second nation in the world (after Denmark) to grant some sort of marriage rights to same-sex couples. The law gave the same rights for same-sex couples as marriage, apart from the right to apply for adoption and the right to get married in a church. The law gave the same rights and responsibilities concerning tax, social security, and unemployment benefits, pensions, survivor benefits, caregivers' allowances, inheritance rights, and so on. In January 2007, 3,404 persons were registered partners.³¹ From 1993 until 2005, there were 70 children born to mothers living in registered partnerships, most of these in recent years.

The Act on Registered Partnership became a reality after a lot of work by individual lesbian/gay activists in an alliance with individual politicians from the Labor Party (AP) and the Socialist Party (SV). Among the conservatives and liberals, the attitudes were also changing in favor of the law. Most parties let their representatives vote individually on this case. Only the Christian Democratic Party (KrF) was 100 percent opposed to the proposal. The public debate around this issue was

huge. The debate was mainly progay (in favor of the law) and antigay (opposing the law). There was very little debate, either public or internally in the lesbian/gay community on whether this was something the lesbian/gay movement wanted to prioritize, and very few voices spoke up against marriage in general. An important exception to this was the former president of DNF-48, Karen-Christine Friele, who was against the Law on Partnership. She withdrew from the organization in 1989, after more than 20 years as a strong front figure for the lesbian and gay movement.³² Many of the lesbian/gay activists working toward this law were also active in the reorganization of the Norwegian lesbian/gay movement into the organization LLH in 1992.

A new Marriage Act, making marriages gender neutral, was passed in parliament in June 2008, and became effective in January 2009. By the new Marriage Act the Act on Registered Partnership was made redundant. The important changes have been that same-sex couples are now included in the symbolic marriage union, and also same-sex couples now have the right to apply for adoption and receive assisted fertilization. The active proponents of the gender-neutral marriage law were mainly the AP, the SV, and the LLH. Several of the other political parties are also mainly in favor of the new law. The visible opponents were mainly Christian conservative groups. The debate on a gender-neutral marriage has, somewhat surprisingly, been a lot less heated than the debate on the Act on Registered Partnership in 1993. In 2009, however, the Norwegian Association of the Freedom of Expression Foundation gave their respected award to the well-known antigay philosopher Nina Karin Monsen for her speaking up against the gender-neutral Marriage Act. The controversial choice of reward recipient gave rise to a heated public debate.

Speech and Association

Free speech and association has not been a big issue in the Norwegian LGBT debates. Discussions concerning restrictions on the Internet or on information about LGBT issues have hardly been heard in the public realm. In some of the religious private schools, this has been an issue, and in some public schools individual parents have reacted negatively to information about LGBT issues. In the few discrimination cases taken to court where extreme conservative Christians have been indicted, they have tried to argue that their hate speech is protected by the freedom of speech. In the most famous of these cases, from 1984, the supreme court judged that antidiscrimination took precedence over freedom of speech in that case.³³

Transsexuals

After genital surgery has been performed, transsexuals have the right to a new birth certificate and social security number.³⁴

The KrF has been among the strongest opponents to lesbian and gay rights in Norway. However, in their political manifesto for the period 2005–2009, they were the only party to strongly support the right of transsexuals.

RELIGION AND SPIRITUALITY

While roughly 88 percent of the population belongs to the Protestant Church of Norway, only 10 percent attend church services or other Christian-related meetings more than once a month. Some 8 percent of the population belongs to other

religious communities, while 10 percent do not belong to any religious community at all. The largest religious and lifestyle communities outside the Church of Norway are the humanist movement, represented by the Norwegian Humanist Association (78,000), Islam (79,000, mostly Shia Muslims), the Pentecostal movement (45,000), the Roman Catholic Church (51 000 or more), the Evangelical Lutheran free church (20,000), Methodists (13,000), and several smaller free churches. About 11,000 Buddhists are registered in Norway (mostly of Vietnamese origin), approximately 4,000 Hindus, and 850 Jews.³⁵

Norway is generally seen as a largely secular society, and the national identity portrayed in the public sphere is very much one of secularism, modernity, and progress. Despite this, different versions of Christian morality and Christian cultural norms are an important reference in public discourse and in many local communities. After the debate on abortion died out after a law legalizing it in 1979, the debate about homosexuality has been one of the major moral issues within the Christian communities, as well as in the parliament and public discourse.

In 1954, the Diocesan Council of the Church of Norway stated that “homosexuality is a threat of world-dimensions.” Since then, the debate on homosexuality has been a hot topic in meeting after meeting in the church and has created divisions both on local and national levels. In 1977, the council decided to accept the inborn disposition to (*legning*) homosexuality, but to condemn the *practice* of this disposition. In 1999, the first female bishop, Rosemarie Köhn, was the first to go against both the Diocesan Council and the National Synod when she let a lesbian theologian be a priest in one of her congregations. At the synod in 2007, 84 members voted for allowing different views on the question of lesbians and gays in ordained positions, while 50 still voted against accepting different views.

The Open Church Group for Lesbians and Gays was founded in 1976, and is an ecumenical Christian organization with national membership. The Open Church Group has been the main organization fighting for the rights and inclusion of lesbians and gays in different Christian communities, particularly the Church of Norway. The Open Church Group in Oslo organizes services every Friday. Chapters of the Open Church Group can also be found in other cities.

VIOLENCE

Violence against lesbians and gays does occur in Norway. Several gay men have been killed because of their sexual orientation, and lesbian and gay adolescents seem to be facing a particularly high amount of discrimination and violence in their everyday lives.³⁶

There is no particular focus on domestic violence in nonheterosexual relationships in Norway. In the statistics from the Women’s Shelter, 4 percent of the users state that their offender was a woman. There are, however, no statistics to show what kind of a relationship there was between the victim and the offender.

OUTLOOK FOR THE 21ST CENTURY

Heteronormativity is still dominating Norwegian society, but there is no general fear of the LBGT population losing civil rights. After the gender-neutral Marriage Act was passed, there are few formal boundaries left between heterosexuals and homosexuals. Whether the lesbian/gay movement can continue as a civil

rights-focused identity movement, or whether it has to open up for alternative frameworks, remains to be seen.³⁷

RESOURCE GUIDE

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 Soccer, handball, and volleyball teams for lesbians and gay men in Bergen.
- Blikk, <http://www.blikk.no/>.
 LGB newspaper,
- Den norske bjørneklubben (Norway Bears), <http://www.norwaybears.com/>.
 Club for gay men.

Fhiol, <http://home.hio.no/fhiohl/>.

For lesbians and gays at Oslo University College.

Fjellgruppen (The Mountain Group), <http://www.fjellgruppen.no/>.

Men who like men who like mountains.

Foreningen for partnerskapsbarn, <http://www.partnerbarn.no/>.

Organization working for the rights of children born to parents living as registered partners.

Freedom of Personality Expression (FPE), <http://www.fpenorge.no/default.asp?sec=3>.

Organization for transgendered people (transvestites, transsexuals, cross-dressers, and other trans-types) in Norway.

Gaysir, <http://www.gaysir.no>.

Norway's largest LBG Web forum, news, discussions, dating, shop, and so on. More than 44,000 members (July 2009).

Harry Benjamin ressurscenter [Harry Benjamin Resource Center], www.lfts.no.

The main organization for transsexuals (ICD diagnosis F64.0) in Norway.

Helsestasjon for lesbisk, homofil, bifil og transkjønnet ungdom, http://www.bydel-grunerlokka.oslo.kommune.no/helse/helsestasjon_for_lesbisk_homofil_og_bifil_ungdom/.

Public health clinic for lesbian, gay, bi, and trans youth

Helseutvalget—Gay & Lesbian Health Norway (GLHN), <http://www.helseutvalget.no/>.

Works on health issues among men who have sex with men (MSM) and women who have sex with women (WSW).

Nettverk for forskning om homoseksualitet (Network for Research on Homosexuality), <http://www.jus.uio.no/ikrs/nettverket/>.

Extensive Web site on Norwegian lesbian/gay/queer research. Also a monthly research forum.

Norwegian National Association of Lesbian and Gay Liberation (LLH), <http://www.llh.no/English/>.

Works for the equality of lesbian, gay, and bisexual (LGB) people and their liberation from all forms of discrimination. A wide variety of social groups are also a part of the LLH organization.

Open Church Group, <http://www.apenkirkegruppe.org/index2.htm>.

Ecumenical Christian organization, part of LLH, with national membership. The group was established in 1976 and currently has 210 members.

Raadgivningstjenesten for homofile og lesbiske, <http://www.zinus.no/rt/rtjenesten.htm>.

Counseling service for gays and lesbians.

Rosa Rebell (Pink Rebel), <http://rosarebell.wordpress.com/>.

News blog launching news related to lesbian, gay, and bi life in Norway.

Scandinavian Leather Men, <http://www.slm-oslo.no/index.php>.

Club for gay men.

Skeiv Ungdom (Queer Youth), <http://www.skeivungdom.no/>.

The youth organization of the LLH, although largely independent and focusing on queer rather than lesbian/gay.

Skeivt Forum—skeiv studentforening, E-mail: skeivtforum@gmail.com.

Student organization, University of Oslo.

Trikster, <http://www.trikster.net>.

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POLAND

Joanna Mizielińska

OVERVIEW

The Republic of Poland, a country in eastern central Europe, has an area of 120,728 square miles. It borders Germany to the west, the Czech Republic and Slovakia to the south, and Ukraine, Lithuania, and Belarus to the east. The Baltic Sea and Kaliningrad Oblast, a Russian exclave, are to the north.

Poland has a population of 38.5 million, with a density of 47 people per square mile, most of whom live in big cities. The capital, Warsaw, has about 3 million inhabitants.

Poland is a relatively ethnically homogenous state: 99.3 percent of its population is Polish. It has small minorities of Germans, Belarusians, and Ukrainians. The Jewish community of almost 3.5 million was almost entirely exterminated by Nazis during World War II and the subsequent emigration. According to the 2002 census, there are only about 1,000 Jewish people living in Poland.

Approximately 92 percent of Poles are Catholic (46% of the country). The most important religious minorities include Polish Orthodox, Jehovah's Witnesses, Orthodox Catholics, and Lutherans.

Poland's history as a state began in 966 C.E. when its first ruler, Mieszko I, was baptized. Since then, Polish history has experienced a golden age where Poland built a commonwealth with the Grand Duchy of Lithuania (1569–1795) and partitions (1795–1918) where Poland was divided between Russia, Prussia, and Austro-Hungary. In 1918, after World War I, Poland regained its independence but



only for a short time. It lost it again by being divided between Nazi Germany and the Soviet Union during the World War II. After World War II, Poland was part of the Soviet Bloc. When Communism collapsed in 1989, thanks in part to the solidarity movement, Poland regained its full independence.

Poland has been a member of the European Union (EU) since May 1, 2004.

OVERVIEW OF LGBT ISSUES

Poland, contrary to some other post-Communist countries, has had a long tradition of not criminalizing homosexual activities. That practice dates back to the Napoleonic code that was in force in Poland from 1832 and prevailed when Poland regained its independence in 1918 (the Polish independent criminal code of 1932 was silent on homosexuality). Meanwhile, under Russian rule, the imperial law was introduced, according to which homosexuality (but only between men) was illegal, the same as it was in the parts of Poland that belonged to Prussia and Austro-Hungary. In the new Polish constitution of 1997, sexual orientation is not mentioned among the factors that demand special protection from the state (contrary to gender or ethnicity, for example), but the equality of all citizens is guaranteed by article 32, which states the following: "All are equal before the law. All have rights to be treated equally by public authorities. Nobody can be discriminated against in political, social and economic life for any reason."¹

However, behind this superficial tolerance lies deeply rooted homophobia that is strongly influenced by the teaching of the Catholic Church. LGBT people are discriminated against in their daily life at work, in school, and in families. Also, when one looks at how the issue of legislation of same-sex partnership is discussed, in the Polish constitution, marriage has been very strictly defined as a union between a woman and a man. This narrow and discriminating definition of marriage was introduced due to the strong pressure of the Catholic Church long before this issue was discussed publicly by the Polish LGBT movement. As a consequence, any attempts to legalize same-sex partnership could be considered as unconstitutional.

In addition, in a country where 92 percent of the population is Catholic, public opinion about LGBT issues is strongly influenced by Roman Catholic teaching. In a poll conducted in July 2005, 89 percent of respondents considered homosexuality a deviance and only a few (4%) considered it as normal behavior. Among the first group, 55 percent (a growth of 8% comparing to the poll results from 2001) thought that homosexuals should be tolerated; 34 percent (7% less than four years before) thought the opposite. Regarding same-sex partnership law, 46 percent support legalization but almost the same number (44%) are against it. However, same-sex marriage is accepted by 22 percent of respondents, whereas 72 percent are against this idea.²

Asked their opinion about lesbians, almost 43 percent declare that they do not accept them at all, whereas 40 percent say that they do not accept gays at all. Forty-two percent believe that the law should not allow homosexuals to engage in sexual encounters. Forty percent support private homosexual practices.³

According to the poll, the majority of Poles would accept a gay or lesbian person as their neighbor (56% and 54%). A relatively large percentage of respondents would accept a gay or lesbian person as a boss (41% and 42%) or a coworker (45% and 42%). Thirty-seven percent would accept gays or lesbians as members of parliament.

Poles very strongly resist any contact between homosexuals and children. Only about 20 percent of them would accept a gay or lesbian teacher. Even fewer would accept homosexuals as child care worker (11% for gays and 14% for lesbians). A gay priest would be accepted only by 13 percent of Poles.⁴

Lately, there have been changes in Polish attitudes toward LGBT issues, as well as more activity on the part of LGBT people, who are slowly regaining their own voice and are fighting for their rights in the public sphere. These changes are due to several important factors discussed here, and underlined by the fact that Poland joined the EU in 2004; the latter development has had a strong impact on Polish LGBT politics. One of the fundamental principles of the EU is nondiscrimination on the grounds of sexual orientation. Additionally, Polish LGBT people can bring/discuss issues of Polish homophobia on an international level and, in this way, influence the state's policy by achieving visibility and the voice they had lacked before.

EDUCATION

The Polish education system could serve as an illustration of the promotion of homophobia and intolerance toward all nonnormative sexual and gender behaviors. There are no programs in Polish schools that provide useful information about human sexuality in general or LGBT issues in particular. One of the subjects where students/pupils are introduced to the realm of sexuality, called *family life education*, presents homosexuality, transsexuality, and bisexuality in a very prejudiced way. Moreover, this subject is not obligatory and has been very often taught by teachers who do not have any training in sex education. In the school textbooks designed for this subject and approved by the Ministry of Education, there is a very strong influence of Catholic teaching. Where homosexuality is discussed at all, it is included in a discussion about sexual deviance, along with pedophilia, incest, and/or bestiality. Homosexuality is presented as an exception from the rule/norm, as a mental disorder, or as something that should and can be cured. Following the Catholic Church's teaching, authors very often differentiate between homosexual tendencies and homosexual acts. Whereas the former can be tolerated under the condition of not acting upon them, the latter should be condemned. They present homosexuality as culturally conditioned and are strongly opposed to any genetic explanation.

Introduced this way, information about nonnormative sexual behavior is not only against the International Classification of Diseases (ICD) published by the World Health Organization (WHO) in 1991, which does not consider homosexual or bisexual orientation as a disease, but also reproduces social fears and prejudices that might harm LGBT people. The result is a kind of indoctrination that produces students who lack good information about sexual minorities, are against any kind of otherness, and feel free to express homophobia and intolerance openly. Thus, the majority of LGBT people choose to conceal their preferences in schools and universities. They also avoid discussing sexuality in public. According to the LGBT organizations' report from 2005–2006, 79 percent of the poll respondents hid their sexual orientation and private life in schools and universities. Among them, 27.4 percent kept it from everyone, and 51.6 percent from only some people. They hid it both from teachers (77.8%) and schoolmates (82.7%).⁵

The fear and silence were strengthened while the right wing was recently in power in Poland.⁶ In November 2005, the Law and Justice Party (a mix of

nationalism, populism, and Catholic conservatism), run by the Kaczynski twins (Jaroslaw and Lech), won the parliamentary election and built a coalition with the extremist League of Polish Families and conservative populist party Samoobrona. For the first time during the campaign, right-wing candidates often appealed to their voters using homophobic language warning against the “promotion of homosexuality” in the public and presenting themselves as defenders of traditional values. For instance, Jaroslaw Kaczynski described homosexuality as an abomination and said that, in his opinion, homosexuals should not be allowed to be teachers. What followed was openly expressed homophobia that had a very important political impact on political decisions in everyday life. For instance, in June 2006, Miroslaw Sielatycki, the director of the Center for Teachers’ Improvement, was fired by the Ministry of Education’s Roman Giertych, who was also the leader of the League of Polish Families. The main motive given to the public was the promotion of homosexuality in schools by the publication printed by the center. This publication was an official guidebook sponsored by the Council of Europe titled *Compass—Education of Human Rights in Working with the Youth*, and included an introduction by Terry Davis, the general secretary of the Council of Europe. The book contains scenarios for conducting classes on women’s rights, domestic violence, and sexual discrimination. It also encourages teachers to invite representatives of LGBT organizations to speak.

In his international speech at the European conference in Heidelberg, Roman Giertych openly expressed his homophobic views, asking all EU ministers of education to condemn/ban both abortion and homosexual propaganda in Europe. He said that homosexual propaganda must be limited so children will have the correct view of the family. Although he did not receive any support in the international forum, he did at the national level. In March 2007, the deputy minister of education, Miroslaw Orzechowski, stated that new legislation against the promotion of homosexuality in schools would soon be introduced. It was supposed to “punish anyone who promotes homosexuality or any other deviance of a sexual nature in education.” He also claimed that “teachers who reveal their homosexuality will be dismissed.” Although the legal changes have not been introduced so far, this kind of policy induces fear and intimidation among students and teachers, preventing them from coming out.

EMPLOYMENT AND ECONOMICS

One of the consequences of Poland becoming an EU member in 2004 was an obligation to fully implement its national antidiscrimination legislation, including the regulations protecting equal treatment on the basis of sexual orientation. On January 1, 2004, a new labor code was introduced, with amendments imposing a ban on discrimination against employees based on sexual orientation. The amendment brought into effect the provision of the Council of Europe directive from December 2000 establishing a general framework for equal treatment in employment and occupation. The labor code was implemented with such provisions as a ban on direct/indirect discrimination and sexual abuse, and a reversal of the burden of proof in proceedings on equal treatment (i.e., the employer has to prove that there was no discrimination).

Many organizations working in the field of equal treatment for the LGBT population have used these provisions in bringing cases into the court and successfully

collected compensation for discrimination based on sexual orientation. However, few mainstream employees are aware of the existence of such provisions. In consequence, most gay and lesbian people conceal their sexual orientation and private life at work. According to the LAMBDA report, 84.6 percent of their respondents do conceal their sexual orientation at work.⁷ More than one-third of them felt the need to hide from all coworkers or be silent about their sexual orientation. Half of the respondents had come out to some coworkers, and only 10 percent could talk openly about their private life at the workplace. What is very telling is that the majority of respondents kept their orientation from their employers and supervisors (61.9%). However, according to the report, there was no difference in the level of experiencing discrimination between those who concealed their sexuality at work and those who came out. Among the latter, 13 percent have experienced worse treatment compared to 9.6 percent of those who hide their sexuality.

Because discrimination in the workplace in general is still a barely researched topic, unequal treatment is very difficult to prove. There is little data about how many Poles bring cases to the court accusing employers of discrimination based on sexual orientation, and how many of them just accept unequal treatment to keep their jobs. Poland still has a high unemployment rate, which may prevent many employees from coming out. At the same time, as a result of entering the EU, many Poles have started to emigrate and look for work abroad. One may speculate that one of the reasons workers decide to work in England or Ireland, which host the biggest population of Polish migrants nowadays, is that in those countries LGBT people can be more open about their sexual orientation. According to the Campaign against Homophobia, almost 100,000 Polish gays and lesbians have left Poland because of discrimination based on sexual orientation.

SOCIAL/GOVERNMENT PROGRAMS

The attitude of the Polish government after 1989 toward LGBT issues has depended on whether right- or left-wing parties are in power. Whereas the former represent an openly hostile homophobic approach, the left tries to be more open and supportive of the LGBT community. It is possible to quantify these differences by analyzing the funds (or lack of them) that have been distributed among different NGOs and social programs designed to fight sexism and homophobia within given years. For instance, the right-wing government that was in power from 1997–2001 gave grants according to the political preferences of the plenipotentiary for family, Kazimierz Kapera, to all initiatives that strengthened family, had a Catholic background, and were highly conservative. In 2002 when the left-wing government was in power (2001–2005), its plenipotentiary for the equal status of men and women (notice the important change in the title), Izabela Jaruga-Nowacka was responsible for fighting discrimination based not only on gender but also sexual orientation, age, ethnicity, and religious beliefs. The plenipotentiary at that time cooperated very closely not only with feminist but also with LGBT organizations, distributing funds for their activities, sponsoring conferences that aimed to fight prejudice and hate, and publishing leaflets and co-organizing social campaigns. One of the most important social campaigns cosponsored by the plenipotentiary was the project by the Polish LGBT organization Campaign against Homophobia titled *Let Them See Us*. This was initiated in the autumn of 2002 by Karolina Breguła, a graduate of the Stockholm University School of Photography. *Let Them See Us* consisted of

an exhibition of 30 pictures, portraying 15 gay and 15 lesbian couples, all of them holding hands in winter scenery. The pictures, exhibited in art galleries in Warsaw, Cracow, Gdansk, and Sosnowiec, were only part of the project, which also involved an outdoor poster campaign, as well as an information campaign. The project generated a heated discussion on gay and lesbian rights, especially the right to public space, revealing a great deal of prejudice. In the streets, posters were destroyed, and many galleries refused to host it after the whole initiative became publicized. Moreover, the plenipotentiary was highly criticized by politicians from opposition parties for promoting the devaluation of the Polish nation.

One of the first political decisions after the Law and Justice Party won the parliamentary election in 2005 was a decision to fire the current plenipotentiary of equal status, changing the name and status of the office to the vice-minister of women and family and redefining its policy by symbolically dissociating from the politics of promoting tolerance and fighting against homophobia. Although Joanna Kluzik-Rostkowska, who performed this function, did not fully agree with the government view of homosexuality or abortion, she worked under strong pressure from its homophobic opinion and her funding was very limited.

Since 2005, almost all social campaigns that fight homophobia and promote tolerance toward the LGBT community have been refused state funding. Moreover, even the EU funding that is controlled by the Polish government is very limited. For instance, the Ministry of National Education criticized the project *Do we Need Gender?* put forth by the Campaign against Homophobia and accused it of the moral corruption of teenagers, stating that there would be no more money spent on the organization. *Do we Need Gender* was a youth exchange project financed by the European Commission's youth program with funding distributed by the National Agency. It aimed at the informal education of young people and overcoming prejudices and stereotypes concerning gender and sexual orientation; in this way, it realized specific priorities of the European Commission. Despite the fact that the Campaign against Homophobia wrote a special protest letter to the Ministry of National Education demanding a clarification, it was excluded from gaining EU subsidies from the youth program. In the explanation of its decision, the ministry declared that no organizations that promote homosexuality among youngsters can ever count on its support.

SEXUALITY/SEXUAL PRACTICES

Little research has been done on LGBT sexual practices in Poland. All existing research deals with male homosexual behavior and has been conducted in the context of HIV prevention work. There are not enough studies on nonnormative female sexuality, not to mention transgender or transsexual studies.

A good source of information about sexual practices of men who have sex with men (MSM) is the broad research done by Professor Zbigniew Izdebski in the context of HIV prevention.⁸ The research included 400 men who had had a sexual encounter with another man within the last six months and consisted of a very precise set of questions concerning not only their past and present sexual practices but their opinion about family life, community, coming out, relations with parents and friends, experience of discrimination, and so on. According to the report, 70 percent of its respondents had sexual contacts exclusively with men; and 29 percent said that they had had sex with women. Eighty percent defined themselves as

homosexuals, 17 percent as bisexuals, and 2 percent as straight. Thirty-four percent had their first sexual encounter at the age of 16–18. Thirty-six percent reported that they had had no more than 10 sexual partners in their lifetime; 2 percent had only one partner; 33 percent had between 11–50 partners; 10 percent between 50–100 partners; and 10 percent more than 100. Fifty-two percent reported that they had had at least one sexual contact with a woman. Regarding the place where men seek sexual encounters, respondents mentioned private apartments (88%), bars (72%), discos (74%), saunas (19%), and parks (16%). Ninety-five percent used the Internet in looking for information and contacts with other men.⁹

The author of the report underlines the *temporal faithfulness* of MSM. Seventy-four percent of them declared that, within the last 12 months, they had one partner. Ninety-nine percent of the respondents had had at least one instance of manual sexual contact with a noncommercial partner (i.e., not a prostitute), 94 percent oral contact, and 87 percent anal. Regarding safe sex practices, more than half of the respondents (58%) had never used condoms in their noncommercial oral sexual contact, 24 percent used condoms very seldom or sometimes, 18 percent used condoms often or almost always, and only 7 percent always used them. Interestingly, the younger generation is much more reluctant to use condoms: 63 percent of the respondents aged 18–24 declared that they never used a condom in contact with noncommercial oral partners. Although those numbers differ for anal contact (i.e., 14 percent declared that they never used condoms, 32 percent always used them), the results clearly show a huge need for a social campaign regarding safe sex and HIV prevention in Poland.¹⁰

There are no similarly extensive studies on lesbians, female bisexuals, or transgender people. This is not only due to the fact that there is much less interest in female sexuality in general, but also that female sex has always been more tamed and privatized in the whole process of the socialization of gender roles. Therefore, the majority of lesbian sexual encounters take place in private spaces, although dark rooms in Polish gay bars are very often non-gender specific. Also, the Internet plays a very important role in establishing contacts and looking for sexual partners. However, contrary to gay men's sex advertisements on the Internet, lesbians have a strong tendency to romanticize relationships and look for a long-term partner and love more often than exclusively sexual contacts. According to research by Alicja Długolecka, who interviewed 70 lesbians, while they are in relationships lesbians usually do not cheat on their partners; they want and believe in relationships that last forever. They create partner relationships and avoid role division or role playing. Their most popular sexual contact in adolescence is kissing, then petting, mutual masturbation, and then whole body contact. Other techniques such as using dildos or anal contact are very rare. In their lifetime, they have sexual encounters with men, but those contacts usually do not last long and are usually related to negative feelings. They usually have few lesbian relationships, and those they do have last longer and do not have an exclusively sexual character. They emphasize romantic feelings and the sense of safety playing important roles in their relationships.¹¹

Even less research has been done regarding the sexual practices of transgender people in Poland. The main concern of transsexuals nowadays is to have the cost of the sex operation refunded by the Ministry of Health. The first such operation in Poland took place in 1963. Contrary to the rest of the world, where there are more male-to-female transsexuals, in Poland the tendency is the opposite and the majority of transsexuals are female-to-male. In addition, as Imielinski and Dulko,

two main sexologists in Poland working on transsexuality report, the majority of transsexuals have homosexual contacts (i.e., consistent with their body structure), while about 15 percent of both homo- and heterosexual transgender people have exclusively heterosexual encounters. The rate of their suicide attempts ranges between 70 and 90 percent. This rate could be a result of the fact that transsexuals are excluded from the rest of society, very often mistreated by professionals, and 90 percent of them cannot even count on the support of their families. They also experience great difficulty in finding a life partner and building a satisfactory family life.¹²

FAMILY

The family life of LGBT people is still a relatively unknown topic. In the official statistics, for instance, in the recent census from 2002 in the part concerning family, LGBT families are not officially included. They are hidden under the category of *partnership families*, which according to the census comprise 2 percent of all Polish families.

Although the overall situation of LGBT people has worsened in Poland since 2006 and many of them experience violence and prejudice in their public life, in the private sphere they lead quite a satisfactory life, being mostly out to their friends and having many social encounters with straight and LGBT people. In the 2005–2006 report, almost 60 percent declared that they are in a monogamous relationship. Most of their relationships last between three and five years (24.4%) or between one to two years (22.9%). Such data undermine a common belief that homosexual people cannot build long-lasting relationships. More and more bi- and homosexual people are out in their family life. Seventy percent of respondents declared that their sexual orientation is known by their parents, mostly by mothers (80.7% compared to 55.2% known by fathers). Half of those who have come out feel completely accepted by their families. According to the report, 5.4 percent of the respondents have children. This means that approximately 57,000 gays and lesbians in Poland bring up children in homosexual relationships.¹³ Moreover, in Izdebski's research, 84 percent of the respondents (MSM) think that Poland should legalize same-sex partnerships. Mostly respondents were in favor of the social benefits that this kind of recognition would give LGBT people, but only 22.3 percent were in favor of adoption rights.¹⁴ However, despite some attempts toward the legalization of same-sex partnerships (i.e., the bill proposed by Senator Maria Szyszkowska in 2003), such families still remain unrecognized by Polish law and Polish society, of which the majority is against such recognition.

Regarding transsexual families, there are no studies that document their life after a sex change operation. One of the main reasons for this is that, after the operation, most transsexuals want to forget about their past, conform to gender norms, and live their new lives with their new partners. In addition, little research has been done on partners and spouses of those who are in the process of changing their biological sex. According to statistics, transsexuals conforming to the social pressure very often marry and have children, but those relationships do not last. What is interesting, more female-to-male transsexuals leave their previous relationship before consulting the sexologist. Marriages of male-to-female transsexuals are much more indissoluble. Many biological fathers stay in them because of their children. Very often, their wives know about their specific needs and support them.

COMMUNITY

According to the Campaign against Homophobia, there are two million homosexuals and two million transsexuals in Poland. The LGBT community is represented by large numbers of different formal and informal groups. Of note is the increasing role of the Internet in building a sense of belonging and helping people find important information and establish contacts.

The beginning of the Polish LGBT movement dates back to the early 1980s. However, due to the fact that Communist government was against of any kind of civil organization at that time, it mostly consisted of informal groups, mostly gay men whose role was enabling people to meet, help one another, and find partners. In the late 1980s, the first gay magazines were published: *Filo* in Gdansk and *Efebos* in Warsaw. Their distribution was still unofficial. Moreover, Polish Communist authorities tried to put the gay community under surveillance. In 1985, in different Polish cities, police launched a secret operation called *Hyacynt* that aimed at collecting records on all homosexuals. The collected data served as a means to threaten and blackmail the gay community into collaboration with the Communist regime. The result of this action was that many gay men left the country.

The transition to democracy in 1989 helped in building the LGBT community and movement, finally that could leave the underground and enter the public sphere. In addition, instead of small informal marginal groups, many LG(BT) organizations have been created with very specific targets and diverse aims. The first LGBT organization formally recognized and registered by the court was LAMBDA in 1990. This group works toward widespread social tolerance of homosexuality and to build a positive consciousness among female and male homosexuals. It also leads AIDS/HIV prevention campaigns. One of the most important organizations nowadays is the Campaign against Homophobia, established in 2000. There is only one specifically lesbian organization, Lesbian Coalition LBT, that widely cooperates with the feminist movement and tries to track lesbian genealogy within Polish culture. In 1990, the first gay magazines, *Filo* and *Efebos*, began to be officially distributed. In 1997–2000, the lesbian magazine *Furia Pierwsza* was published by the now defunct lesbian organization OLA Archive. It aimed at fighting against lesbian invisibility in both the gay and feminist movements. Its seventh and last issue was the first Polish publication fully devoted to queer theory. Furthermore, after 1989, many gay-friendly places started to operate in different Polish cities, and gay issues appeared more broadly in the media. In 1995, the first gay pride parade was organized in Warsaw.

Although almost all Polish gay and lesbian organizations now call themselves LGBT, bisexuals and transgender people are underrepresented in their membership. The same is true concerning places that specifically target transgender people. As mentioned, one of the main problems that transsexuals experience in Poland is solitude and difficulties in finding life partners. That was one of the main reasons for establishing four clubs for transsexuals that also aim to help them to find partners. However, today the main source of information and support for transsexuals is the Internet. There are transsexual groups that cooperate with gay and lesbian organizations—for instance, two of them meet at LAMBDA sites in Warsaw and Szczecin—but there are no specific transsexual organizations in Poland so far that can represent transsexuals and fight for their rights in the public sphere. Recently, there have been talks about creating one among Polish transgender people.

HEALTH

Poland has a universal health care system. However, since the fall of Communism, the system has not functioned very well and there is a constant threat that citizens will have to pay for more complicated medical procedures, leaving only the basic ones covered. There is more and more private medical coverage for those who can afford it.

As far as the problem of AIDS/HIV is concerned, there is a constant lack of sufficient preventive actions at the state level by governmental authorities. The common strategy by the government (no matter the political option) is to use the existing LGBT NGOs by giving them some small subsidies for such actions. However, as statistics show, there is little knowledge about AIDS and other sexually transmitted diseases (STDs) among ordinary citizens, and there is a constant need for developing prevention, education, and awareness programs.

According to the National AIDS Centre,¹⁵ the state institution established by the Ministry of Health and Social Care in 1993, since the beginning of the epidemic in 1985 through the end of August 2007, there were 11,131 people registered as living with HIV, 1,970 AIDS cases, and 878 deaths due to AIDS. But experts estimate that those numbers are much higher, that is, 20,000 to 30,000 HIV infections. The main methods of disease transmission in those years were intravenous substance use (54%) and sexual contact between men. While recently, the former has been diminishing, the latter has increased, probably due to the decline of condom use in this group. In addition, there is a growing number of infections through heterosexual intercourse (in 2005, 8 percent compared to 5 percent through homosexual acts and 21 percent infected by intravenous substance use), and a growing number of infected women.¹⁶

All medical care concerning people with AIDS/HIV is covered by the state health care system, but there is a lack of funding for more expensive and effective therapies. Furthermore, the medical staff in Polish hospitals lack fundamental knowledge about AIDS/HIV transmission and very often deny ordinary treatment to patients with AIDS, sending them to an AIDS specialist instead. Discrimination toward gay and lesbian people in the health service system ranges from the refusal to provide information about a homosexual partner's health or refusal of visitation to exclusion of a partner in the decision making process concerning medical therapy, and refusal by the blood donor centers to collect blood from openly homosexual men and women. One of the most common problems suffered by lesbians is the lack of lesbian-friendly gynecologists who recognize the specific needs of this group. In addition, in terms of AIDS/HIV prevention programs, lesbians and their specificity are hardly taken into account by specialists or by gay and lesbian organizations dealing with this issue.

POLITICS AND LAW

The first Polish criminal code of 1932 was based on the Napoleonic code that was in force during the Duchy of Warsaw (1807–1813) and did not criminalize homosexual behavior. Before that (1794–1918), Poland was a dependant country divided between Russia, Prussia, and Austro-Hungary, and their laws prevailed on the occupied territory. For instance, under Russian rule, homosexuality was illegal.

Poland regained its independence in 1918 and, during the interwar period, many reformers worked to remove the existing foreign laws criminalizing homosexuality. Thanks to their effort, the 1932 Polish criminal code was silent on the issue of homosexuality. Lesbians were not mentioned in the Russian criminal code or in the new Polish criminal code.

During Communist Poland (1945–1989), homosexual activity was not criminalized; however, police kept records on homosexuals, and there were no gay and lesbian organizations and no legal meeting places or press.

After a return to democracy in 1989, freedom of speech and association allowed the LGBT community an institutional form for fighting for their rights. Many gay and lesbian organizations were immediately established. Contemporary Polish law does not refer to the question of homosexuality. However, there are no antidiscrimination statutes based on sexual orientation, which by necessity is very often stressed by LGBT organizations. The exception is the Polish labor code of January 1, 2004. While joining the EU, Poland was obliged to implement national legislation on discrimination, including a ban on discrimination toward an employee based on sexual orientation.

In the lack of more general antidiscrimination statutes based on sexual orientation, the only one that is binding for all Polish citizens is article 32 from the Polish constitution, which secures equality for all and states that “nobody can be discriminated against for all kinds of reasons.” However, it does not specify those reasons. And the same constitution can be an example of discrimination because of its very strict and exclusionary definition of marriage as a heterosexual relationship only (article 18), which was repeated in the family and care code. As a consequence, marriage between same-sex partners is formally precluded by any law in Poland (i.e., tax law, administrative law, succession law). Stable and long term same-sex relationships cannot be accepted as a legal form of concubinage.

Therefore, one of the aims of the Polish gay and lesbian movement is to fight for legal recognition of same-sex relationships. In August 2003, Senator Maria Szyszkowska publicly presented the motion on registered same-sex partnership that was prepared in cooperation with gay and lesbian representatives. On November 21, 2003, the motion was submitted to the Senate and was signed by 36 senators, mostly from left-wing and central parties. The bill guaranteed a host of rights and benefits for same-sex couples, including tax benefits, pension benefits for widowed spouses, the right to inheritance, and social insurance, but openly excluded the right to adoption. The motion was backed to the Polish parliament one year later but no legislative procedure on the bill was initiated. The draft was not even sent to any of the parliamentary committees that could give it a final form. In the following parliament, when the right wing parties had gained power (2005–2007), the question of the bill was never discussed again. During the last parliamentary election that took place two years earlier on October 21, 2001 (when the Law and Justice party could not maintain power after their coalition with the League of Polish Families, and the Self-Defence Parties collapsed and were forced to organize new elections), the Law and Justice Party lost power. The neo-liberal Civic Platform, the clear winner of the elections (with 41.4% of the vote) has built a governing coalition with a moderate Polish Peasants’ Party. It is hard to predict the future of the discussed bill and the policy toward LGBT issues by the new government. However, many Poles describe this change of power as a return to normality. Also, the well-known Civic Platform commitment to improve

relations with the EU allows LGBT people in Poland to hope that their rights will be better supported.

One of the main recent concerns of Polish LGBT organizations has been to fight for their rights to free speech and to assembly. In recent years (2004–2006), several bans of LGBT parades took place in different Polish cities. On November 15, 2005 the mayor of Poznan banned the march organized by the Committee on Equality and Tolerance. The justification of his decision was “fear of destroying the peace of a public space.” Despite the ban, several hundred people gathered. Their peaceful manifestation met with aggressive harassment by members of the All-Polish Youth Organization. Police intervened rather violently and arrested those who protested illegally. As a reaction to dispersing a peaceful manifestation in Poznan in November 2005, rallies took place in several Polish cities for freedom of speech and assembly.

In 2004 and 2005, the mayor of Warsaw Lech Kaczynski (currently president of Poland) banned the Equality Parade in Warsaw, justifying his decision by the presumed obscenity of the demonstration and possible injury to the religious beliefs of other citizens. Despite his ban, on June 10, 2005, a spontaneous parade took place, which could be described as an act of civil disobedience, that hosted more than 2,500 people. The Equality Foundation, which organizes equality parades in Warsaw, filed an appeal to the European Court of Human Rights. Its verdict was announced in May 2007, and stated that the banning of the Warsaw parade violated human rights. Furthermore, as a reaction to what had happened in Poland in recent years, the European Parliament issued a resolution on homophobia in Europe, dated January 18, 2006, calling all member states to prevent homophobic speech and acts of violence. This resolution preceded the one from June 15, 2006, on the increase of racism, xenophobia, and homophobia in Europe and the necessity to fight against them. This document listed specific cases of intolerance in Europe, including those in Poland. Both resolutions were strongly criticized and opposed by Polish politicians and Polish EU representatives, regardless of their political affiliations.

RELIGION AND SPIRITUALITY

In a country where 92 percent of people are Catholics, the influence of the Roman Catholic Church and its stance on homosexuality is enormous. In its teaching, the church condemns homosexuality and opposes any LGBT efforts to achieve acceptance and tolerance. It was under this pressure that the very rigid and exclusive definition of marriage as a union between a man and a woman was introduced in the Polish constitution. The church also condemns all kinds of LGBT manifestations and supports their ban. It tries to influence social, legal, and political life and puts a lot of pressure on right-wing Polish politicians to block any antidiscrimination legislation and the acceptance of same-sex relationships.

In addition, the Catholic Church supports Catholic groups that aim to help/cure homosexuals. It is strongly emphasized in Roman Catholic teaching on homosexuality that homosexual orientation is not inborn (natural) but chosen, and therefore it could (and should) be changed. These Catholic groups want to help individuals either to stay celibate or reject a homosexual lifestyle and choose to be heterosexual instead. One of the best known of these groups is called *Odwaga* (Courage), and it is run by the Light-Life Movement in Lublin. The therapy that

is carried out there consists of three stages of healing and maturing, and its main task is to help homosexual people recover from their *sick* condition and to establish *normal* relationships in the future.

Catholic organizations in Poland are not only active in their reparative attempts but also in their ideological fight in the public space. The most active in this field is the group from Cracow called the Father Piotr Skarga Association for Christian Culture, established in 1999. During the public debates on LGBT manifestations in Cracow, Warsaw, and Poznan, the group delivered leaflets to people's mailboxes with the statement, "Say NO to the promotion of homosexuality," and included pictures of men in drag and a preaddressed protest letter that one could sign and send to local authorities. The association proudly admits its connection with an international organization, Tradition, Family, and Property, that aims to protect tradition. In spring 2006, the association sent a 50-page brochure to schools titled "Hidden Problems of Homosexuality," which describes homosexuality as a deviation. The brochure was based on materials from the American organization, the Family Research Institute.

The Catholic Church is partly responsible for public homophobia in Poland. Moreover, it refuses any kind of priesthood service for homosexuals, although the representatives of Catholic homosexuals do appeal to church authorities for such services. Many LGBT people are deeply religious despite all the prejudices in the teachings of the Catholic Church. In 1994, a group of gay Christians, Berith, was established. They meet at Lambda several times a week. Its aim is for members to support one another in their faith and show that one can be homosexual and religious.

VIOLENCE

Polish LGBT people are the target of all kinds of hate crimes. And the statistics on anti-LGBT violence have been increasing systematically. Most of the incidents are not even reported to the police. According to a 2005–2006 report, 17.6 percent of respondents (bi- and homosexuals) had experienced physical violence in recent years (14% of women and 20% of men). Among those who experienced physical violence, 41.9 percent had experienced three or more attacks. The majority of this crime (55.8%) happened in public places such as on the streets or in parks. Other venues for violence included shops or public transport (28.4%), at school/university (24.4%), and in their own apartments (15.9%).¹⁷

The majority of respondents who experienced physical violence were kicked, pushed, or hit. The second most frequent type of violence was sexual harassment (32.4%); almost 25 percent were battered, and 4 percent experienced sexual violence. In most cases, respondents did not know the perpetrators (59.7%), but in 29.5 percent of cases they were their own school/university colleagues. In 85.1 percent of cases, the police were not informed, mostly because of the lack of trust.¹⁸

LGBT people also suffer because of psychological violence. The most common form is verbal harassment (75% have experienced this). The respondents were also offended, ridiculed, and humiliated (55.8%), or negative opinion was spread about them (44.6%). In 15.3 percent of cases they were threatened, 5.9 percent received hate letters, and 6.5 percent were blackmailed. In most cases, the perpetrators were unknown (57.7%), but in 29 percent of cases they were schoolmates. Acts of psychological violence are almost never reported to the police (96.1%).¹⁹

One of the most common places for disseminating biases, intolerance, and hate speech targeting LGBT people is on the Internet, starting with homophobic comments on any articles that touch on LGBT issues through jokes about LGBT people, which one can easily find on Polish Web sites linked to neo-Nazi and religious groups. Also, Polish LGBT organizations (and their leaders) receive many threatening and hate-filled e-mails.

OUTLOOK FOR THE 21ST CENTURY

Concerning the level of intolerance, bias, and violence that Polish LGBT people experience, the main focus of their activity is fighting homophobia in their daily life, both publicly and privately. Lots of work must be done in order to let LGBT people really become equal citizens. One of the main concerns is to fight prejudice and public hatred. This could be aided by decent sex education programs that show human sexuality in all its diverse forms. Furthermore, some legal changes, such as antidiscrimination statutes that could guarantee more protection, are some main aims of LGBT organizations. The fight for same-sex partnership law is at the top of the list, as well. However, regarding the Polish political situation and the popularity of right-wing and populist parties, the possibility of decent debates over this issue is very dubious. The fact that Poland is an EU member will help in the case of any violation of LGBT human rights in the future. What cannot be achieved on the national level can be achieved at a supranational level, and one can expect that this international forum and international legislation will matter more and more for Polish LGBT organizations fighting for equal rights.

RESOURCE GUIDE

Suggested Reading

- Tomasz Basiuk, "Queerowanie po Polsku," *Furia Pierwsza* 7 (2000): 28–36.
- Tomasz Basiuk, Dominika Ferens, and Tomasz Sikora, *Mniejszościowe orientacje seksualne w perspektywie gender/A Queer Mixture. Gender Studies Perspectives on Minority Sexual Identities* (Warsaw: Wydawnictwo Bellona, 2002).
- Agata Engel-Bernatowicz and Aleksandra Kaminska, *Coming Out* (Warsaw: Anka Zet Studio, 2005).
- Kazimierz Imieliński and Stanisław Dulko, *Przekleństwo Androgyne. Transseksualizm: Mity i Rzeczywistość* (Szczecin: Glob, 1989).
- Jacek Kochanowski, *Fantazmat Zroznicowany. Socjologiczne Studium Przemian Tożsamości Gejów* (Cracow: Universitas, 2004).
- Ireneusz Krzemiński ed., *Wolność, Równość, Odmienność. Nowe Ruchy Społeczne w Polsce Początku XXI wieku* (Warszawa: Wydawnictwo Akademickie I Profesjonalne, 2006).
- Joanna Mizielińska, *Gender/Body/Sexuality: From Feminism to Queer Theory* (Cracow: Universitas, 2007).
- Joanna Mizielińska, "Lesbianism in Poland—Between Consciousness and its Lack," *Furia Pierwsza* 1 (1997): 7–34.
- Joanna Mizielińska, "The Rest Is Silence . . . : Polish Nationalism and the Question of Lesbian Existence," *European Journal of Women's Studies* 8, no. 3 (2001): 281–297.
- Krystyna Słany, Beata Kowalska, and Marcin Smietana, eds., *Homoseksualizm. Perspektywa Interdyscyplinarna* (Cracow: NOMOS, 2005).
- Zbigniew Sypniewski and Blazej Warkocki, eds., *Homofobia po Polsku* (Warsaw: Sic! 2004).

Web Sites

- Amnesty International—LGBT, <http://www.amnesty.org.pl/lgbt>.
Polish Amnesty International group devoted to LGBT rights.
- Berith, group of Christian gay and lesbian people, <http://berithprzymierze.republika.pl>.
Information about the main issues and concerns of Christian lesbians and gays.
- Crossdressing, <http://www.crossdressing.pl>.
Resource on the Polish cross-dressing scene.
- Inna Strona, <http://www.innastrona.pl/>.
Lesbian and gay portal.
- Jestem Gejem, Jestem Lesbijką (I Am Gay, I Am a Lesbian), <http://www.homoseksualizm.pl>.
Accompanies the project I am Gay, I am a Lesbian organized by the Campaign against Homophobia.
- Kampania Przeciw Homofobii/Campaign Against Homophobia, <http://www.kampania.org.pl>.
Official Web page of the organization.
- Kobiety—Kobietom—Portal Lesbijki (Women for Women—Lesbian Portal), <http://kobiety-kobietom.com>.
Lesbian portal with lots of information about lesbian and feminist activities.
- Lambda, <http://www.lambda.org.pl/>.
Information about the organization and its activities, including some publications.
- Lesbijka.org, <http://www.lesbijka.org>.
Lesbian portal.
- Moje Prawa (My Rights), <http://www.mojeprawa.info>.
Includes information about the legal status of LGBT people. It is a part of a project led by the Campaign against Homophobia.
- National AIDS Centre, <http://www.aids.gov.pl>.
National AIDS program.
- Porozumienie Lesbijek (Lesbian Coalition), <http://porozumienie.lesbijek.org/>.
Lesbian organization founded in 2004.
- Transfuzja, <http://transfuzja.wroclaw.pl/>.
Transgender group from Wrocław.
- Transseksualizm, <http://www.transseksualizm.pl>.
Information about Polish transsexuals.

NOTES

1. Konstytucja Rzeczypospolitej Polskiej/Polish Republic Constitution, Warsaw 1997.
2. Public Opinion Research Center (CBOS) poll, July 2001.
3. Ibid.
4. Ibid.
5. Marta Abramowicz ed., *Situation of Bisexuals and Homosexual Persons in Poland: 2005–2006 Report* (Warsaw: Lambda, Campaign against Homophobia, 2007), <http://warszawa.lambda.org.pl>.
6. In October 2007, Poland had a new more liberal government, based on the coalition of neoliberal party Platforma Obywatelska (Civic Platform) and Polskie Stronnictwo Ludowe (Polish Peasant Party). The two most extreme parties and erstwhile coalition partners for the Law and Justice Party, that is, the League of Polish Families and Self-Defence, have fallen the below 5 percent minimum threshold for representation in parliament.
7. LAMBDA is the the first registered gay and lesbian organization in Poland. See Abramowicz, *Situation of Bisexuals and Homosexual Persons in Poland*.
8. Piotr Sztabinski, *Raport z badania w grupie mezczyzn majacych seks z mezczyznami* (Warsaw: TNS OBOP, 2005).

9. Ibid.
10. Ibid.
11. A. Długolecka, *Pokochac kobiety...* (Warsaw: Elma Books, 2005).
12. Kazimierz Imieliński and Stanisław Dulko, *Przekleństwo Androgynie. Transseksualizm: mity i rzeczywistość* (Szczecin: Glob, 1989).
13. Abramowicz, *Situation of Bisexuals and Homosexual Persons in Poland*.
14. Sztabinski, *Raport z badania w grupie mężczyzn mających seks z mężczyznami*.
15. National AIDS Centre, the Agenda of the Ministry of Health, <http://www.aids.gov.pl>.
16. Ibid.
17. Abramowicz, *Situation of Bisexuals and Homosexual Persons in Poland*.
18. Ibid.
19. Ibid.

PORTUGAL

Ana Cristina Santos

OVERVIEW

Portugal is a southern Mediterranean country with a population of approximately 10.5 million (51.8% women). Life expectancy is 81.4 years for women and 74.9 for men. With a total area of 35,580 square miles, its territory is divided into 18 districts on the mainland and the two autonomous regions of Azores and Madeira. The capital city is Lisbon.

Portugal had the longest dictatorship in western Europe (1926–1974). From 1933 until 1968, António de Oliveira Salazar, a conservative and Catholic, led the country. During this period, sexual and reproductive rights were disregarded (e.g., abortion and divorce were forbidden, and homosexuality was criminalized). The right-wing regime was overturned by a military coup in 1974, which became known worldwide as the Revolution of Carnations. The red carnation is still a national symbol of democracy, and the revolution is celebrated on April 25th (a national holiday). After 1974, Portugal's former colonies in Africa (Angola, Cape Verde, Guinea-Bissau, Mozambique, São Tomé, and Príncipe) gained independence.

The political system in Portugal is a parliamentary democracy and governments have shifted between two major political parties: the Democrat Social Party (PSD) and the Socialist Party (PS). Portugal has been a member of the Council of Europe since 1976 and became a European Union (EU) member in 1986. The euro currency replaced the *escudo* in 2002.



OVERVIEW OF LGBT ISSUES

There is no antidiscrimination law as such, but discriminating based on sexual orientation is prohibited by the constitution. This constitutional ban exists parallel to other pieces of legislation that still reinforce difference and discrimination: same-sex civil marriage is illegal, same-sex couples cannot adopt children, and only married women or women in a heterosexual de facto union can have access to assisted conception. Same-sex civil marriage is the most controversial issue, but also the one that has gathered more public support as well as activist initiatives.

The LGBT movement is very active and successful in pushing for legal reform, and therefore there is a social expectation that all discriminatory laws will change in the near future, similar to what happened in Spain. Moreover, since 2007, the ages of consent have been equalized and hate crimes based on sexual orientation have been included among the aggravating grounds in the revised penal code. Both of these were long-term demands of the LGBT movement. Therefore, Portugal constitutes an example of the potential of social movements in generating political, legal, and social change in the sphere of LGBT issues.

EDUCATION

In 2001, 10 percent of the population could not read or write. In the 2004–2005 academic year, the total number of individuals with a university degree was over 70,000, of which 65 percent were female.

Concerning LGBT issues, sex education is one of the most debated issues. In 1984, after a period of social and political debate, the parliament passed a law on sex education (law 3/84). However, the specific regulations that would determine how the law would come into force were never established, and therefore law 3/84 was never fully applied. In September 2007, the final report of the state Working Group on Sex Education was launched, suggesting that schools should implement sex education. In this report, the link between sex education and health and biology was reinforced, with very little being said about preventing discrimination and combating bullying.

There are LGBT organizations doing youth work, namely facilitating discussions with students and teachers. The youth organization *rede ex aequo* is the most active in the field of education, setting up workshops and publishing specific materials. However, there is no regularity in these activities and therefore no guarantee that the educational system will consistently and formally address issues of sexual orientation and gender identity.

EMPLOYMENT AND ECONOMICS

In 2005, the activity rate (percentage of people over 15 years old, both employed and unemployed, compared to the overall population) was 52.5 percent. The unemployment rate hit 7.6 percent, being more prominent among women (8.7% against 6.7% among men) and among the age group of 15–24 years old.¹

Many stories of discrimination in employment against LGBT employees have been reported over the years by LGBT organizations and the media. However, to date there have been no formal complaints in the courts on these matters. Such

absence of formal complaints is justified to a great extent by fear of an unwanted coming out or a general lack of confidence in the national judicial system.

In 2003, the new labor code came into force, responding to EU demands to include directive 2000/78/CE into national legislation. Clearly stating that no employee should be discriminated against based on sexual orientation, the labor code became the first piece of national legislation mentioning sexual orientation. It also changed the rules concerning pressing charges based on discrimination; before the labor code, the burden was on the employees to prove they had been discriminated against, whereas after 2003 it is the employer who needs to prove the company has not discriminated against the person pressing charges.

SOCIAL/GOVERNMENT PROGRAMS

Drawing on EU policies, the language of equality and nondiscrimination gradually became part of the political ideology aiming to transform Portugal into a modern state in the eyes of its counterparts. Signing the Amsterdam Treaty in June 1997, Portugal became symbolically obliged to enforce the principle of non-discrimination, which mainly targeted gender equality. As a result, the Portuguese government started to invest resources in preparing experts in the field of equality and nondiscrimination between women and men, namely by subsidizing training courses, the first of which took place in 2001. Nonetheless, there are no state-funded social programs targeting the LGBT population or specifically addressing issues of sexual orientation or gender identity.

In terms of social attitudes, there has been some change. Today, the Portuguese people recognize that current discrimination based on sexual orientation is more widespread than it was five years ago (45%, compared to the average of 31% in the rest of the EU), as it is also more widespread today in terms of gender (41%, compared to the EU average of 27%).² These figures represent a move away from data collected by a study in 1998, according to which 48.5 percent of the respondents believed sexual relationships should only be allowed between men and women.³

SEXUALITY/SEXUAL PRACTICES

The Portuguese penal code reform of 1982 decriminalized sexual acts practiced in private by consenting adults. These included adultery, incest, prostitution, and homosexuality, which had figured in previous penal codes as crimes against decency or crimes against custom.

In terms of sexual practices, according to a survey by Eurosondagem in 2005,⁴ 52.2 percent of interviewees said AIDS did not affect their sexual activity. 60.2 percent of all women interviewed and 44 percent of all men admitted they never changed their behavior in order to prevent AIDS. One-third never used condoms (33.5%) and 28.8 percent used condoms only on certain occasions. Concerning sexual orientation, 1 in 10 Portuguese identify themselves as gay/lesbian (7%) or bisexual (2.9%). Half the interviewees had come out as gay/lesbian (50.8%) and the vast majority of bisexuals were still in the closet (85.7%). Nearly half of gay/lesbian interviewees had a stable partner (49%), whereas that number decreased to 33.3 percent in the case of bisexuals and increased to 72.3 percent in the case of heterosexuals.

FAMILY

Compared to the 1991 census, in 2001 there were more married people with no children (30.9%, compared to 28.8% in 1991), single parents (11.5% compared to 9.2%), and lone mothers (10% compared to 7.9%). In contrast, there was a decrease in the percentage of married people with children (56.7% compared to 60.9%). The percentage of families of grandparents with grandchildren is very low (0.5%).⁵ In 2005, the marriage rate was 4.6 per 1,000 habitants and the divorce rate was 2.1 per 1,000 habitants. The average age for getting married is 31.3 for males and 28.9 for females, and the average age for getting divorced is 39.8 years old.⁶ There is no statistical information about same-sex families.

Marriage is defined in the Family Law, which is included in the civil code. According to this law, marriage is a “contract between two different-sex people who wish to start a family in a full sharing of life” (article 1577). The same code also states that a marriage between two same-sex persons is legally nonexistent (article 1628). Faced with this obstacle, for a long period of time family related LGBT claims focused on the recognition of same-sex cohabitation. This was achieved in 2001, with the approval of a *de facto* union law that does not discriminate based on sexual orientation.

According to the 2001 census, between 1991 and 2001 there was an increase of 96.1 percent in cohabitation (“marriage without registration”), with 194,000 people living in a *de facto* union relationship in 1991 increasing to 381,000 in 2001. However, because this law included both same-sex and different-sex couples, there is no specific information about same-sex cohabitation.

Since 2005, the major banner of the LGBT movement in Portugal is the right to same-sex civil marriage. This claim leads a series of other family related demands, such as specific regulation for the *de facto* union law, recognition of same-sex adoption, and access to assisted conception techniques for lesbian women.

COMMUNITY

The first Portuguese LGBT organization emerged in 1991. Since then, several other groups emerged in the country, most of them in Lisbon. Today, there are 10 LGBT organizations, some of which have subgroups and satellites in other regions of the country. Most organizations are self-identified as LGBT. There are only three exceptions to this, which consist of more specific targeted organizations: Clube Safo (lesbian-oriented), Ponto Bi (bisexual-oriented), and AT (transgender-oriented). Organizations play an important role in social visibility and political struggle, not only in the field of LGBT rights but also in the field of women’s rights. Pride (locally called *Arraial* and consisting of a festival that has followed the LGBT march since 2000) has been celebrated since 1997. In 2000, there was the first LGBT march in Lisbon, which attracted more than 500 people. These numbers have increased over time—up to 3,500 people in more recent parades. Other important initiatives include Porto Pride and the LGBT March of Porto, both taking place in the north after 2001 and 2006, respectively.

LGBT community services are scarce. There is an online publisher (*Zayas*), bookshop (*Esquina Cor de Rosa*), travel agency (*Saga Escape*), magazine (*Korpus*), radio show (*Vidas Alternativas*), and a few bars, hotels, and clubs.⁷ These are mostly situated in the two main cities, Lisbon and Porto.

HEALTH

Portugal has the second highest rate of teenage pregnancy in Europe, with an estimated average of 6,000 a year. Preventing teenage pregnancy is considered a priority by family planning and reproductive health services, and there are free contraceptives available to everyone, regardless of age, in health centers. Since 2007, abortion is also available upon request to women who are up to 10 weeks pregnant.

Until 1995, sex reassignment surgery was forbidden by the Portuguese Deontological Medical Code. In May 1995, a resolution of the Medical Council determined that sex reassignment could be possible in cases of transsexuality or gender dysphoria. The criteria include being over 18 years old and not being previously married. The process is long, requiring several doctors' authorizations and a two-year period on hormones before surgery can be done. Surgeries concerning breasts (mastectomy or enlargement) and genitals are paid for by the National Health System, which, however, does not pay for other aesthetic procedures, like hair or Adam's apple removal. The transgender community has several claims in this respect, some of which relate to a call for a gender recognition law and freedom from compulsory psychiatric dependency.

HIV and AIDS in Portugal are mostly found among drug users (47.5%) and heterosexual people (34.4%). Homosexual and bisexual people corresponded to 12.9 percent of all cases of HIV and AIDS between 1983 and 2007. Despite these figures, HIV organizations played a key role as embryos for LGBT visibility in Portugal. In fact, many LGBT activists were first drawn into activism through HIV-related campaigning.⁸

POLITICS AND LAW

Homosexuality was decriminalized in 1982, eight years after the democratic revolution. Cohabitation has been legally recognized for opposite-sex couples since 2000 and for lesbian and gay couples since 2001, but this law does not include the same rights ascribed to straight couples such as adopting children.

On April 22, 2004, Portugal became the first European country and the fourth worldwide to include sexual orientation among the unacceptable reasons for prejudicial treatment (article 13) in the constitution. However, there is still discrimination in the law (e.g., adoption and same-sex civil marriage). Furthermore, in 2006, the parliament approved a law on assisted conception that granted exclusive access to married women or women in a heterosexual de facto union, thus excluding lesbian women from accessing assisted conception techniques. Until the revision of the penal code in 2007, there were still different ages of consent (14 for heterosexual relations and 16 for same-sex relations). Finally, there is no specific law protecting transgender people from discrimination, as gender identity is not mentioned among the unacceptable reasons for prejudicial treatment, and there is no gender recognition law such as exists in the UK (2004) or Spain (2007).

Few court cases have addressed LGBT rights in Portugal. The first of them was *Mouta versus Portugal*, in 1998, and it created a case law in the European Court of Human Rights (ECtHR). After being denied custody of his only daughter because of his sexual orientation, Joao Mouta (the father) took his case to the ECtHR. The Portuguese state was found guilty of discrimination and violation of the right

to respect for private and family life.⁹ In 2004, Opus Gay and Anabela Rocha started judicial proceedings against Cesar das Neves, an academic and columnist. The claimants alleged there was homophobic content in some of das Neves' articles published in the newspaper *Diario de Noticias*. The case never went to court. Finally, there is an ongoing court case initiated by two lesbian women who are demanding the right to be allowed a civil marriage based on the fact that the Portuguese constitution states that no one can be discriminated against because of sexual orientation. Presently, the case is awaiting sentence from the highest court of appeal in the country, the Constitutional Court.

RELIGION AND SPIRITUALITY

Catholicism is the dominant religion in Portugal: 72 percent of the population is religious and, among those, 97 percent self-identify as Catholic. In 2001, 63 percent of all weddings celebrated in Portugal were Catholic.¹⁰

On several occasions, Catholic authorities have expressed their public views against the recognition of LGBT rights. Due to the symbolic power it holds, the Catholic Church is one of the main powers blocking the advancement of LGBT claims, namely those that are family or child related.

There is no tradition of religious LGBT groups in Portugal. However, there are two recent religious LGBT groups. One is called the Portuguese Group of Social Intervention, whose members are self-identified as lesbians and gay men, and former members of the religious Jehovah's Witness movement. The other one is called Rumos Novos (New Paths) and is self-defined as a Catholic homosexual group.

VIOLENCE

There have been several reported cases of homophobic and transphobic violence, including death threats and the beating of gay men in public toilets in the northern rural city Viseu, in 2005. This mobilized the movement to organize a major petition against violence, to give legal support to the victims, to denounce the attacks in the media, and to organize several initiatives such as debates and demonstrations in the streets. Furthermore, these attacks were politically legitimized by the city mayor, who asked for the authority's intervention in order to prevent homosexual encounters in public toilets in the city. This request was at odds with article 13 of the constitution, which forbids discrimination based on sexual orientation. Furthermore, the request is not supported by any other law, as homosexuality and prostitution are not considered crimes according to the Portuguese penal code. The mayor, later on, joined the *stop-homophobia* demonstration in Viseu, organized by the LGBT movement in May 2005.

In February 2006, Gisberta, a transgender woman, was repeatedly tortured, raped, and beaten, thrown into a well, and left to die. The aggressors were a group of teenage boys and the court sentence dated August 1, 2006, stated that Gisberta died not from injuries but because she had drowned in the well water. This case stirred international support, and for the first time the transgender movement achieved some visibility concerning discrimination and the specific measures required to combat it. This case led to a change in the penal code in 2007, whereby sexual orientation was included among the aggravating grounds for hate crimes (article 132).

There have been debates around same-sex domestic violence. In December 2006, the Union Association of Portuguese Judges issued a document stating that there could not be a legal recognition of same-sex domestic violence because same-sex civil marriage was not allowed. Furthermore, it was also stated that domestic violence presupposed a physical strength difference, which was absent from same-sex relationships, and that same-sex families were nothing but ideological banners, for advocacy purposes.¹¹ In spite of this statement, the new penal code, which came into force in September 2007, included among potential victims of domestic violence a person—either same-sex or different-sex—with whom the aggressor has or has had a relationship similar to married partners, regardless of whether they are cohabiting or not (article 152).

OUTLOOK FOR THE 21ST CENTURY

LGBT issues in Portugal are rich and complex. The early years of the LGBT movement date to the 1990s, and there were many social and cultural struggles and legal achievements in very few years. However, some areas remain less visible than others, as is the case with bisexuality, intersexuality, and—to a lesser extent in recent years—transgenderism.

Another underestimated group is queer-straight, who remain a minority inside another minority. But there is an increase in the numbers of people that, despite their self-perceived heterosexuality, engage in praxis of public support of LGBT issues. This is obvious in recent LGBT marches, where self-identified heterosexual celebrities and other people join the event, demonstrating a public commitment against heteronormativity.¹²

There are no lesbian and gay studies or queer theory modules taught either at the undergraduate or postgraduate level in Portuguese universities. Nevertheless, LGBT issues in academia are an area in expansion, as demonstrated by the growing interest on the part of students and researchers.

RESOURCE GUIDE

Suggested Reading

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- Ana Cristina Santos, "Direitos Humanos e Minorias Sexuais em Portugal: o Jurídico ao Serviço de um Novo Movimento Social," in *Indisciplinar a Teoria. Estudos Gays, Lésbicos e Queer*, ed. Fernando Cascais (Lisboa: Fenda, 2004).
- Ana Cristina Santos, "Entre a academia e o activismo: sociologia, estudos queer e movimento LGBT em Portugal" ["Between Academia and Activism: Sociology, Queer Studies, and the LGBT Movement in Portugal"], in *Queer Studies: Identities, Contexts and Collective Action* (special issue, *Revista Crítica de Ciências Sociais*) 76 (2006): 91–108.
- Ana Cristina Santos, "Feminismos e Lesbianismos: notas para uma tradução (ou alicerces de uma ponte por reconstruir)" ["Feminism and Lesbianism: Contributions to a Translation"], in *Feminismos 80 Anos Depois*, ed. Lúcia Amâncio, Manuela Tavares, and Teresa Joaquim (Lisboa: D. Quixote, 2007).
- Ana Cristina Santos, "Heteronormatividades: formas de violência simbólica e factual com base na orientação sexual e na identidade de género" ["Heteronormativities: Forms of Symbolic and Physical Violence Based on Sexual Orientation and Gender Identity"], in *Forms and Contexts of Violence* (special issue, *Revista Portuguesa de História*) 37 (2006): 281–98.
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sociedade cosmopolita [*Human Rights in the Cosmopolitan Society*], ed. César Augusto Baldi (Rio de Janeiro: Editora Renovar, 2004).

Miguel Vale de Almeida, *A Chave do Armário: Homossexualidade, Casamento, Família* (Lisbon: ICS, 2009).

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Organizations

Associação Cultural Janela Indiscreta, <http://www.lisbonfilmfest.org/>.

Cultural organization responsible for the Lisbon Lesbian and Gay Movie Festival since 1997.

AT—Associação para o Estudo e Defesa dos Direitos à Identidade de Género, <http://a-trans.planetaclix.pt/>.

Created in 2003, in Lisbon, it is the only transgender-only organization in Portugal.

Clube Safo, <http://www.clubesafo.com/>.

Created in 1996. It is the only women-only LGBT organization. Besides co-organizing national events, they organize annual women's camps and edit a bi-monthly bulletin called *Zona Livre*.

ILGA-Portugal, <http://ilga-portugal.oninet.pt/>.

Created in 1995, in Lisbon, they run the only Lesbian and Gay Communitarian Centre, a space that was given by the Lisbon municipality in 1997. ILGA-Portugal has organized the Annual Lisbon Pride Party since 1997.

não te privas—Grupo de Defesa dos Direitos Sexuais, <http://www.naoteprires.org/>.

Created in 2002, in Coimbra, it is a youth organization and the only one that is simultaneously feminist and LGBT in its self-identification.

Opus Gay, <http://www.opusgay.org/>.

Created in 1997, in Lisbon. They run a LGBT weekly radio show (since 1999) and they co-edited the *First Anthology of Portuguese Homoerotic Literature*, and edit the magazine *Korpus*.

Panteras Rosa—Frente de Combate à LesBiGayTransfobia, <http://www.panterasrosa.com/>.

Created in 2004, in Lisbon, they mainly organize direct action initiatives.

Ponto Bi, <http://www.pontobi.org/>.

Created in 2006, in Porto, it is the only bisexuality-only organization.

PortugalGay.PT, <http://portugalgay.pt/>.

Created in 1996, in Porto, they have organized the Porto Pride since 2001 and have co-organized the Porto LGBT March since 2006. They also launched the Porto Gay and Lesbian Guide in 2000. Their regular activities center on a Web site that, as they report, receives 75,000 visits per month.

rede ex aequo, <http://ex-aequo.web.pt/>.

Youth organization created in 2003, in Lisbon, with branches in most regions of the country. They organize youth camps and run an education observatory designed to collect data on and monitor bullying in schools.

NOTES

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2. Eurobarometer, "Discrimination in the European Union" (Lisbon: INE, January 2007).

3. José Machado Pais, ed., *Gerações e Valores na Sociedade Portuguesa Contemporânea* (Lisbon: Secretaria de Estado da Juventude, 1998).

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8. António Fernando Cascais, "Diferentes como só nós. O associativismo GLBT português em três andamentos," *Revista Crítica de Ciências Sociais* 76 (2006): 109–26; Ana Cristina Santos, "Sexualidades politizadas: o activismo nas áreas da sida e da homossexualidade em Portugal" ["Politicised Sexualities: AIDS and Gay Activism in Portugal"], *Cadernos de Saúde Pública* 18, no. 3 (2002): 595–611.

9. The sentence of the European Court of Human Rights dates to December 21, 1999.

10. INE, *Census 2001* (Lisbon: INE).

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ROMANIA

Sinziana Carstocea

OVERVIEW

Situated in southeastern Europe, Romania¹ is the largest country in the Balkans and the 12th largest in Europe. With a total surface area of 91,892 square miles, the territory stretches 319 miles from north to south and 447 miles east to west. The Danube River is a natural border on the south and southwest, separating the country from Serbia and Bulgaria. The Black Sea borders it on the southeast, while to the northeast the river Prut marks the border with the Republic of Moldova. Romania's other neighboring countries are Ukraine to the north and Hungary to the west.

The country features the entire range of geographical configurations, with the Carpathian Mountains (also called the Transylvanian Alps) dominating the center of Romania, reaching 8,346 feet at the highest altitude and covering roughly one-third of the territory. Hills and plains cover most of the remaining area, and the Danube forms a delta when meeting the Black Sea. The geographical heterogeneity and the temperate climate support habitats for a wide variety of fauna and flora.

Romania has a population of approximately 21.6 million people, with the majority being ethnic Romanians (89.5%). Other ethnicities include Hungarians and Roma (Gypsies) (6.6% and 2% of the population, respectively), while a small percentage (1.4%) are Ukrainians, Germans, Turks, Serbs, Bulgarians, Lipovans, Greeks, Russians, Poles, or other ethnic groups. The official language is Romanian, a Romance language with primarily Slavic, but also Turkish, Greek, and Hungarian



influences. Hungarian and Romani are the main minority languages spoken, followed by German.

The country is administrated in 41 counties (*judet*) and the capital is Bucharest, a booming commercial, industrial, and cultural center, and the richest city in Romania. The currency denomination is the leu.

December 1989 marked the end of Nicolae Ceausescu's dictatorship in Romania and almost half a century of Communism. Over the 1990s to the present, the country has been undergone extensive but arduous development, also referred to as a period of slow transition toward a market economy and democracy. The years of transition are marked by significant reforms that have had a great impact at all levels of society, with most aiming to meet European Union (EU) recommendations for admission to the EU. Romania succeeded in becoming a member of the EU on January 1, 2007.

OVERVIEW OF LGBT ISSUES

Romania is generally considered to be one of the most homophobic countries in Europe, characterized by a lack of legal provisions regarding LGBT persons, an adverse social climate translating into a weak LGBT subculture, and a poor mobilization around LGBT rights. Gay and lesbian issues rarely enter the public discourse in Romania; only in recent years has public attention come to focus on homosexuality, with European-oriented activists facing opposition from conservative factions of society, such as the political parties affiliated with the Orthodox Church, and right-wing organizations.

Although Romania is a secular state, the Romanian Orthodox Church (ROC) claims a special place in domestic affairs and actively defines itself as the moral compass of society, using the allegiance of 87 percent of Romanians as the basis for its involvement in the political arena. Church intervention has had significant consequences for the progress of reforms concerning LGBT issues.

Indeed, a complete ban on homosexuality, including the criminalization of association and expression related to homosexuality, persisted until 2001. The decriminalization of homosexuality was only possible due to European pressure and conditionality in view of the country joining the EU, together with an intense international lobby mediated through a local organization (Accept, the main Romanian nongovernmental organization [NGO] defending LGBT rights). The topic of gay partnership was only mentioned in 2006, at the press conference launching Gay Fest, an annual event organized by Accept. Prompt opposition from Orthodox and nationalist voices followed in the media.

As in many other regions of the world, there is no information available concerning the general characteristics of the LGBT population in Romania. Inheriting a long history of active criminalization reinforced by social stigma, Romanian homosexuals remain very discreet, with no public personality openly embracing his or her homosexual orientation.

EDUCATION

Following the collapse of the Communist regime in 1989, the education system in Romania went through a continuous process of reconfiguration, with several

contradictory reforms and a number of partial legislative acts meant to adjust and reconcile the previous changes. The education system makes a distinction between preuniversity and higher education. Only eight years of school are mandatory, from first grade to eighth grade. Children start school between the ages of six and seven. Government funding for education differs from year to year, reaching 5.2 percent of the gross domestic product (GDP) in 2007, funds used for different governmental programs aimed at encouraging attendance and improving the quality of education.

For example, students are given a monthly allowance on the condition of full attendance in classes. In 2006, a government ordinance² modified the conditions of this provision, making any child under 18, whether enrolled or not, able to receive this monthly allowance. By the same logic, another measure, the milk and croissant (*laptele si cornul*) program, established in 2002, consisted in providing a daily glass of milk and a croissant to all students attending primary schools classes. Scholarships rewarding high achievement or in support of economically disadvantaged students, aid in terms of supplies, and technology (including computers) are also provided to students.

A parallel network of private schools has developed since the mid-1990s, mostly for kindergarten and university students. The private university system had to respond to great challenges concerning quality of training, being considered of a lower caliber than public schools, even though all schools have to follow the ministerial guidelines, programs, and curricula.

Religious education in schools is a sensitive matter. Mandatory in primary school, religion is an optional class in secondary schools. Given that a large percentage of Romanians are Orthodox, along with the lack of resources and the impossibility of providing classes on different religions, the Orthodox religion is the predominant religion taught throughout preuniversity schools. In most classes, one can find a religious icon displayed on the wall.

The Romanian school system leaves little room for socialization outside the usual hours of classes. There is no lunch break; classes finish for some students at noon, while for others they start at noon. Usually, there is no transportation provided to and from school. Some schools have extracurricular clubs, but not many. There is no evidence of any LGBT groups on campuses, and most gay and lesbian students are not open about their orientation at school.

Sex education is not a priority of the educational system in Romania. The curricula include limited information on sex, focusing mainly on the reproductive system. Since the early and mid-1990s, sex education topics have been covered in schools by representatives of NGOs dealing with reproductive health, or by multinational companies advertising their products. Since 2004, the national curriculum has included health education, but only as an optional class. In addition, a new figure is beginning to make its way into the school universe: the school psychologist (*psiholog scolar*). His or her role and responsibilities are yet to be defined; for the moment, the counselor has broad liberty to organize activities.

In 2005, however, the publication of a comprehensive and accessible brochure on sexual orientation designated for use in schools was a great accomplishment in setting the framework for a neutral approach to the topic.³ This is especially important since almost 50 percent of discriminatory incidents are reported to happen in education-related institutions.⁴

EMPLOYMENT AND ECONOMICS

From an economic point of view, Romania is among the most problematic countries in Europe, with slow progress toward an open economy. The GDP per capita for 2006 was estimated at \$10,661, and GDP growth at 7.7 percent, while inflation was estimated at 6.5 percent.⁵ The process of transition initially brought about a period of economic instability and decline in Romania, which lasted for over a decade. Nonetheless, since 2000, signs of evolution and stability are apparent: there is growth in the private sector, increased foreign investment, and decreased rates of inflation and unemployment. Exports have developed significantly over the last few years, but there is still an important trade deficit since Romania imports more goods than it exports.

There are no available figures describing discrimination in the workplace or in other spheres dealing with public services, and such figures would be hard to obtain. A large number of LGBT Romanians live in the closet, choosing not to publicly announce their sexual orientation, thus avoiding the very real threat of discrimination. A legal framework protecting LGBT people against discrimination has existed since 2000, as the implementation of a European directive: ordinance 137/2000 explicitly bans any discrimination on the basis of sexual orientation (along with other criteria) across public and professional fields, such as employment, access to goods and services, education, health, and justice. Even though this legal provision is not extensively used in everyday life, there have been a few cases of prosecution based on it, ruling in favor of LGBT people.

SOCIAL/GOVERNMENT PROGRAMS

The Romanian government does not provide funding for any social programs specifically targeted to LGBT people. Nevertheless, the Ministry of Health is involved in social health programs addressing sexually transmitted diseases and particularly AIDS and its impact on this segment of the population. Also, the Ministry of Education has offered a brochure for teachers about sexual orientation in schools across the country (this agreement occurred only after the LGBT organization Accept sued the ministry for not making the content of the program for health education classes available; the ministry lost the case based on the law of access to public information).

SEXUALITY/SEXUAL PRACTICES

The Communist era left a strong imprint on the LGBT way of life. Having been denied for so long the basic right of recognition (all same-sex relations, even consensual and private, were forbidden and could result in five years of imprisonment), gays and lesbians adopted a set of behaviors, attitudes, and codes aimed at minimizing the risk of being caught. Anonymous and random socialization did take place in public places such as public toilets and parks, as opposed to private apartments or exclusive parties, where the risk of being identified was too high. This social history is reflected in the current manners of socializing: Romanian homosexuals still hide under the veil of secrecy and seclusion. Therefore, information concerning common practices is poor and fails to describe behaviors extensively. Yet, some information is emerging. A 2005 Internet survey⁶ of men who have sex

with men (MSM) shows that condom use is generally low (56.7%) and depends on the type of relationship, being slightly higher in the case of casual sex than in the case of monogamous relationships. Meanwhile, a different study⁷ on the LGBT population concludes that only 24.2 percent of respondents always use condoms when engaging in anal sex, while 8.7 percent say they never do.

FAMILY

Romanian society gives great importance to the traditional family; the patriarchal family, with predefined roles for men and women, is considered the cement that holds Romanian society together. Even today, success is defined as having a family with children, and this is the ultimate goal of many people's lives. Family ties are powerful and long lasting, not only within the core family, but in the extended family as well. Children are expected to obey their parents until adulthood, and dependence often continues beyond that point; grandparents assume a very pivotal role in raising children. However, recent developments in society since the end of Communism have brought about transformations in family life—for example, delays in starting a family, a lower marriage rate, and smaller family units. In 2002, a large proportion of Romanians families were couples without children (30.9%) and single-parent families (12.9%), and there were fewer couples with children (56.2%).⁸

The Romanian legal system does not allow civil unions or full marriages to LGBT people. The debate over same-sex unions was launched in 2006, as an initiative of the main LGBT organization in Bucharest. The issue led Orthodox, nationalist, and right-wing representatives to mobilize and call for a referendum on the matter. Their initiative also calls for an intervention on the constitutional law in order to define marriage as union between a man and a woman.

The Romanian legal system prevents LGBT people from adopting children. Yet, the law opens adoption to single parents (along with heterosexual parents). It is known that gays and lesbians could take advantage of this loophole and adopt children as single parents, disguising their homosexuality from the authorities; however, it is unclear what the consequences would be of disclosing an adoptive parent's homosexuality.

COMMUNITY

The lack of a sense of community often applies to Romanian society at all levels; the deficit in participation, affiliation, and collaboration is evident all over Romanian civil society, to the point of being virtually nonexistent. The poor organization of gays and lesbians into some kind of community follows directly from this more general pattern; the fact that same sex relationships were illegal in Romania and the explicit interdiction of expression and association for LGBT people until very recently also contribute to this.

The Internet constitutes the main arena for LGBT people to interact with one another, and is the most reliable space for networking and communication. Only in recent years have gay bars and nightclubs appeared, along with LGBT associations and social circles, mainly in the capital and in a few other big cities.

One organization for LGBT people that has been operating since 1996 is Accept, which is registered as an NGO defending human rights. Accept has become

the main Romanian organization protecting LGBT interests, accumulating more and more influence at international levels and gaining credibility at the national level. Beside their activities of lobbying and advocating for LGBT rights, the association's aim is to develop the LGBT community. Different programs have been established, such as support groups, a small library, counseling, and more, along with a gay festival every spring for the last four years, including artistic events and culminating with a pride march. However, the structure of Accept is considered too rigid and official, detached from the day-to-day lives of gays, lesbians, bisexuals, and transsexuals; it has been successful in terms of legal accomplishments, but so far has failed to be representative of the Romanian LGBT community.

HEALTH

Regarding the health issues of LGBT people, sexually transmitted diseases (STDs) and in particular HIV are the main concerns. Two different studies conducted in 2005⁹ concluded that risk perception for both STDs and HIV is very low. Only about one-half of gay men and lesbians (57.1%) or MSM (47.4%) have ever been tested for HIV, and only 1.8 percent and 2.2 percent, respectively, tested positive. Moreover around 5.3 percent from the respondents did not know the result or did not want to declare it. In the case of STDs, the numbers are comparable for getting tested, but over 25 percent declare having tested positive for an STD.

An important aspect of health issues for LGBT people in Romania is mental health; it is common in Romania to associate homosexuality with a mental or emotional disorder, and to consider that it could be cured by treatment. Furthermore, these beliefs are shared by a number of counselors, psychologists, and even medical personnel working directly with LGBT people. From this point of view, transsexuals are often exposed as such when it comes to medical assistance, mainly because there is no standard procedure for their treatment. The first sex reassignment surgery in Romania took place in 1994, and since then there have been only six such procedures, with an equal distribution between male-to-female (MTF) and female-to-male (FTM) surgeries. However, even the surgeon performing these surgeries, in an interview for a national newspaper,¹⁰ referred to the transsexuals' condition as a psychological disorder.

POLITICS AND LAW

Homosexuality was illegal in Romania until 2001. The legal provisions against homosexuality were first introduced in Romania in 1936. Then, in 1968, the Communist ideology called for a reformation of the law. Even though the word homosexuality was not mentioned in any law, a specific article of the Romanian penal code, article 200, criminalized all consensual homosexual acts between males or females. Under this article, "sexual relations between same sex persons will be punished by a prison sentence of one to five years." This statute remained on the books and as a part of Romanian legislation until 1996, when a first reform succeeded in modifying this article: same-sex relationships became punishable "if performed in public or resulting in public scandal." Moreover, a new clause has been added to the text, explicitly denying the right of free speech and association to LGBT people: a new paragraph was added to the legal text, stating, "The impulsion or lure of another person in the viewing of the practice of sexual relations between persons of

the same sex, as well as propaganda or any other acts of proselytism committed for the same purpose are punishable with a prison term between one and 5 years.”

These modifications, even though they were meant to symbolize a democratic reform, in fact did not bring significant change: the definition of *public scandal* is obscure, leaving much room for interpretation; in addition, gay men and lesbians were compelled to invisibility. Article 200 was finally repealed in 2001 by government ordinance, while the last case of imprisonment based on this legislation was reported in 1997.

Discrimination

Romania benefits from an extensive legal framework concerning discrimination, also introduced by government ordinance in 2000. The law refers to discrimination as any distinction, exclusion, restriction, or preference made on the basis of a series of criteria, including sexual orientation, along with race, nationality, religion, and so forth, with the purpose or result of denying human rights and fundamental freedoms. Based on this legal provision, an agency was created, the National Council against Discrimination; its mission is to solve complaints about violations of antidiscrimination stipulations.

For over one year, the legal system contained two contradictory stipulations: article 200 was repealed only in 2001, while the antidiscrimination provisions were introduced in 2000. Nevertheless, the parliament adopted the two ordinances at the same time and they both became law in early 2002.

Transsexuals

There is no special legal provision concerning transsexuals in Romania, and there is no specific regulation for sex reassignment surgery. Transsexuality remains a vague term, with no specific definition. Therefore, several fundamental aspects related to transsexuality remain unclear, for instance, the civil status of a transsexual, or the conditions for sex reassignment surgery. This gap in the legislative corpus has resulted in endless contradictions and interpretations, with variable results depending often on the subjectivity of specific decision makers involved in particular cases. Furthermore, Romanian surgeons performing such interventions specifically ask for legal expertise and a judicial decision before executing the surgery.

RELIGION AND SPIRITUALITY

Romania is a secular state, and therefore officially neutral in matters of religion. In reality though, the Orthodox Church identifies itself as a national church, with over 87 percent of the Romanian population declaring it as their religion. Moreover, the ROC benefits from the highest rate of confidence from the population compared to other institutions of the state.

Relations between religion and politics are problematic, as in any society. The case of the ROC and its place in Romanian society is not exceptional, but presents some particularities. Orthodox representatives over the centuries have claimed Romanian Orthodoxy to have a strong relationship with the Romanian people, not only in matters of spirituality and faith, but also as the cement of the nation itself; Orthodoxy is considered the constituent and the identity of the Romanian community. Democratic transition challenged the Romanian Orthodoxy on a number

of issues, but the main difficulty was redefining its role in a changing society. After the Communist period (a time of declared atheism with strong persecutions of priests, demolition of churches and monasteries, and also an affirmed allegiance to the state), the church has constantly tried to affirm its role as a unique and incontestable moral reference. To this end, the ROC participates in political debates, negotiating with the state over matters of political interest, while claiming to preserve the nation's health and integrity.

In this context, the subject of decriminalizing homosexual relations constitutes for the ROC a handy instrument in exercising its influence on the political scene, to affirm the role of religion in society. Therefore, the government's initiative to repeal article 200 encountered strong opposition from the majority of the political parties, apprehensive about introducing unpopular reforms that would contradict the majority Orthodox spirit.

Because of the strong incompatibility between faith and homosexual behavior, Romanian gays and lesbians experience great distress, struggling to accept themselves despite their behavior, which is defined as sinful; sometimes they fight the temptation, and sometimes they give up their faith. However, an alternative choice came from the collaboration between Accept and the Metropolitan Community Church, mainly through the work of Canadian bishop Diane Fisher, the elder of this congregation in central and eastern Europe. Over the last couple of years, Accept has hosted religious services and support groups for LGBT people in search of spirituality.

VIOLENCE

The overall climate in Romanian society is predominantly characterized by homophobia and rejection of differences. However, the adverse reaction to LGBT people does not usually include beatings, killings, or violent aggression. Mostly, LGBT people have to face rejection in terms of verbal aggression, mockery, exclusion from social groups, and threats. A study¹¹ revealed that 66.6 percent of LGBT people who came out to their family or friends did not experience negative reactions. However, the same study points out that over 61 percent of the persons questioned did not come out to their family at all, and over 32 percent did not come out to their friends. It would not be difficult to conclude that LGBT people avoid possible violence by hiding their sexual orientation.

Cases of violent treatment of homosexuals by the police were extremely common before the repeal of article 200 and shortly after. Arrests, interrogations, and harassments were conducted without any consideration for human rights and dignity.

Today, the most violent incidents have happened in Romania during the gay festivals organized in Bucharest over the last three years, especially during the marches. Several incidents marked each event, mainly counterdemonstrations, hate slogans, and homophobic messages on banners, culminating with attacks using firecrackers, eggs, or stones. From one year to the next, the police have ensured a more strict control of the route of the marches and mobilized more personnel for the event. On one occasion, though, after the march was over, a group of participants was attacked while leaving the setting and were beaten up in a subway car, in front of indifferent commuters. Among the opponents of gay marches were later identified right-wing extremists and football (soccer) supporters.

OUTLOOK FOR THE 21ST CENTURY

With legislation explicitly specifying sexual orientation among the criteria of discrimination, and a national agency (National Council against Discrimination) responsible for investigating cases of discrimination, Romania has the basis for building a more tolerant environment for LGBT people. There is evidence of an emerging LGBT community, with bars and clubs and a number of organizations defending LGBT rights; different social circles have been established following the repeal of criminalizing legislation. The conditionality for European Union membership offered the occasion for judicial level change. Membership in the EU offers the opportunity to experience European values and the hope of more openness toward difference. Still, nationalistic voices will always be heard in Romanian society, and the Orthodox Church will continue to intervene in the political process as an influential actor.

Aside from the legal issues waiting to be solved (partnership and adoption legislation, the status of transsexuals, and the procedures for sex reassignment interventions), many other social aspects need improvement in Romanian society. Still, with an annual gay festival, more and more visibility for LGBT people through art events and movies, with antidiscrimination legal provisions, there is hope for a more tolerant climate and acceptance of otherness.

RESOURCE GUIDE

Suggested Reading

- Accept, *Despre noi. Minoritati Sexuale in Romania* [*About Us. Sexual Minorities in Romania*] (Bucharest, 2003).
- Amnesty International, *Romania: A Summary of Human Rights Concerns* (EUR 39/06/1998, March 1998), <http://www.amnesty.org/>.
- Ingrid Baciu, Vera Câmpeanu, and Mona Nicoara, "Romania," in *Unspoken Rules: Sexual Orientation and Women's Human Rights*, ed. Rachel Rosenbloom (San Francisco, CA: International Gay and Lesbian Human Rights Commission, 1995).
- Sinziana Carstocea, "Une identité clandestine: l'homosexualité en Roumanie" ["A Clandestine Identity: Homosexuality in Romania"], *Revue d'histoire moderne et contemporaine* 53–54 (2006): 191–210.
- Human Rights Watch and the International Gay and Lesbian Human Rights Commission, *Public Scandals. Sexual Orientation and Criminal Law in Romania*. Report (New York: Human Rights Watch and the International Gay and Lesbian Human Rights Commission, 1998).
- Scott Long, "Gay and Lesbian Movements in Eastern Europe," in *The Global Emergence of Gay and Lesbian Politics: National Imprints of a Worldwide Movement*, ed. Barry D. Adam, Jan Willem Duyvendak, and André Krowel (Philadelphia: Temple University Press, 1999).
- Mona Nicoara, "Silenced and Silent—Lesbians in Romania," *Canadian Women Studies / Les Cahiers de la Femme* 16, no. 1 (1995): 43–46.
- Denise Roman, *Fragmented Identities. Popular Culture, Sex and Everyday Life in Post Communist Romania* (Oxford: Lexington Books, 2003).
- Lavinia Stan and Lucian Turcescu, "The Orthodox Church and Post-Communist Democratization," *Europe-Asia Studies* 52, no. 8 (2000): 1467–88.
- Catalin Augustin Stoica, "An Otherness that Scares: Public Attitudes and Debates on Homosexuality in Romania," in *National Reconciliation in Eastern Europe*, ed. H. Carey (Boulder, CO: Eastern Europe Monographs, 2003).

- Carl F. Stychin, "Same Sex Sexualities and the Globalization of Human Rights Discourse," *McGill Law Journal / Revue de droit McGill* 49 (2004): 951–68.
- Anne Weyembergh and Sinziana Carstocea, eds., *The Gays' and Lesbians' Rights in an Enlarged European Union* (Brussels: Éditions de l'Université de Bruxelles, 2006).

Organizations

- Accept, <http://www.accept-romania.ro>.
First NGO defending human rights for LGBT people in Romania, established in 1996.
- Be An Angel, <http://angelicuss@go.ro>.
Gay organization functioning in Cluj.
- PSI (Population Services International) Romania, <http://www.psi.ro/>.
Nonprofit organization founded in 1998 as an affiliate of the Global PSI Network.

Web Sites

- Gay Bucuresti, <http://www.gaybucuresti.ro>.
- Gay One-Portal Gay Romanesc, <http://www.gayone.ro>.
- Noua Dreapta, <http://www.nouadreapta.org/>.
Antigay, New Right, extremist organization established in 2000.
- Queer.ro, <http://www.queer.ro>.
- Total Gay, <http://www.totalgay.ro>.
General news and information on LGBT lifestyle, events, classified ads, and online sex shops.
- 2G, <http://www.2g.ro>.

NOTES

1. For a comprehensive presentation of Romania see the National Institute of Statistics, "Statistical Yearbook 2006," <http://www.insse.ro>, particularly chapter 1, Geography, Meteorology and Environment, and chapter 2, Population.
2. Ordonanta de Urgenta Guvernamentala–Government Emergency Ordinance (OUG) 44, June 14, 2006.
3. See Accept, *Sexual Orientation: A Guide for Teachers* (Bucharest: Maiko Publishing House, 2005).
4. See the Accept report, *Barriers in the Social life of LGBT People* (Bucharest: Accept, 2005), 18.
5. See World Bank, <http://www.worldbank.org.ro>.
6. PSI Romania, "Romania (2005): HIV/AIDS TraC Study among Men Who Have Sex with Men," The PSI Dashboard, January 2006, <http://www.psi.ro>.
7. Accept, *Barriers in the Social life of LGBT People*, 12.
8. Institutul National de Statistica [National Institute of Statistics], <http://www.insse.ro>.
9. PSI Romania, *Romania (2005): HIV / AIDS TraC Study among Men who have Sex with Men*.
10. Ioan Lascar, interview for the national newspaper *Libertatea*, December 14, 2006.
11. See Accept, *Barriers in the Social life of LGBT People*.

RUSSIA

James Dochterman

OVERVIEW

Russia, also known as the Russian Federation (Rossiyskaya Federatsiya), is the largest nation in the world when measured by landmass. Russia encompasses 10,610,162 square miles, covering both the European and Asian continents, and is home to more than 141 million people.¹ Russia's population has declined over the last decade. In addition to its enormous size, Russia claims some of the richest natural resources of any country, with substantial petroleum and natural gas reserves, as well as large quantities of diamonds and precious metals.² Extensive exploitation of these natural resources has resulted in making Russia's capital city, Moscow, one of the most expensive cities in the world.³ Russian is the official language, although 30 other languages are officially recognized and spoken throughout Russia's vast regions.

Russia inherited the military industry and structure of the former Union of Soviet Socialist Republics (USSR), also known as the Soviet Union. As the political control center of the USSR, 70 percent of the former Soviet Union's military resources resided in Russia, and remained in Russia's control after the dissolution of the Soviet Union in December 1991. Russia's current military budget is a



state secret, but is estimated at 2.7 percent of the gross domestic product (GDP), roughly \$31 billion dollars.⁴ This military inheritance leaves Russia in possession of one of the largest modern military forces, including the world's largest stockpile of nuclear weapons and the only strategic bomber force other than that of the United States.⁵ Russia maintains six independent coequal combat arms, covering land, sea, air, and space combat areas. Russia is second only to the United States in military spending, although exact figures are unknown and official Russian figures are widely regarded as artificially deflated.⁶

Despite its enormous natural resources and military force, the Russian economy is still in a developing stage. Throughout the 1990s, Russia experienced numerous economic challenges following the collapse of the Soviet Union and its centralized five-year economic plans. These crises included the near collapse of the burgeoning banking industry, skyrocketing unemployment, and the devaluation of the ruble, Russia's official currency. In 2007, Russia was still addressing the aftermath of the post-Soviet economy, when the new government imposed brutal free market reforms. Precious natural resources were distributed to political insiders and former Soviet bureaucrats (*aparatchnikii*). As a result of this transfer, astonishing amounts of wealth and power became concentrated among a small group of industrialists known as the oligarchs. The overwhelming majority of Russians, who were accustomed to a Communist state that purported to advocate community ownership (among other liberal ideals), never benefited from this dissemination and reapportionment of wealth. Nearly 18 percent of Russians live below the poverty line, while Russia's per capita GDP ranked 59th in the world in 2006.⁷

Russia began as Kievan Rus in the year 862 A.D., and became one of the first principalities to declare Christianity its official religion, in 988 A.D. Over the next 600 years, Russia endured multiple invasions and foreign rulers. Modern Russia has its beginning in the 12th century with the founding of the Principle of Moscow, born out of the demise of the Byzantine Empire. A Mongol invasion in 1223 and subsequent occupation of Russia lasted for 200 years until the Mongols were run out of Russian lands by Ivan III (Ivan the Great) in 1380. Ivan IV (Ivan the Terrible) was declared the first Russian tsar in 1547. Under his rule, Russia expanded its borders and established its first formal legal code, as well as its first representative legislative body.⁸ Despite these social advances, Ivan the Terrible earned his moniker by ushering in an age of severe brutality. Following another period of foreign invasion and conflict in the early 1600s, known as the *time of troubles*, Tsar Michael Romanov solidified the nascent Romanov dynasty's power.

Under the stringent westernization efforts of Tsar Peter I (Peter the Great), who ruled from 1682 to 1725, Russia established itself as a true European power. Peter the Great founded Russia's new northern capital, Saint Petersburg, on the model of a European city, and introduced dramatic social and cultural reforms. These reforms were continued by Tsarina Catherine II (Catherine the Great), who ruled from 1762 until her death in 1796. Catherine's rule gained notoriety in Europe for its purported liberalism and support for the arts, including the creation of the renowned Hermitage Museum. In spite of European admiration for Catherine II, she subjected the Russian people to censorship and state control of publications, and was largely inattentive to the deplorable conditions under which the vast majority of Russians lived. Saint Petersburg remained Russia's capital until the Russian Revolutions of 1917, when political power was returned to Moscow and the governmental fortress, known as the Kremlin.

Under tsarist rule, Russia survived many subsequent wars and invasions, including Napoleon Bonaparte's unsuccessful French invasion during the War of 1812. Russians are proud to point to Alexander II's abolition of serfdom in Russia in 1861. However, additional reforms were few and far between. Continued social oppression led to a brief revolution in 1905.

Ultimately, the greatest threat to Russia's political and social stability lay within Russia itself. Unrest grew within Russia as the tsarist regime of Nicholas II grew increasingly conservative, dictatorial, and incompetent in its management of the military campaign in World War I. Peasants and laborers organized under a burgeoning Marxist ideology, at first voicing simple discontent, but evolving into a revolution. Led by Vladimir Ilyich Lenin and his Bolshevik (Majority) party, Russia experienced two revolutions in 1917. The first revolution occurred in February 1917, which overthrew the Russian monarchy and executed Tsar Nicholas II and his family. The subsequent, more renowned October 1917 revolution established the first-ever Communist state.

Following the 1917 October Revolution, Russia entered a tumultuous period. Although Russia reached a peace treaty during World War I in which it ceased hostilities with the Central Powers and forfeited former territories, civil war continued after the revolution. Conflict between the Bolshevik and White (counterrevolutionary) armies caused mass starvation, widespread atrocities, and devastation to the Russian economy. In response to the internal struggle, Lenin instituted a policy of war Communism, which, while helping the Bolsheviks prevail in 1921, also became the model for future Soviet totalitarian rule. A combined 16 million Russians died during World War I, the subsequent October Revolution, and the civil war.⁹ Russia's society and economy was devastated.

Reconstruction of the Russian economy and society began when Russia and three local republics formed the Soviet Union on December 20, 1922. From this moment, Russia's history and that of the Soviet Union are inexorably intertwined. Following a brief experimentation with limited free-market reforms, known as the new economic policy (NEP), Communist control over the country became increasingly onerous.

Lenin died in 1924. After intense intraparty struggle, Lenin was succeeded by the ruthless Joseph Stalin. Stalin later introduced the Soviet Union's first economic five-year plan which instituted forced industrialization and collectivization of agricultural resources, to devastating effect. Until Stalin's death in 1953, Russia, and by extension the entire Soviet Union, suffered the dual horrors of World War II, during which the USSR lost nearly 27 million lives, and a political ideology enforced with labor camps, mass relocation, and executions.

In the intervening 74 years between the revolution and the collapse of the Soviet Union, Russians suffered extreme restrictions on their freedom to criticize the Communist party or to choose with whom and how they would associate in society. This control effectively frustrated any attempt by homosexuals to form their own social or political organizations for most of the 20th century. But, as at other times in Russia's history, a radical shift in government soon created a brief opportunity for social development.

In 1985, Mikhail Gorbachev became general secretary of the Communist Party, ushering in a momentary relaxation of social control known as *glasnost* (openness) and *perestroika* (restructuring). While these programs were meant to reinvigorate and modernize Communist rule, they instead precipitated the downfall of

the Communist Party and the Soviet Union's collapse. Communist party rule of Russia lasted until the fall of the Soviet Union in 1991.

Since the collapse of the Soviet Union, Russia has undergone a period of social upheaval and political turmoil. Following the first Russian president Boris Yeltsin's lackluster leadership and resignation on December 31, 1999, Prime Minister Vladimir Putin ascended to the Russian presidency. Over the subsequent eight years, President Putin endeavored to recentralize control over Russian society. Putin's leadership of Russia was marked by antagonism toward the West and a relentless focus on reestablishing Russian international power. In particular, Putin's efforts are attributed to the burgeoning growth of Russian ultranationalist socio-political organizations, such as United Russia (*Yedinaya Rossiya*) and Ours (*Nashi*, or Youth Movement—Ours!). It remains to be seen whether the 2008 presidential inauguration of former attorney and Putin protégé Dmitry A. Medvedev will usher in another period of Russian social liberalism, or extend the Soviet-style politics of the Putin presidency.

The social struggles of LGBT Russians cannot easily be compared to Western experiences. There is precious little evidence of a historical, organized legal effort focused on LGBT liberation, as there is in the West. Although there are modern legal efforts to hasten tolerance and civil rights, they stand in sharp contrast with Russia's historical trends. Furthermore, Russia's social history and culture has long resisted transparency. Russian government policies, whether Tsarist, Communist, or Soviet, historically focused their efforts on secrecy, disinformation, and outright hostility toward the existence of LGBT people in Russia.

While the Russian Orthodox Church played a critical role in Russian society under tsarist rule, nearly a century of Communism severely restricted direct Christian influence, which is historically common in Western societies. Communist ideology is overtly hostile to religious institutions. Because organized religions often compete with governments for influence among national citizens, Russian Communists were particularly determined to excise the Russian Orthodox Church from Russians' daily lives. This campaign was particularly intense in the early 20th century, when Communists destroyed classic Orthodox churches, often the center of village life in the vast Russian countryside. Among those buildings destroyed was the enormous Cathedral of Christ the Savior, in Moscow. The cathedral (*khram*) was demolished to make way for an enormous Soviet monument, but when engineers determined that such a structure could not be built, a large municipal pool was built in its place. Among the structures that survived Communist rule is Saint Basil's Cathedral. Saint Basil's sits in Red Square (*Krasnaya Plashed*) alongside the Kremlin.

The preservation of Saint Basil's is important to note. Although Communists greatly reduced the Russian Orthodox Church's role, some church icons and elements of church ideology outlived the Soviet Union. After the Soviet Union disintegrated, many Russians searched for some form of ideology or leadership to replace the Communist Party. In recent years, the Russian Orthodox Church has experienced a resurgence of believers, as well as higher levels of influence in the Russian government and among Russian ultranationalist political organizations. Even the *khram* has been rebuilt on its former site in Moscow.

The Russian monarchy and the Russian Orthodox Church have coexisted since the birth of the Russian state. The monarchy served under the moral authority of, and drew its legitimacy from, the Orthodox Church. But where prohibitions

against homosexual behavior grew increasingly harsh in European societies, Russia's geographical and religious isolation allowed it to evolve along a different path.¹⁰ Punishment for homosexual behavior was similar to that for drunken or disorderly behaviors. In fact, it was under Communism that Russians developed a more pronounced sense of homophobia. Led by party ideologues such as Maxim Gorky, what was considered deviant behavior became the subject of vitriolic attacks. From the Communist perspective, all nonheteronormative behavior was aberrant, and associated with Western or even Nazi influences. Thus, homosexuals became scapegoats for all of Communism's postrevolution failings, and a principal target of the Stalinist establishment.¹¹

OVERVIEW OF LGBT ISSUES

Most Russian citizens do not respect or tolerate homosexuality, bisexuality, or transgenderism. Following the collapse of the Soviet Union, Russia experienced a brief surge in LGBT activism. This activism was centered in Russia's large urban areas, particularly the capital city Moscow and the pre-Soviet capital Saint Petersburg. Recent political and social upheavals in Russia present a more difficult atmosphere in which to develop LGBT communities and civil rights organizations.

HIV and AIDS constitute a severe health crisis in Russia. Worldwide organizations offer continual assistance to Russia, but in Russia's modern political climate, this assistance is often treated as interference. HIV/AIDS prevention and treatment programs in Russia are typically administered by local governments. It is difficult to determine which programs are administered centrally by the Russian government, and to what extent these programs are successful. As in most societies, there is a tremendous stigma attached to HIV/AIDS, and health care services can be extremely difficult to attain.

Russia has no national employment discrimination protection for homosexual, bisexual, or transgender people. Although a 2005 court decision in Saint Petersburg ruled that the plaintiff, known only as VP, could not be denied work because he was gay, this was the first and only such known ruling. In addition, the LGBT community does not have access to same-sex marriage, or any governmental support or education programs.

Recent attempts by LGBT activists to express free speech and associative activities in the form of a gay pride parade in Moscow have been met with fierce legal opposition and physical violence. As with local attempts to address the AIDS crisis, modern Russia sees LGBT activism as Western interference with Russian society. Modern polling reveals that many Russians support the internment or killing of gays and lesbians.¹²

Due to deficiencies in Soviet recordkeeping and the short history of independent native Russian LGBT organizations, much of what is known about the lives of LGBT Russians is assembled from anecdotal evidence.

EDUCATION

Russia provides no social programs focused on LGBT education, civil rights, or employment protection. On the contrary, there has been a recent resurgence of nationalist organizations that operate as quasi-governmental bodies and openly advocate against LGBT people.

Russia is currently experiencing a net population loss that has prompted other regions (*oblasti*) to institute fertility incentives. These incentives are both monetary and political, in some cases recalling old Soviet propaganda. As a result of these programs, nonprocreative behavior, such as homosexual sex, is considered anathema to the country's economic and social stabilization goals. This opposition has historic parallels to the early Communist Russia, where abortion was outlawed in 1936 to facilitate the repopulation of Russia following extensive war and famine.

EMPLOYMENT AND ECONOMICS

Antidiscrimination Statutes

In 2005, a Saint Petersburg court ruled that a gay man cannot be denied employment simply because he is gay. The plaintiff, known only as VP, had been denied military service in 1992 due to his homosexuality. At the time, homosexuality was still treated as a mental disorder, and his official documents listed him as mentally ill. As a result of the military's mental illness designation, VP was denied subsequent employment with a railroad that refused to hire a mentally ill person. Absent this court ruling, there are no currently known laws that protect Russian LGBT citizens.

Military

Currently, the Russian Federation does not exclude homosexuals from military service. Russia has compulsory military service for all men 18 to 27 years old. The Russian military is known for its harsh treatment of recruits under the hazing system known as *dedovshchina* (rule of the grandfathers), whereby young recruits are beaten mercilessly. As a result, draft avoidance, through bribery or hiding, is widespread.

SOCIAL/GOVERNMENT PROGRAMS

There are no official Russian government programs tasked with increasing acceptance, tolerance, or acknowledgement of homosexuals, bisexuals, or transgender peoples. To the contrary, many nationalist political parties, high-profile politicians, and Russian Orthodox priests publicly condemn nonheterosexual behavior. These denouncements lead to tacit approval of gay bashing, known as *remont* ("fixing" or "repair") and pervasive discrimination and harassment.

SEXUALITY/SEXUAL PRACTICES

Russian is in the midst of a severe health crisis. Although the country largely dismissed the severity of the burgeoning HIV/AIDS epidemic throughout the past two decades, it has recently improved its response and coordinated its outreach with the Joint United Nations Programme on HIV/AIDS (UNAIDS). Russians attribute most HIV infections to intravenous drug use, rather than sexual behavior. While safer sex education programs exist in Russia, it remains to be seen whether there will be long-term beneficial results.

FAMILY

Russians adhere to very conservative, strict models of the family unit, intertwined with a fierce nationalistic pride. Russian family law does not recognize variations on the nuclear family, and adoption is uncommon. Children with developmental or physical disabilities often end up institutionalized.

COMMUNITY

Homosexual art and literature enjoyed a brief blossoming during the early 20th century. In 1906, Saint Petersburg–based author Mikhail Kuzmin published his bathhouse coming-out novel *Wings* (*Kryl'ia*). *Wings* was met with severe criticism, but the LGBT community, such as it was at the time, embraced the novel for “its decidedly unmedical view of male love as an exalted experience, superior to the love of men for women, mediated by classical learning and mentorship.”¹³ One year later, the lesbian-themed novel *Thirty-three Monsters* was published by Lidiia Zinov'eva-Annibal.

Communist rule of Russia severely restricted the organizational methods and means available to LGBT Russia citizens. Once sodomy was recriminalized in 1933, all facets of LGBT life became the subject of Communist ideology and oppression. Communists used nonheteronormative behaviors as ideological scapegoats identified with decadent, bourgeois societies. Throughout the 20th century, LGBT Russian communities existed primarily as subcultures in Soviet prisons (*gulag*) and institutions. Any attempt to create unapproved communities contrary to Soviet norms would be crushed, often with the involvement of the Soviet internal security apparatus. Only recently have LGBT Russians been able to begin assembling the rudimentary foundation of what Western scholars would generally refer to as community.

With the assistance of the International Gay Association and Finnish organizations, Aleksandr Zarembo assembled a small group of gay men and women in Leningrad in 1983.¹⁴ Known as the Gay Laboratory (Gei-laboratoriia), the organization soon disbanded under pressure from the KGB and Zarembo's imprisonment. Within two years, the *glasnost* and *perestroika* period in the mid-1980s saw the first beginnings of LGBT open speech and association.

In 1989, the Moscow Association of Sexual Minorities was formed in Moscow by Roman Kalinin, who later cofounded the International Gay and Lesbian Human Rights Commission. The group established the gay-themed newspaper, *Tema*, or *The Theme*, which was gay slang referencing homosexuality.¹⁵ By the mid-1990s, the group had split into two factions, with the newly named and radicalized Moscow Union of Homosexuals eager to gain media attention. A more conservative faction calling itself the Association for Equal Rights (ARGO) was created in 1990. ARGO published their own newspaper, titled *RISK*, which intended to educate fellow homosexuals about homosexuality.

Because LGBT Russians face tremendous religious, social, historical, and governmental roadblocks, it is unreasonable to expect that Russia should have or develop Western-style gay communities. The LGBT community in Russia is developing slowly, at its own pace. In 2008, LGBT organizers made significant progress toward developing a cohesive plan to organize and advocate for Russian gays and lesbians.

HEALTH

Life expectancy for Russian males has declined since the collapse of the Soviet Union. Currently, a Russian man may expect to live for 59 years. The life expectancy for Russian women is 72 years.¹⁶

HIV/AIDS and STDs

Russia is currently experiencing a full-blown HIV/AIDS crisis, accounting for the majority of all new HIV infections worldwide. While infection rates peaked at the end of the last century, recent infection rates have slowed in Russia from a peak of 87,000 in 2001, to a low of 34,000 in 2003. According to UNAIDS, 39,000 cases were reported in 2006. As of November 2007, there were over 940,000 cases of HIV infection in Russia, although official Russian figures count roughly 400,000 cases.¹⁷ Approximately 30,000 new cases were reported in 2007.¹⁸ It is widely assumed by world health organizations that cases of HIV infection in Russia are dramatically underreported.¹⁹

According to the Russian State Sanitary Department, 2007 registered a 12 percent increase in HIV infections over the previous year. Saint Petersburg has the largest share of HIV infections, totaling over 33,000. Russia continues to face difficulty maintaining antiviral treatments for HIV-positive patients.²⁰

Intravenous drug use accounts for 66 percent of all new HIV infections in Russia. Thirty-two percent of all new infections result from heterosexual intercourse, a figure which has been slowly increasing since the turn of the century. Only 1 percent of newly registered HIV cases in 2006 were attributed to unsafe sex between men.²¹ However, the accuracy of this low figure is questionable, as sex between men carries an enormous social stigma in modern Russia, and may cause some Russians to attribute their infection to nonsexual origins. According to official reports, HIV infection in Russia stems overwhelmingly from sex workers and intravenous drug users.

Russia recorded its first case of HIV infection in 1986. Soviet policy did not recognize the health threat. Given the difficulty of keeping records in Russia, the exact number of HIV infections during the precollapse period may never be known. After the 1991 collapse of the Soviet Union, Russian HIV/AIDS prevention and education was in disarray. A centralized governmental response was almost nonexistent. Only by the mid-1990s did nongovernmental organizations (NGOs) gradually form to address the epidemic. When the Russian government did address HIV/AIDS, it was without pronounced sensitivity to the populace's privacy. It was common practice for the State Committee on Epidemiology and Sanitary Surveillance (SEC) to test for HIV without patient consent and have patients inform on sexual partners.

Since the turn of the century, Russia has made dramatic improvements in its approach to fighting HIV/AIDS. In October 2006, the Russian Federation established a Governmental Commission on AIDS. According to UNAIDS, "coverage of prevention and treatment programs for people whose behaviors are likely to put them most at risk are still low, i.e., a significant impact of the increased efforts has not yet been observed."²² The Russian government's recent commitment stems in part from the recognition that spiraling HIV/AIDS infection rates endanger Russia's current economic and social security.

Ninety percent of Russians infected with HIV will not know they are infected until they develop full-blown AIDS. Although Russia offers universal health care, the system has been the subject of much international concern and improvement

efforts. In 2004, a consortium of NGO outreach organizations joined efforts to form GLOBUS (“Globalnoye Ob’yedinyeniye Usilii Protiv SPIDa,” or “The Global Association of Efforts against AIDS”), a five-year plan to combat the AIDS epidemic in Russia.

Educational programs regarding HIV transmission and AIDS are in their infancy in Russia. These programs face extraordinary ignorance and prejudice within the general population. A 2004 survey in Moscow found that 70 percent of people interviewed felt “fear, anger, or disgust towards those living with the virus.”²³ In 2008, coordinated Russian and United Nations efforts may prove substantially more effective than past programs. The Russian Ministry of Health and Social Development continues their ILO/USDOL HIV/AIDS Workplace Education Programme, primarily involving Moscow trade unions. A successful HIV/AIDS workplace education program, targeted at increasing understanding and tolerance of HIV/AIDS, would be a turning point in Russian social and educational policy.²⁴

Forced Medical Treatment and Lesbians

The rhetoric of pathology defined LGBT Russian sexual identities throughout the 20th century. Whether under tsarist or Soviet rule, Russian lesbians were far more likely than gay men to be subjected to various medical and psychological treatments by Russian doctors to cure female homosexual behavior. Beginning in the 1920s, Communist desires to build what would become ideal Soviet gender models targeted women for treatment. Those subjected to medical treatment endured drug therapies, aversion therapies, shock therapy, and morbid endocrinological experiments where donor, often nonhuman, testes or ovaries were surgically attached to a patient in an effort to fix the subject’s supposed hormonal imbalance.²⁵

It is not known how many women were subjected to psychological therapies because Soviet psychologists did not record lesbianism as the disease being treated. Instead, they identified lesbians as having “sluggishly manifesting schizophrenia” (*vialotekushbaia shizofreniia*). This diagnosis was not restricted to lesbianism, but could apply to an astonishingly broad, undefined set of behaviors deemed contrary to Soviet law and ideology. The mere threat of institutionalization and social stigma was sufficient to ensure general compliance with nationalist and Communist ideals of women as dutiful wives and mothers.²⁶

From both Russian and Soviet perspectives, nonconforming male behavior, especially sodomy, was treated as a criminal activity. For much of Russia’s political history, nonheteronormative gender behaviors were considered symptoms of a bourgeois decadence and perversion. This was due, in part, to the concept that sodomy resulted from a character defect, brought about either by alcohol abuse or social corruption, whereas a woman who misbehaved violated not social convention, but nature itself. Male homosexuality was treated and punished as simple misbehavior, while female homosexuality was treated as a biological deviation from the natural female state. There were rare, unsuccessful attempts by Russian criminologists and doctors to decriminalize sodomy, based on the medical theory that because homosexuality was a disease, the individual should not be held criminally liable for behaviors that they could not naturally know to be wrong.²⁷

It is only within the past 30 years that Russia, and by extension the former Soviet Union, ceased forcibly institutionalizing gays and lesbians. Homosexuality is no longer officially classified as a mental disorder.

POLITICS AND LAW

Legal constructions of homosexual, bisexual, and transgender identities are vital to understanding the development, or lack thereof, of the Russian LGBT community. Throughout Russian history, construction of a homosexual social identity has been almost entirely male and criminal. Lesbian invisibility in Russian history is exceeded only by the severe lack of bisexual references. In addition, the Soviet Union treated transgenderism as a medical disorder; as a result, “Russian experts are more likely to categorize individual bodies as incorrectly sexed, rather than forcing every body into the hetero/homosexual divide of [Western] society.”²⁸

Sodomy

Despite occasional historical moments of pronounced liberalism, if only manifested by good intentions, sodomy became a secular criminal offense under tsarist rule. When Peter the Great instituted European social standards in Russia, he included a new criminalization of sodomy in 1716, as well as prevailing European condemnations of homosexual behavior.²⁹ Although the military legal code applied only to the military service, it became the basis for the 1835 expansion of criminalized sodomy into civilian society by Tsar Nicholas I.

Known as article 995, the 1835 antisodomy law applied only to anal intercourse among men (*muzhelozhstvo*, or “men lying with men”).³⁰ Traditionally, Russian legal constructions regarding sodomy were focused exclusively on male behavior. Female homosexuals were instead regarded as suffering from psychological or physical aberrations. As such, lesbians were not eligible for prosecution under article 995.

While there have been laws prohibiting sodomy, enforcement of these laws has varied widely throughout Russian history. After Peter the Great criminalized sodomy in the military, Catherine the Great made a point of instructing judges to “exercise ‘the utmost clemency and mercy’ in sodomy cases, since ‘the victims must be considered to have been more temporarily out of their wits, than really criminal.’”³¹ Catherine’s statement is a precursor to future Russian conceptions of homosexuality as a psychological affliction or disease better treated by medicine than criminal law. Russian treatment of nonheterosexual identities as psychological deviance reached its zenith during Communist rule, when untold numbers of lesbian, gay, bisexual, and transgender peoples were forcibly institutionalized.

In 1922, Bolshevik Communists instituted a new penal code that repealed the tsarist antisodomy law. Although the 1917 revolution withdrew the entire tsarist penal code, no substitute code was made available, and courts continued to follow tsarist law, which did not conflict with revolutionary ideals.³² Although sodomy was no longer a criminal activity, there is debate as to whether this repeal was an enlightened deliberate act, or instead part of a broader, wholesale abrogation of tsarist law. Radical changes to the legal environment and code structures are not uncommon in Russian history.³³ In a similar vein, the Soviet Union developed a pattern of altering historical documents, monuments, and even public artworks so as to constantly readjust and control public perceptions of official Soviet policies.

In 1933, Stalin enacted article 154 of the penal code for the Russian Federation, which recriminalized male homosexual consensual behavior. Once the Soviet Union was formed, this code became known as article 121.1 and was enforced throughout the Soviet Union. Violations of articles 154 and 121.1 were

punishable by up to five years of hard labor.³⁴ Although article 121.1 applied to all Soviet citizens, scholars note that citizens in the more far-flung corners of the Soviet Union, particularly non-Russians, were treated differently than Russian Soviet citizens. Whereas Russian men were more likely to be convicted of criminal offenses under article 121.1, citizens of the other regions who committed sodomy were more likely to be treated as sexual deviants suffering from an inferior cultural heritage.³⁵

Soviet-era secrecy frustrates any attempt to report the exact number of Russian citizens prosecuted for sodomy during Communist rule.³⁶ Following the recriminalization of sodomy, the Communists stirred up public hatred of homosexuals by associating homosexuality with decadent Western perversion and a supposed homosexual-led conspiracy against Russia's social revolution.³⁷ Like other minorities considered threatening to the Communist party, homosexuals were subjected to mass arrest and imprisonment. Following this antihomosexual campaign, homosexuality as a nonmedical subject matter largely disappeared from all official Communist materials.

During the 1960s, approximately 1,414 male Soviet citizens were sent to jail annually for committing sodomy.³⁸ Of these citizens, an estimated 560 men were from the Russian Federation.³⁹ From 1970 until the fall of the Soviet Union, an estimated 462 to 831 Russian citizens were convicted, with the lower figures representing the beginning of the collapse of the Soviet Union. It is not known exactly how many Russian citizens were prosecuted, but not convicted, subjected to prosecution under other similar criminal statutes, or forcibly institutionalized.⁴⁰

Lesbians, bisexuals, and transgender people are practically invisible in the criminal histories, but are overwhelmingly more likely to have been forcibly institutionalized or subjected to Soviet medical treatments. Men convicted of sodomy joined an abused prison underclass, known as the *opushchenny* (the degraded). This social stigma followed them even after their eventual release from prison.

Criminalized sodomy changed little in Russia until April 1993, when President Boris Yeltsin signed a bill that repealed article 121.1. The repeal occurred without LGBT activist involvement and caught the community by surprise.⁴¹ However, this repeal did not affect a similar law, article 121.2, which criminalized sodomy with a minor. It is not known how many Russian men were imprisoned under other criminal statutes used to persecute homosexuals.⁴² By comparison, tsarist-era convictions for male-on-male rape (article 996, similar in concept to the modern article 121.2), occurred four times as often as convictions for sodomy.⁴³

While modern Russia no longer criminalizes sodomy, it does maintain a criminal code that singles out homosexual sexual activity. Enacted in 1996, "Article 132, 'Violent Acts of a Sexual Nature,' allows prosecution for 'sodomy, lesbianism, or any other acts of a sexual nature which use force or the threat of force to the victim or any other persons or take advantage of the helpless position of the victim.'"⁴⁴ The loose language of this statute allows for the possibility of further harassment of LGBT Russians, should the state ever require it. In addition, this is the first instance in Russian legal history where lesbianism is explicitly referenced in law.⁴⁵

Antidiscrimination Statutes

Russia has no antidiscrimination statutes protecting homosexuals, bisexuals, and transgender people.

Marriage

Russia does not recognize same-sex marriage. A same-sex marriage was attempted in the early 1990s as a publicity stunt. More recently, an activist attempted to draw attention to the Russian family code by applying for a same-sex marriage license in Moscow. The activist claimed not to be gay himself, but merely a gay-rights supporter, further illustrating the difficulties inherent in identifying and developing LGBT communities in Russia.⁴⁶

Speech and Association

Soviet deconstruction of public and private space had a tremendous effect on the formation of homosexual identities and communities in Russia. Under the tsarist regime, urban men were able to meet same-sex partners in local bathhouses (*banya*). However, once Communism took hold and the Soviet Union was established, these quasi-private spaces came under government control. The result of Communist regulation, as in many other areas of life under Soviet rule, was to force homosexuals to carve out semi-private spaces in public areas, such as public toilets, subway stations, and parks.⁴⁷

Whereas some Western societies had access to forms of private space necessary for developing sustainable homosexual communities and organizations, this access was fundamentally impossible for Russians under Communist rule. All forms of private space became public under the eyes of the Communist party. To accommodate concentrated urban populations, most housing was converted to communal apartment living, known as a *kommunalka*. Russians were not even permitted to rent a hotel room without presenting a multitude of documents, including an internal passport, and obtaining special permission from a Communist Party bureaucrat.

With the advent of Communism, Russian LGBT citizens' identities were most often formed in secret. Public LGBT identities were the purview of the Communist party. The Soviet Union inherited Russian legal and medical prejudices of the late 19th century. Whereas, over time, Western societies developed tolerance-based legal and medical strategies to oppose discrimination, Communist Russia institutionalized pathology-based definitions of homosexual, bisexual, and transgender identities. Without an identity separated from Soviet ideology, LGBT Russians were unable to form social or advocacy organizations. Instead, Soviet ideology defined the LGBT community, often through imprisonment (for men) or psychological cures applied to women.⁴⁸

In Leningrad, Olga Zhuk founded the Chaykovskiy Fund for Cultural Initiatives and Aid to Sexual Minorities. Closely aligned with the activist Moscow Union, Zhuk successfully advocated for the rights of Russian citizens imprisoned under article 121.1, convincing Russian prison officials to allow a visitation with these prisoners by a delegation of American activists.⁴⁹ As the end of the Soviet Union approached, tiny activist groups formed as far away as Siberia. On the whole, these smaller groups were extremely short lived, accomplishing little in comparison to the more organized groups in Moscow and Leningrad. No Russian group could properly organize and advocate without official state recognition, which was never granted, and by the time the Soviet Union collapsed, so did the few Russian LGBT organizations.

As in the West, the ability to hold public gatherings such as parades is an integral part of LGBT community building. Furthermore, like past Western governmental

opposition to gay pride parades and festivals, this has been strongly manifested in modern-day Russia. Russia's capital city, Moscow, is the most public modern battleground in the effort to establish LGBT rights to free association.

On May 27, 2006, gay rights activists, led by Nicholas Alexeyev, attempted to conduct the first gay pride parade in Moscow, and the first such event in Russia. Moscow mayor Yuri Luzhkov refused the group permission to march, on the grounds that it was offensive to Russian values and would provoke violence. Mayor Luzhkov's ongoing criticism of homosexuality and a hostile police presence resulted in brutal attacks on the activists by skinheads, and the arrest of 120 people.⁵⁰ Parade organizers filed a legal challenge to Moscow's ban on sexual minorities' parades. In August 2006, Moscow's Taganka court validated the ban within the city's Central Administrative District prefecture. Subsequent organizer appeals fared no better, and attempts to change the parade's location within Moscow were met with additional bans.

In November 2006, the Moscow Central Prefecture Court upheld Moscow's gay pride parade ban on the grounds that security concerns were sufficient to deny a parade permit. The organizer's final appeal was denied in June 2006, when the Supreme Court of the Russian Federation upheld the ban. The court found that the ban was legal under both Russian law and the European Convention on Human Rights, due to the government's interest in protecting public safety and security. A second attempt to hold a gay pride parade in May 2007 was also blocked by Moscow mayor Yuri Luzhkov. Activists attempted to march in defiance of the ban, and were met by physical attacks and arrests, repeating the events of May 2006.

RELIGION AND SPIRITUALITY

Since the collapse of the Soviet Union, the Russian Orthodox Church has enjoyed a recent resurgence in membership and political influence within Russia. In particular, the church condemns homosexual behavior as perverted and sinful. The church's influence in Russian homosexual life became more pronounced as it vigorously opposed the recently attempted LGBT parade in Moscow.

VIOLENCE

Accurate statistical evidence regarding violence against the LGBT community in Russia is difficult, if not impossible, to uncover. International LGBT rights organizations have documented the consistent hostility faced by the LGBT community, which occasionally escalated into raw hatred and severe violence. As most Russians consider homosexuality to be a perversion, there are no social disincentives that serve to prevent violence against homosexuals. In fact, antigay discrimination and its concurrent violent byproduct are considered by some to be traditional aspects of Russian history and culture.

OUTLOOK FOR THE 21ST CENTURY

Recent political and economic developments have made it extremely difficult to determine with any accuracy the future of the LGBT community in Russia. As recently as 2004, the Russian duma (parliament) considered a proposal by ultranationalist leader of the Liberal Democratic Party, Vladimir Zhirinovskiy, to introduce

the death penalty for sodomy. No further action was taken by the *duma*, but that such a proposal would be made indicates a dangerous atmosphere in which to conduct LGBT activism.

The upheaval and mild liberalization of the mid-1990s parallels earlier moments in Russian history, which brought about exuberant social changes. However, Russian history is replete with pronounced, nationalistic backlashes against any liberalizing forces. Any deviation from the historical self-image of an aggressive, independent, and self-sufficient Russian state may be confronted with violence and abuse. The best opportunity for an LGBT community to thrive in Russia is to operate within the parameters of the Russian historical psyche. Liberation of LGBT Russian people will be a long, slow process proceeding well into the 21st century.

RESOURCE GUIDE

Suggested Reading

- Laurie Essig, *Queer in Russia: A Story of Sex, Self, and the Other* (Durham, NC: Duke University Press, 1999).
- Dan Healey, *Homosexual Desire in Revolutionary Russia: The Regulation of Sexual and Gender Dissent* (Chicago: University of Chicago Press, 2001).
- Daniel P. Schluter, *Gay Life in the Former USSR: Fraternity without Community* (New York: Routledge, 2002).
- David Tuller, *Cracks in the Iron Closet: Travels in Gay and Lesbian Russia* (London: Faber and Faber, 1996).

Video/Film

- Kiev Blue* (1992). Directed by Heather MacDonald.
Documentary about gay men and lesbians in pre-coup Kiev.
- To My Women Friends* (1993). Directed by Natalia Sharandak.
Frameline. Six Russian lesbians discuss issues that touch their lives.
- Moscow Fags* [*Moskovskie golubye*] (25 min.; 1995). Directed by Iakov Poselski.
Underground documentary about U.S.-Russian gay couples and the harsh realities of gay life in Russia.
- Creation of Adam* [*Sotvorenie Adama*]. Facets Video.
Heterosexual marriage faces trouble when the husband is perceived to be gay.
- Hammer and Sickle* (1994). Directed by Sergei Livnev.
Transgendered social fantasy about a woman transformed into a man by a Soviet experiment.
- You I Love* (2004). Directed by Ol'ga Stolpovskaya and Dmitry Troitsky.
Bisexual love triangle in modern Moscow.
- Far from Sunset Boulevard* (2006). Directed by Igor' Minaev, *unreleased*.
Love triangle involving famous Soviet filmmakers in a gay relationship.
- Pushkin: The Last Duel* (2006). Directed by Natalia Bondarchuk.
Homophobic conspiracy film about the man who killed Pushkin in a duel.

Web Sites

- Gay.ru, <http://www.gay.ru>.
News and resource information for LGBT Russians. Includes English translations of some articles.

GayRussia.ru, <http://www.gayrussia.ru>.

News and resource information for LGBT Russians.

Gay Russian Culture, <http://community.middlebury.edu/~moss/RGC.html>.

Academic overview of modern Russian LGBT cultural issues.

Infoshare.ru, <http://www.inforshare.ru>.

Russian HIV/AIDS health portal.

Poz.ru, <http://www.poz.ru/>.

Extensive health and social service resources for HIV+ Russians.

UNAIDS, The Joint United Nations Programme on HIV in the Russian Federation, <http://www.unaids.ru/>.

News and organizational resources for the United Nations' HIV/AIDS health programs in Russia.

NOTES

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4. See <http://www.globalsecurity.org/military/world/russia/mo-budget.htm>.

5. Federation of American Scientists, "Status of Nuclear Powers and their Nuclear Capabilities," <http://www.fas.org/nuke/guide/summary.htm>.

6. CIA, "Russia."

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8. Sergey Solovyov, *History of Russia from the Earliest Times* (AST, 2001), 562–604.

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10. Daniel P. Schulter, *Gay Life in the Former USSR: Fraternity without Community* (New York: Routledge, 2002), 118.

11. Laurie Essig, *Queer in Russia: A Story of Sex, Self, and the Other* (Durham: Duke University Press, 1999), 6.

12. Cathy Young, "Anti-Gay Russia: Why Is a Former Communist Country so Homophobic?" 2007, <http://www.reason.com/news/show/120638.html>.

13. Dan Healey, *Homosexual Desire in Revolutionary Russia: The Regulation of Sexual and Gender Dissent* (Chicago: University of Chicago Press, 2001), 106.

14. Healey, *Homosexual Desire in Revolutionary Russia*, 247; Daniel P. Schulter, *Gay Life in the Former USSR: Fraternity without Community* (New York: Routledge, 2002), 129–30.

15. Schulter, *Gay Life in the Former USSR*, 130.

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17. Ibid.

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19. UNAIDS, "AIDS Epidemic Update," 2007, http://www.unaids.org/en/HIV_data/2007EpiUpdate/default.asp; 2007_epiupdate_en.pdf.

20. V. Andrey, "Saint Petersburg had Most HIV Cases so far in 2007," Gay.ru, 2007, <http://english.gay.ru/news/rainbow/2007/09/21-11022.htm>.

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41. Healey, *Homosexual Desire in Revolutionary Russia*, 249.
42. Essig, *Queer in Russia*, 13.
43. Healey, *Homosexual Desire in Revolutionary Russia*, 95.
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SLOVENIA

Roman Kuhar

OVERVIEW

Slovenia has a population of two million¹ and is located in southern central Europe. It shares borders with Italy, Austria, Hungary, Croatia, and the Adriatic Sea to the southwest. After Finland and Sweden, Slovenia is the third most forested country in Europe, as around one-half of the country is covered by forests. The total area of Slovenia is a little more than 7,700 square miles, which is slightly smaller than New Jersey.²

In the seventh century, the Slavic Duchy of Carantania was established in the territory of the present day Slovenia. The Habsburgs took over most of this territory in the 14th century, and the area remained under their rule for over 600 years, until the end of the World War I.

In the 16th century, the Reformation movement established the foundations of the Slovene literary language. In 1550, the first two books in the Slovenian language—*Catechism* and *Abecedary*—were published by the Protestant Primož Trubar (his image is now commemorated on the Slovenian 1 euro coin). Thirty-four years later, the first Slovenian translation of the Bible was published. Even though most Protestants were expelled from Slovenian lands in the beginning of the 17th century, when the Catholic Church suppressed Protestantism by burning books in the Slovenian language, the importance of the Reformation for the Slovenian culture is indubitable.

Empress Maria Theresa introduced compulsory primary education in the territory of present-day Slovenia in



1774. After the short-lived Napoleonic rule between 1809 and 1813, Slovenian land became part of the Austrian empire and later, in 1867, the Austro-Hungarian monarchy. In 1848, a movement aiming at the political unification of all Slovenes emerged as part of the Spring of the Nations movement, but the idea was never implemented. After World War I, Slovenes joined the Kingdom of Serbs, Croats, and Slovenes, which was renamed the Kingdom of Yugoslavia in 1929 (Yugoslavia meaning “the country of South Slavs”). After World War II, Slovenia became part of the new Yugoslavia, which broke up with the Soviet Union in 1948 and introduced its own specific version of socialism, based on common property (private property had been nationalized by 1947) and self-management. In 1963, Yugoslavia became known as the Socialist Federal Republic of Yugoslavia, which was comprised of six federal republics (Croatia, Serbia, Bosnia, Macedonia, Montenegro, and Slovenia) and two autonomous provinces, Vojvodina and Kosovo. In the context of former Yugoslavia, Slovenia was known for its high level of economic development. In 1990, its gross domestic product (GDP) was two times higher than the state average.³

After the public referendum in December of 1990, when over 88 percent of Slovenian citizens voted in favor of it, Slovenian independence was declared on June 25, 1991. The next day, Slovenia was attacked by the Yugoslav army, but a truce was called after 10 days (the conflict is now known as 10-day war for independence). The European Union (EU) recognized Slovenia in 1992, when it also became a member of the United Nations.

In 2004, Slovenia joined the EU and NATO. In 2007, it joined eurozone⁴ and adopted the euro, becoming the first transition country in the European Union to introduce the euro as a national currency. In 2008, Slovenia was the first postsocialist country to hold the Presidency of the Council of the EU.

Unlike some postsocialist countries, Slovenia did not suffer from extensive social differentiation after the transformation from a communist to a capitalist system at the beginning of the 1990s. Its relatively good economic situation within the former Yugoslavia helped to quickly accommodate it to the world market economy and to begin significant economic growth. Today, Slovenia has around 91 percent of the EU average gross domestic product (GDP) per capita. According to the Global Competitiveness Index 2007–2008, which measures the level of prosperity the country offers to its citizens, Slovenia ranks 39th among 131 countries in the world.⁵

According to the 2002 census, 83 percent of the population identifies as Slovenian, followed by nearly 2 percent identifying as Serbs, 2 percent Croats, and 1 percent Bosnians. According to the same census, 58 percent of the population self-declares as Roman Catholic. Other religious groups include Islam (2.4%), Eastern Orthodox (2.3%), and Protestant (0.8%). Ten percent of the population self-declared as atheist.⁶

The political transition and the introduction of democracy in the 1990s did not automatically establish a better position for the LGBT population in Slovenia. Even though homosexuality was criminalized until 1976 (the punishment was one year of imprisonment), there are no known cases of legal prosecution of homosexuals since the early 1950s. The 1980s saw the beginning of a vibrant gay culture and LGBT movement. Even though their political demands were not met, the socialist government did not try to prevent or ban the movement. However, the introduction of democracy and a quest to respect EU standards on human rights—as part of the process of preparation for joining the EU—offered new opportunities for the

gay and lesbian movement. Still, with better visibility of the gay and lesbian minority, the 1990s also saw the raise of hate speech, homophobia, and increased ostracism of homosexuals. According to the Slovenian public opinion polls during the 1990s and early 2000s, some 55 percent of Slovenian citizens did not want a homosexual to be their neighbor. That percentage dropped to 35 percent in 2005.⁷

OVERVIEW OF LGBT ISSUES

The Slovenian gay and lesbian movement started in 1984. In April of that year, the first festival of gay culture, Magnus (after Magnus Hirschfeld, the German sexologist), was organized in the capital city of Ljubljana. Today, the festival is known as the Ljubljana Gay and Lesbian Film Festival.

In December 1984, the first Slovenian gay organization was established. Together with feminist, peace, and other movements, the gay movement became an important part of the new social movements of the 1980s in Slovenia. Like the festival, the organization was called Magnus. In 1987 the first Slovenian lesbian organization, LL (which stands for Lesbian Lilith), was established. These were the first gay and lesbian organizations in former Yugoslavia and in eastern Europe.

Despite the fact that they originated in Slovenia, they both had an impact on a broader cultural and political level in the former Yugoslavia. They helped to relocate the issue of homosexuality from the medical context of the 1970s and early 1980s to a cultural and political context. For example, in 1986, Magnus issued a public manifesto demanding an amendment to the Yugoslav constitution so that discrimination on the basis of sexual orientation would be prohibited. They also demanded that homosexuality be decriminalized in Serbia, Bosnia, and Macedonia, and that the Yugoslav government should stage a protest against Romania, the Soviet Union, Cuba, Iran, and other countries where homosexuals were persecuted at the time. None of their requests were fulfilled. However, such interventions into the political sphere contributed to increased attention to the LGBT community from the media and the general public.

Homosexuality became a household issue in 1987, when the fourth annual festival of gay culture was supposed to take place in Ljubljana. It was scheduled to start on May 25, which was late Yugoslavian president Tito's birthday (Marshal Tito died in 1980). The Serbian and Bosnian media took this fact as another Slovenian provocation and proclaimed that a world festival of queers would take place in Ljubljana.⁸ A scandal erupted, and under pressure from the Yugoslav government, the local Slovenian government issued a public statement, saying that the organization of such a festival would represent a threat to a healthy society. Homosexuals were thought to be solely responsible for the spread of AIDS. While the festival was never officially banned, the gay organization decided to prepare workshops on safe sex instead. In a broader context, homosexuality was abused as a tool of political revenge between Ljubljana and Belgrade—at the time Slovenia was already suspected of having aspirations to exit from the Yugoslav federation.

Another notorious scandal occurred in 2001 when two gay poets—Slovenian Brane Mozetič and Canadian Jean-Paul Daoust—were stopped at the bar Café Galerija. The bouncer prevented them from entering the bar, which used to be known as gay friendly. He said, “they should get used to the fact that this pub is not for *that kind* of people.”⁹ The scandal—widely reported on in the media—led to the organization of the first gay pride parade in Ljubljana in July 2001.

It was primarily through such scandals, which resulted in extensive media coverage, that the general public in Slovenia became acquainted with the homosexual minority.

With the diversification of the media in the 1990s, when the change of the political system contributed to the emergence of new newspapers and magazines, the frequency of media reports on homosexuality intensified. While there were a few more than 80 articles published on homosexuality in the Slovenian media from 1980 to 1990, the '90s saw hundreds of articles on the topic.¹⁰ In media representations, gays and lesbians became normal citizens, just like anyone else. The normal image—a step forward, but not necessarily an unproblematic one—was reinforced by global gay images: *Ellen*, *Will and Grace*, *Queer as Folk*, and other television shows with gay and lesbian characters were all shown on Slovenian national television or commercial channels.

The issue of nondiscrimination on the basis of sexual orientation and the debate on same-sex registered partnership intensified in the process of preparing to join the EU. The transposition of EU directives forced Slovenian legislators to introduce several antidiscrimination provisions, including on the ground of sexual orientation.

EDUCATION

In 1980, health education was introduced into the secondary school curriculum. According to the health education textbook, teachers should briefly address homosexuality under the chapter “Unusual Sexual Behavior” along with exhibitionism, fetishism, promiscuity, prostitution, incest, and rape.¹¹

At the time, the guidelines for teachers provided by the Ministry of Education explicitly stated that the goal of health education is “to bring a young person towards a satisfactory heterosexual partnership.”¹²

The short chapter on homosexuality in the health education textbook changed slightly over the years. At first, homosexuality was defined as the “result of a wrong education.”¹³ Since 1988, the textbook has claimed that “there is no proof that homosexuals are severely unadjusted” and that one should get rid of any prejudices about homosexuality.

In 1991, with the reform of the public school system, health education was removed from secondary schools and no substituting course was introduced. Since then, it has been up to the teacher to start a debate on homosexuality. According to recent research, slightly more than 79 percent of gays and lesbians surveyed do not recall homosexuality being discussed in schools, or if it was, not much was said about the topic. Eighteen percent of those who remember homosexuality being discussed reported that discussion was mainly negative toward homosexuality.¹⁴

Another channel through which debate on homosexuality entered secondary schools was courses conducted by extracurricular teachers, such as representatives of nongovernmental organizations (NGOs). In 1998–1999, the Association against Violent Communication conducted a series of lectures on nonviolence and tolerance in several secondary schools in Ljubljana. The set of lectures consisted of one lecture on homosexuality, which was conducted by a gay man who came out of the closet during the lecture. After one of these lectures, four parents complained to the headmaster that the school was agitating for homosexuality. The headmaster therefore asked the Association against Violent Communication to

remove the lecture on homosexuality from their list. The association refused to do so, but the set of lectures was no longer requested by any of the secondary schools in Ljubljana.¹⁵

In the contemporary curriculum for the compulsory nine-year elementary schools (introduced in 2003–2004), homosexuality is not explicitly mentioned, except in one instance. In the fifth grade society course, pupils are supposed to learn about differences among people in society, which include differences in gender, age, religion, ethnic origin, social and cultural differences, and sexual orientation. Still, the textbooks for this course do not address sexual orientation. Similarly, textbooks do not address same-sex families in their discussion of different types of families.

In the past few years, several NGOs have produced didactic tools such as CD-ROMs and booklets for teachers aimed at facilitating classroom discussions on homosexuality. Sporadically, an NGO (such as the LGBT organization Legebitra or Amnesty International Slovenia) would be invited to prepare a workshop on homosexuality for the secondary school pupils, but most of the schools still fear that talking about homosexuality is promoting it, or they do not see any need for such discussions.

Gay bashing in the school setting is not often discussed or even recognized. However, according to recent research, nearly 23 percent of gays and lesbians who have already suffered violence due to their sexual orientation (53% of the entire sample) mentioned that perpetrators of the violent acts were schoolmates. They were ridiculed, teased, insulted, or avoided altogether, and 10 percent mentioned being physically beaten in school because of their sexuality.¹⁶

EMPLOYMENT AND ECONOMICS

Slovenia had a relatively prosperous economy before gaining independence in 1991. Although the population of Slovenia represented a 13th of the total population of Yugoslavia, the Slovenian economy accounted for one-fifth of Yugoslavia's total GDP and one-third of Yugoslavia's export at the time.¹⁷ Since independence and transformation to a market economy, the country has enjoyed economic stability.

Among the 10 countries that joined the EU in May 2004, Slovenia had the highest GDP per capita. The fact that inflation declined from nearly 200 percent in 1992 to 2.3 percent in 2006 helped contribute to the opening of the eurozone for Slovenia in 2007. The employment rate in August 2007 was 7.4 percent. More women (9.3%) than men (5.9%) are unemployed.¹⁸

In 2002, the Employment Relationship Act was adopted, transposing the EU directive on nondiscrimination in the workplace. The act explicitly prohibits discrimination on the grounds of sexual orientation in any place of employment. While the latter includes the military (gay men and women may serve in the armed forces), religious institutions are exempt. The latest Vatican prohibition (2005) on "active homosexuals and supporters of gay culture" becoming priests applies to Slovenia as well.

There are no officially documented cases of discrimination on the grounds of sexual orientation in Slovenia. This can be attributed to the fact that many gays and lesbians are not out in the workplace or would not report such discrimination. According to the latest research, 50 percent of gays and lesbians are not out at

work, or they have come out to only one or two coworkers.¹⁹ Gays and lesbians fear insults, ridicule, and the obstruction of promotion or even dismissal from work. The same research showed that one percent of people surveyed reported explicit discrimination in the workplace, and five percent reported implicit discrimination due to their homosexuality.²⁰

The nongovernmental initiatives to fight discrimination in the workplace (such as Škuc LL's Partnership for Equality²¹) showed that trade unions and employers are often not aware that implicit or explicit discrimination on the grounds of sexual orientation is taking place. Several manuals were produced in order to inform trade unions and employers about the problem. As part of the same project, the first television advertisement calling attention to the discrimination against gays and lesbians in the workplace was aired in 2007 on national television and some other channels.²²

There are also some examples of good workplace practices. A few companies—such as Telekom Slovenia (a telephone company) and RTV Slovenia (a national broadcasting company)—introduced antidiscrimination measures on the basis of sexual orientation in their internal codes of practice.²³

SOCIAL/GOVERNMENT PROGRAMS

There are no specific governmental programs in Slovenia aimed at the LGBT community. Exceptions are the occasional AIDS and STD-related programs (programs concerning sexually transmitted diseases), which are aimed at either the general public or specifically at men who have sex with men (MSM). Nevertheless, national and local governments do fund LGBT NGOs through their social, health, antidiscrimination, and similar programs. Another source of funding comes from the EU programs. As of 2007, each taxpayer can allocate 0.5 percent of his or her tax return to the NGO of his or her choice.

In 2007, the LGBT organization Legebitra sued the Ministry of Work, Family, and Social Affairs, claiming that their application for the funding of preventive programs for children and youth was rejected for homophobic reasons. The court ruled in favor of Legebitra.²⁴

SEXUALITY/SEXUAL PRACTICES

The most comprehensive research on sexual behavior and the sexual practices of Slovenian citizens has been conducted by Irena Klavs in 1999–2001 on a sample of 1,752 respondents aged 18 to 49. Male respondents (median value) had the first sexual intercourse at the age of 17 and women at the age of 18. About two percent of female respondents and seven percent of male respondents had their first sexual intercourse before the age of 15. In the past five years women on average had 1.5 heterosexual partners and men 3.2 heterosexual partners. The median value of sexual partners in a lifetime is two for women and four for men. About 28 percent of male respondents and a bit less than 6 percent of female respondents reported 10 or more sexual partners in their lifetime. About 34 percent of women and 32 percent of men did not use any contraception methods during their first sexual intercourse. About 32 percent of men and 22 percent of women reported having had heterosexual anal intercourse at least once. Twelve percent of women reported having been forced into sexual intercourse at least once in their lifetime

and 4.4 percent of men reported having paid for sex with a woman. One percent of male respondents and 0.9 percent of female respondents reported having had a sexual experience or contact with a person of the same sex.²⁵

Recent research among secondary school students aged 17 and 18 on the topic of their first sexual experience²⁶ showed that the average age for a first sexual encounter is 15.9 for women and 15.5 for men. However, 45 percent of those in the sample had not yet had any sexual experiences. The research also found that self-declared religiosity is negatively correlated to number of sexual experiences; those adolescents who are more religious have fewer sexual experiences. More women (80%) experienced their first sexual intercourse with a steady partner compared to men (60%). This also explains why significantly more male (44%) than female (17%) respondents reported having had their first sexual experience during the summer holidays. Some 55 percent of respondents used birth control (including coitus interruptus) during their first sexual intercourse, which is less than what similar research on youth in western European countries has shown.²⁷

Prostitution in Slovenia was decriminalized in 2003. From the 1970s on it was legally defined as a lesser offense against public order. The first initiatives to decriminalize prostitution came in the 1980s, but the issue was more seriously tackled only in the 1990s, when prostitution started to flourish with the growth of nightclubs.²⁸ Currently, the most widespread forms of prostitution are cell phone prostitution, apartment prostitution, and classical hotel and bar prostitution.²⁹ There is no street prostitution in Slovenia.³⁰

No research on the sexual behavior or sexual practices of LGBT people has been conducted in Slovenia.

FAMILY

In family composition, Slovenia generally follows western European trends. While the traditional nuclear family is still prevalent, it is on the decline. According to the 2002 census, nuclear families represented 53 percent of all family types (a 6% decrease compared to the 1991 census, and a 10% decrease compared to the 1981 census). The number of unmarried couples with children increased from 2.2 percent in 1991 to 5 percent in 2002. Every fifth family in Slovenia is a single parent family—in 86 percent of cases the parent is a mother.³¹

Despite the diversification of family forms, the Resolution on the Foundations of Family Policy, adopted by the government in 1993, does not reflect this diversity. Even though the resolution recognizes different types of families, it is aimed at preserving the traditional nuclear family. Same-sex families are not mentioned or addressed in the resolution.

The number of marriages has decreased since 1972, when 9 people per 1,000 were married. The marriage rate had dropped by nearly three times by 2006. On the other hand, the age at which individuals first get married is increasing. In 1972 a bride was 24 years old on average (and 30 years old in 2006), while the average age of a groom was 27.5 in 1972 and 32.8 in 2006.³² The number of divorces is also increasing. In 1972 there were nearly 117 divorces per 1,000 marriages. In 2006 this number increased to nearly 367. However, 2006 saw the first decrease in the number of divorces (a 13% decrease) in 10 years. The divorce rate in 2006 was 1.2 divorced people per 1,000 inhabitants, which places Slovenia among the European countries with the lowest divorce rates (with Greece, Italy, and Ireland).³³

There are no official statistics on homosexual families in Slovenia. Recent research has shown that some 40 percent of gays and lesbians surveyed would like to have children, 38 percent do not want to have children, and the rest do not know or cannot decide. When asked how they want to have a child, adoption was the most often mentioned possibility.³⁴

While gays and lesbians can theoretically adopt children in Slovenia (as single people, not as same-sex couples), in practice this is not common. The number of children available for adoption is much lower than the number of heterosexual couples wanting to adopt. On average, there are 30 children adopted per year, while 250 heterosexual couples are waiting for adoption. Another option is foster parenting. In 2007, there were 1,189 children in foster care. While fostering is not explicitly prohibited for homosexuals, there are no publicly known gay foster families.

For lesbian couples, artificial insemination is one of the most common ways to have children. However, since 2001, medically assisted insemination has not officially been available for single women or women who are not in a heterosexual partnership. Since 1977, when the first medically assisted insemination was performed in Slovenia, the Health Measures in Exercising Freedom of Choice in Childbearing Act granted the right to artificial insemination to all adult women. In 1994, a committee of genealogists decided to stop performing medically assisted insemination, as the 1977 act was outdated and did not address new technical and medical advancements in artificial insemination. An amended act on medically assisted insemination was prepared by 1999 and adopted by the parliament in 2000. The new act did not grant the right to artificial insemination to all women. Instead only women who are either married or are living in a heterosexual relationship and need artificial insemination for medical reasons are now entitled to procedures of fertilization with medical assistance. In 2001, the act was brought to the subsequent legislative public referendum, but a majority of Slovenian citizens confirmed the parliament's decision to exclude single women from being entitled to artificial insemination. One of the key arguments used in the public debate was the fear that lesbians might want to exercise this right and get artificially inseminated.

At present, same-sex marriages are not allowed, nor are joint adoptions by same-sex couples or second-parent adoptions.

COMMUNITY

The gay and lesbian movement in Slovenia lived through a condensed adolescence. While similar movements in the West gradually progressed from assimilation movements toward identity and queer politics, the gay and lesbian movement in Slovenia established itself by immediately demanding political equality, skipping the assimilation phase.

In Slovenia, there are no gay or lesbian districts or quarters. The gay and lesbian social life is organized around two clubs in the autonomous cultural zone, *Metelkova mesto*, in the capital, Ljubljana (Tiffany, the gay club, and Monokel, the lesbian club). *Metelkova mesto* was a military barracks of the former Yugoslav army. Nowadays, it is the center of alternative culture in Ljubljana.

Other referential points for the gay and lesbian community are the gay-friendly bar Café Open and the disco club K4. Since the early 1980s, Sundays (and more

recently also Saturday nights) in K4 are known as Roza K4—a disco for gays and lesbians.

An annual meeting point for the gay and lesbian community is the gay and lesbian film festival, which takes place in Ljubljana every December. It has been operating for 25 years, which makes it the oldest LGBT film festival in central and eastern Europe.

There is no such gay and lesbian infrastructure in other towns in Slovenia.

The infrastructure of the community has been constantly developing. While certain initiatives have died out over the years (for example, a gay and lesbian magazine called *Revolver*), new ones are turning up. Nowadays, there are five LGBT organizations in Slovenia (Magnus, LL, Legebitra, Dih, and Lingsium). In 2007, Galfon, the gay and lesbian telephone helpline, ceased to operate after 12 years, but it has now been replaced by two other help and counseling centers and telephone lines (operating within Legebitra and Dih). There is a gay book series, *Škuc-Lambda*, and a lesbian book series, *Škuc-Vizibilija*, where Slovenian and translated LGBT prose, poetry, and theory are published.

An important LGBT resource is the Lesbian Library (operating under LL). There are also several media initiatives: the radio show *Lesbomania* (broadcast on Radio Študent) and the magazine *Narobe*.

In the past few years, the virtual gay and lesbian community has grown extensively. There are several LGBT forums available—while some of them are general, several are more specific (only for women, for gay parents, and so forth).

None of these initiatives are commercial in nature. It seems that investing money into gay- and lesbian-related private businesses is still too risky or too stigmatized. However, there are two commercial initiatives in Slovenia: a gay sauna called *Gymnasivm*, and gay-owned accommodations in Ljubljana and Piran.

There are also several initiatives and self-help groups for HIV-positive people. Some of them are not exclusively gay.

Most of these initiatives depend on the volunteer work of activists, of which there are not many.

HEALTH

Slovenia has a universal health care system with a compulsory insurance scheme. The system was reformed in 1992, when the Health Insurance Institute of Slovenia was established as a nonprofit institute. It operates with compulsory health insurance, which replaced previous direct funding from the Ministry of Health to primarily employment-based financing. On the other hand, the reform also enabled privatization of parts of the public health network.³⁵ Even though the Slovenian health system is generally considered good, some experts warn that the progressive privatization and commercialization of health services is potentially damaging for the health care system.³⁶

AIDS is not considered a major health concern. Since 1986, when the first two HIV-positive patients were recorded in Slovenia, 349 people have been identified as having the HIV virus. In 136 of the cases, full-blown AIDS has already developed, and 78 people have died because of AIDS-related diseases. The actual number of HIV-positive people is probably higher, as only 1.3 people per 100 were tested in 2006.³⁷

MSM represent over 85 percent of all HIV-positive people. There are also some HIV-positive people among intravenous drug users. However, due to prevention programs originating in the early 1990s (including information and the distribution of needles) this group has low levels of HIV infection.

Slovenia remains among the countries with a low incidence of HIV/AIDS, with fewer than 1 HIV-positive person per 1,000 inhabitants. However, the number of newly identified HIV-positive people has doubled in recent years (from an average of 15 to 35 new infections in 2005 and 2006). Experts mention cheap airfare and the Internet (both of which have facilitated sexual contacts), homophobia, and the lack of prevention programs in recent years as the reasons for the increase in HIV infection. Still, according to the World Health Organization (WHO), the risk of an explosive spread of the HIV virus in Slovenia is low.³⁸

Retrovirus treatment is available to all HIV-positive people. The expenses are covered by compulsory health insurance.

In 1983, the federal Commission for Aids was established in the former Yugoslavia. In 1985, the first prevention program was adopted, HIV testing started, and the gay organization Magnus published the first informative leaflet on AIDS, titled "Everything You Ever Wanted to Know about AIDS, but Were Afraid to Ask." In the following years, a variety of information leaflets, posters, television advertisements, school prevention programs, and prevention actions were organized by NGOs, student organizations, and governmental institutions.

Since 1986, all donated blood has been tested for HIV, and there has been no recorded case of HIV transmission through blood donation. However, MSM are still not allowed to donate blood in Slovenia.

The first nationwide campaign on safe sex and AIDS prevention was organized in 1988. Since 1989, the Clinic for Infection Diseases has performed free and anonymous testing for AIDS. The results are available four days after testing. Similar free testing is also available in other parts of Slovenia.

In 1996, the Ministry of Health established an expert group on AIDS, which also consisted of representatives of LGBT NGOs. Later that year, the national action plan against AIDS was adopted by the government. It aimed at reducing HIV infection, providing information on safe sex, and reducing the use of non-prescription drugs.

HIV-positive people are virtually invisible in Slovenia, and the stigma of HIV/AIDS is very high. According to the Slovenian public opinion poll from 2000, 46 percent of people surveyed would not want an HIV-positive person to be their neighbor.³⁹

In recent years there have been several scandals connected to AIDS. When the fourth Magnus cultural festival in 1987 was notoriously presented as a world festival of queers in the Bosnian and Serbian media, one of the concerns was that gay people from abroad would transmit AIDS to Slovenia and endanger a healthy society. In 1993, when Magnus issued the information leaflet "Sexuality and Aids," which featured naked male and female bodies without faces on its cover, several Catholic groups and organizations protested, claiming that such leaflets promote group sex and homosexuality. Professor Anton Dolenc from the medical school at the University of Ljubljana claimed that homosexuals are degenerates and "a dead bough on a tree of life."⁴⁰ The WHO later issued an opinion that the leaflet was not problematic.

The year 2004 saw the first AIDS patient come out on national television. However, the 24-year-old gay man lost his job the next day due to his HIV-positive status.

In 2005, one HIV-positive person was prevented from entering his flat when his neighbors learned that he was HIV-positive. He had to move to another town.

In the past few years, the number of other STDs, primarily chlamydia and human papilloma virus (HPV) infections, are remaining constant. The most affected group is MSM.⁴¹

POLITICS AND LAW

Article 186 of the Yugoslavian penal code criminalized “unnatural acts of unchastity between people of the male sex.” Lesbian sex was never criminalized. The penalty for unnatural acts was three years of imprisonment. Later, in 1959, the penalty was reduced to one year. Homosexuality was decriminalized in Slovenia (and in Croatia and Montenegro) in 1976, but not in the other former Yugoslav republics. In the same year, the age of consent was set at 14 (and in 1999 to 15) for both heterosexual and homosexual relations. Janez Šinkovec, a supreme court judge in the Socialist Republic of Slovenia, had already called for the decriminalization of homosexuality in 1974, claiming that “intimate lives of adults, who don’t hurt anyone by their actions, are truly their personal matters. There is no need for society to believe that it has a right to interfere in this area.”⁴²

As the Slovenian political sphere started to change at the end of the 1980s, expectations for democracy, human rights, and equality intensified. However, the first disappointment came with the first legal document of the independent Slovenia—its constitution. Article 14 of the constitution ensures legal equality as one of the basic human rights regardless of any personal circumstances. While race, gender, religion, national origin, and similar conditions are mentioned explicitly in the article, sexual orientation is not. While the liberal bloc called for the explicit protection of sexual orientation, right-wing conservative parties refused to support the article in such a form.

A compromise with the right-wing parties was worked out; sexual orientation was replaced by the term *personal circumstances*. Article 14 now reads: “In Slovenia everyone shall be guaranteed equal human rights and fundamental freedoms irrespective of national origin, race, sex, language, religion, political or other conviction, material standing, birth, education, social status, disability or any other personal circumstance.”⁴³ The explanatory note to the constitution states that “personal circumstances” include sexual orientation.

The first explicit mention of sexual orientation in the Slovenian legal system came in 1995 with the adoption of an amended penal code. Discrimination on the grounds of sexual orientation is prohibited. With the amendments to the penal code in 2008, incitement to hatred or intolerance on the basis of sexual orientation, including hate speech, is also criminalized. Similar provisions are included in several other laws, primarily as a result of the obligatory transposition of the EU nondiscrimination directives into the national legislation. This is most notable in the Employment Relationship Act of 2002 and the Implementation of the Principle of Equal Treatment Act of 2004. The latter prohibits discrimination or harassment on the grounds of sexual orientation. The act stipulates that the government and self-governing local communities are responsible for providing the conditions for equal treatment regardless of—among other things—sexual orientation.

After continued public debate on same-sex partnership in the late 1990s, and after several initiatives to establish a legal framework for same-sex partnership—the

first one dates to 1993—the Ministry of Labor, Family, and Social Affairs established an expert group for preparation of a bill in 1998. However, the bill was never sent to the parliament. In 2003, the same ministry, in cooperation with gay and lesbian organizations, prepared another bill. It proposed complete equalization of the rights of heterosexual and homosexual couples, with the exception of adoption rights. In 2004, the bill received the first of three readings in the parliament. However, after the parliamentary elections in autumn 2004 and the subsequent change of government, the new right-wing government rejected the 2003 bill. Instead, they prepared their own bill, which did not have support from the gay and lesbian organizations because they believed that the bill is discriminatory. The right-wing government, however, was not willing to consider annotations to the bill submitted by the left-wing parties and the gay and lesbian organizations. The legislation was passed on June 22, 2005, with two left-wing parties obstructing the vote.

Slovenia was the 18th country in Europe to introduce the regulation of same-sex partnerships into its legal system. It was also the first country in the world where such legislation was prepared and adopted on a national level by a conservative center-right-wing government.

The main deficiency of the act—which primarily regulates property relations between partners (inheritance rights)—is that it does not recognize the status of next of kin to the registered partners. As a result, registered same-sex partners are not considered close relatives. For that reason, they are not entitled to any rights deriving from social, health, pension, and other insurances. Registered partners also lack all other rights related to the status of next of kin, such as social and pension rights, disability benefits, adoption or parenting rights, and others. The only exception is the right to visit one's registered partner in a hospital and to decide upon his or her medical treatment if he or she is unable to do so. The law obliges the registered partners to take care of each other (for example, if one partner is ill), but it does not provide any rights for the implementation of these obligations (for example, a registered partner is not entitled to leave from work when his or her partner is ill, while heterosexual partners have such a right).

Another problem with the Same-sex Registered Partnership Act arises at a more symbolic level. The term *to register* is used in the Slovenian language for such activities as registering cars; it is not generally used when talking about humans. Additionally, same-sex partners are not allowed to be registered in wedding halls. The registration is instead reduced to a simple administrative procedure: signing the form at the counter of the administrative unit. In such a way, the legislators drew a clear symbolic and legal distinction between marriage and registered partnership.

Despite the downsides of the Same-sex Registered Partnership Act, it contributed to the recognition of same-sex partnership as a social institution. Several laws, adopted after the act, now recognize such unions as one form of partnership. For example, the recent bill on domestic violence (2007) explicitly states that family members include partners in registered partnership.

The gay and lesbian community has showed little interest in registered partnership as it is now enacted. Some gay and lesbian organizations have called on the LGBT community not to use the law, as it is discriminatory. About 20 same-sex couples have been registered since the adoption of the law, while research on the everyday lives of gays and lesbians—conducted before the act was passed—showed that 62 percent of gays and lesbians want to register their partnership for primarily pragmatic reasons (such as social security and tax relief) rather than for ideological

reasons (registration as a sign of true love).⁴⁴ The low level of interest in the law is due to its emphasis on property relations rather than social, health, or other issues.

One registered gay couple, Mitja Blažič and Viki Kern, appealed to the constitutional court in 2006, claiming that the law is unconstitutional. In July 2009 the constitutional court ruled that the law is in fact unconstitutional as it puts registered same-sex partners and heterosexual partners on different footing in regard to inheritance rights. The parliament has to change this provision in six months time. The Minister of Labor, Family, and Social Affairs has already announced the modernization of the law. The aim of the current government is to completely equalize the rights of homosexual and heterosexual partners, including adoption rights (primarily the legal recognition of social parenting and the right to adopt a partner's child).

RELIGION AND SPIRITUALITY

The Roman Catholic Church, with 58 percent of the population being self-declared Catholics, is the most influential religious institution in Slovenia. It follows the Vatican's moral condemnation of homosexuality. Their official view is that some people are born gay, but their homosexuality is seen as a burden they have to carry through life, and on which they should not act. For the Slovenian Roman Catholic Church, homosexuality is a moral problem when it results in a sexual act. Or, as the Slovenian bishop Franc Kramberger claimed in one interview: "The Church cannot accept homosexuals, but it may never sentence them. The Church has to stand by them and help them get rid of their burden."⁴⁵ As recent research has shown, 30 percent of gays and lesbians are religious, and 51 percent of them belong to the Roman Catholic Church.⁴⁶

After World War II, the Slovenian constitution introduced church-state separation. Before the war, the Roman Catholic Church played an important role in society. Its values were often presented as national values and, at least symbolically, membership in the church meant membership in the nation.

The introduction of Communism as a political system in Slovenia after the World War II further diminished the Church's influence, although the Catholic tradition was (and still is) embedded in the Slovenian value system and has managed to coexist throughout the socialist period.

The position of the Roman Catholic Church was revised in the beginning of the 1990s with the introduction of political pluralism in Slovenia. The church was enabled to launch its agenda, which aimed at reestablishing traditional values in Slovenian society. However, the rehabilitation of the Church was also accompanied by the secularization of Slovenian society. While nearly 72 percent of people declared themselves to be Roman Catholics in the 1991 census, the 2002 census showed that the number of self-declared Catholics had dropped by nearly 14 percent.⁴⁷

One of the topics the Roman Catholic Church often plays on is the demographic situation in Slovenia. Basing their arguments in demographic statistics, they claim that the Slovenian nation is dying out. Therefore, the right to abortion (which is constitutionally granted) and homosexual rights are seen as contributing to the decline of the nation. Furthermore, supporting abortion and homosexual rights runs against theological teaching about sexuality and family. When the political and

public debate on same-sex registered partnership reached its peak in 2003, church representatives often participated. For example, Archbishop Franc Rode addressed these issues in his sermon during the feast of the assumption in 2003, asking

what is our attitude towards life? The birthrate is declining and endangers the existence of the nation. We are at the top of the scale by the number of suicides in the world. We act irresponsibly towards conceived lives, which are often ended by an abortion. The spread of drugs and other sorts of addiction is alarming. All of this signifies that we do not have a healthy approach to life. At the same time, the left-wing government, pressured by the overzealous ideologists, adopts more and more permissive legislation. It fosters public immorality and devaluates family, which is the only guarantor for the future of the nation.⁴⁸

A few days later he commented on his sermon in a television interview, arguing that homosexuality is disgusting and claiming that same-sex unions are “harmful to society, since they destabilize family and accustom people, whose sexual identity is not clear, to such a determination.”⁴⁹

Not all church representatives’ views are as radical as Rode’s. Some of them did not oppose the legal recognition of same-sex partnership as long as the rights and obligations of same-sex partners were not equated with those of heterosexual partners and the institution was not called a marriage. They claimed that the state is obliged to protect the importance of family for the Slovenian nation. That means that what they have called the homosexual way of life should not be elevated to a social value. These views were later embedded in the 2005 bill on registered same-sex partnership.

VIOLENCE

The murder rate in Slovenia is 1.5 per 100,000 inhabitants.⁵⁰ Every year there are around 20 to 25 murders in Slovenia. Most of them take place within the family. Slovenia has a high rate of suicide—25 people per 100,000 inhabitants. This places Slovenia among the top 10 countries in the world in terms of suicides. Every year, around 600 people in Slovenia commit suicide.⁵¹ There are 65 people in prison per 100,000 inhabitants, 4 percent of whom are women.⁵²

None of these acts are officially known to be related to homosexuality. There are also no statistics available on gay bashing and hate crimes related to homosexuality. After several years of peaceful pride parades, gay bashing occurred after the pride parades in 2006 and 2007. However, few people were injured.

On the evening of June 25, 2009, the Slovenian Independence Day, a group of eight masked young men attacked about 30 people attending the gay and lesbian literature reading in the gay-friendly pub Café Open. They threw fire into the bar and physically injured gay activist Mitja Blažič, who was standing outside the bar at the moment of the attack. Besides Blažič, who was mildly injured, nobody suffered any physical injuries. The incident attracted huge media attention and politicians from the right- and the left-wing parties condemned the attack. As a sign of solidarity the Minister of the Interior Katarina Kresal marched in the Pride Parade, which took place two days after the attack. Within a week, three perpetrators were traced down by the police. The 18-, 21-, and 22-year-old men confessed with no regret to attacking Café Open. They face several years imprisonment.

Two available studies on violence against gays and lesbians in Slovenia pointed to high levels of violence and harassment on the basis of sexual orientation. Both studies showed that one in two respondents has already been the victim of violence due to his or her homosexuality.⁵³ The most common form of violence suffered by gays and lesbians is verbal violence (91% of gays and lesbians who reported having experienced violence due to homosexuality suffered from it), followed by physical violence (24%) and sexual assaults (6%). In 61 percent of cases the perpetrators of the violent act were strangers, and the violent acts often took place in public (such as in bars or on the street). The research also suggests that while the public sphere is the most dangerous for both gays and lesbians, the location of homophobic acts is also gendered: lesbians have experienced violence in private life more often than gays.⁵⁴

The recent study on homophobic discrimination and violence showed that 92 percent of respondents who have suffered from homophobic violence have not reported the violence to the police. The main reason for not reporting is the minimizing of violence: about 36 percent of respondents claimed that the homophobic violence they had experienced had not been worth reporting, while 27 percent thought that reporting such violence made no sense.⁵⁵

OUTLOOK FOR THE 21ST CENTURY

While most of the antidiscrimination legislation is already in place, the struggle for full marriage and the right to joint adoption will surely stay at the top of the political agenda of the Slovenian gay and lesbian movement in the 21st century. However, even more important than legal victories are social victories; endeavors for social visibility and inclusion should remain an important part of the struggle.

RESOURCE GUIDE

Suggested Reading

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Just Happy The Way I Am (45 min.; 1998). Film by Klaus Müller, camera by Miha Lobnik. East/West Film Production. Slovenian/Dutch documentary portrays the lives of young gays and lesbians who met at the Homophobia and Fascism conference in Italy in 1997.

Guardian of the Frontier (98 min.; 2002). Belafilm. The movie explores political and mental frontiers. Three girls canoe down the river Kolpa, where the border between Slovenia and Croatia is located. Their adventure takes a violent twist that changes their lives forever. A love affair develops between two of the girls, challenging the border between the permissible and the forbidden in their own minds.

Web Sites

Annual Pride Parade, <http://www.ljubljana pride.org>.

Cultural center Q, <http://www.kulturnicenterq.org/>.

Provides general information on what is going on in the gay and lesbian clubs Monokel and Tiffany

eL magazin (Lesbian magazine), <http://www.elmagazin.com>.

Gymnasivm—gay sauna, <http://www.klub-libero.si>.

Lambda—the gay book series, <http://www.ljudmila.org/siqrd/lambda.php>.

Lesbo (Lesbian magazine), <http://www.ljudmila.org/lesbo/lesbo.htm>.

Ljubljana's gay and lesbian film festival, <http://www.ljudmila.org/siqrd/fglf>.

Mavrični forum—Rainbow forum, <http://www.mavricni-forum.net>.

Forum for gays and lesbians.

Monokel—the lesbian club, <http://www.klubmonokel.com>.

Narobe—*Wrong* (LGBT magazine), <http://www.narobe.si>.

The site provides an electronic version of the magazine and *Narobe blog* with the latest news on LGBT life in Slovenia.

IXY (Gay magazine), <http://www.lxy.biz>.

Slovenia for Gay Travelers, <http://www.sloveniaforgaytravelers.com>.

Slovenian Queer Resource Directory, <http://www.ljudmila.org/siqrd>.

Provides general information on what is going on in the LGBT community in Slovenia.

Tiffany—the gay club, <http://www.ljudmila.org/siqrd/tiffany>.

Vizibilija—the lesbian book series, <http://www.ljudmila.org/lesbo/vizibilija.htm>.

Organizations

DIH, <http://www.dih.si>.

DIH started as Out in Slovenija in 2000 as an informal LGBT sports group; sport is still part of DIH's activities. DIH was officially established in 2003. Like Legebitra, it is involved in political activism, counseling, organizing social, cultural and sport activities, and AIDS prevention.

Društvo Parada ponosa, <http://www.ljubljana pride.org/>.

Društvo Parada ponosa was established in 2009 in order to organize annual Pride parade. In previous years the Pride Parade was jointly organized by all GLBT organizations in Slovenia.

Legebitra, <http://www.drustvo-legebitra.si>.

Legebitra was established in 1998 as the first Slovenian LGBT youth group. Over the years it has expanded its activities to political activism, counseling, and organizing social, cultural, and sport activities, as well as AIDS prevention and other programs. It publishes the LGBT magazine *Narobe* (*Wrong*).

Lingsium, <http://www.lingsium.org>.

Lingsium, established in 2004, is the only LGBT group operating outside Ljubljana. It is a youth LGBT organization.

LL, <http://www.ljudmila.org/lesbo>.

LL was established in 1987. It is the oldest Slovenian (and eastern European) lesbian organization and plays one of the crucial roles in political activism in Slovenia. It runs the Lesbian Library radio show *Lezbomania*, lesbian club *Monokel*, lesbian book series *Vizibilija*, and occasionally publishes the lesbian magazine *Lesbo*.

Magnus, <http://www.ljudmila.org/siqrd/magnus>.

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SPAIN

José Ignacio Pichardo Galán

OVERVIEW

The Kingdom of Spain is situated in the southwest of the European continent, with an area of 194,897 square miles. In 2008, its population was 46,063,511 inhabitants. The main cities are Madrid, Barcelona, Valencia, and Seville. After Francisco Franco's dictatorship (1939–1975), the country went through a transition to democracy, which concluded with the ratification of the 1978 Spanish constitution. Since then, Spain has been a democratic country with a parliamentary monarchy. There is periodic voting to elect representatives at four different levels: the European Parliament, the Spanish parliament (Congress and Senate), regional parliaments, and local parliaments. The country joined the European Union (EU) in 1986, along with Portugal.

Spain is defined in its constitution as a plurinational country committed to respecting and protecting cultural diversity. The state became decentralized with the recognition of the diverse nationalities and regions that, in the form of independent communities or regions, make up Spain. The national government controls the regulation of marriage, registries, nationality and migration, labor and social security, among others. The autonomous regions, on the other hand, have their own parliament, laws, and president. Among the ample jurisdictional areas assumed by these autonomous regions are health, education, and social assistance.

Six out of the 17 autonomous regions and two autonomous cities into which Spain is divided have a series of their own historical *fueros* (areas of



jurisdiction) that allow them to have their own legislation regarding matters of civil rights, especially those related to family law, inheritance, and succession; in some cases (as in Navarre and the Basque Country), these rights include the tributary system.

Socioeconomic data situate Spain among the group of developed countries: it is the 9th economy in the world according to gross domestic product (GDP), the average annual income has risen to \$27,400, the life expectancy at birth is among the highest in the world (80.23 years), and the infant mortality rate is among the lowest (4.54 deaths/1,000 live births). *The Economist's* 2005 quality-of-life index ranked Spain tenth, ahead of countries such as France, the United Kingdom, the United States, and Canada. Spain is a welfare state with social security, retirement pensions, and public systems for health and education.

Spain has a mixed economy—capitalist with the intervention of the state. It boomed from the mid-1980s until the mid-1990s, and has had moderate growth since then that is higher than the average for countries in the EU. The official currency is the euro, and the main labor activities are services (65%) and industry (30%), with Spain being the world's second most popular tourist destination. Unemployment, inflation, and a large underground economy are the main economic weaknesses.

Spanish is the official language, as well as Catalan, Basque, and Galician in some regions. About 10 percent of the people living in Spain come from other countries. Many of them are economic and social migrants coming mainly from Latin America, eastern Europe, and Africa, but one-fifth of the non-Spanish residents come from western European countries such as Germany or the United Kingdom, probably attracted by the sun and good weather.

OVERVIEW OF LGBT ISSUES

Homosexual love and sexuality can be found throughout the history of Spain.¹ The sexually permissive Phoenician civilization, the homosexual Roman emperor Hadrian that came from Hispania, and the hedonistic and tolerant of homosexuality of Islamic Al-Andalus are only a few examples. And yet, within the same territory, the Spanish Inquisition and many Catholic kings and queens made the repression of sodomy and homosexuality one of their main signs of identity. The documents of this prosecution do establish that same-sex relations have been present in the Iberian Peninsula for centuries. Even some of the major Spanish intellectuals and artists, such as the writer Cervantes or the painter Goya, are supposed to have had homosexual relations.

Still, it was not until the beginning of the 20th century that same-sex relations appeared more or less openly in the public sphere. In the 1930s, French writer Jean Genet wrote about a group of 30 faggots demonstrating in a public urinary destroyed by a bomb in Barcelona.² In these years, one of the most important Spanish poets, Federico García Lorca, had an affair with the bisexual painter Salvador Dalí. But these small appearances of homosexuality were cut off by the national Catholic dictatorial regime of Fascist Franco.

During the different stages of Franco's dictatorship, homosexuality in Spain was synonymous with persecution, exile, and even murder. In 1971, the Law of Dangerousness and Social Rehabilitation took effect. This statute considered homosexuals dangerous people and stipulated their separation from the society in an attempt to rehabilitate them. During the period in which this law was enforced

(1971–1979), approximately 1,000 homosexual men were locked up. They were taken to jails or to special disciplinary centers for homosexual men.³ At the same time, lesbians suffered repression in private spaces: if the police found two amorous women, they would report the case to the families, and their parents, husbands, or brothers would be in charge of the punishment, and could elect to send the women to a mental institution.⁴

During the transition to democracy, Spanish society showed an important tolerance and openness to sexuality and sexual behaviors. This tolerance was restricted solely to heterosexual behaviors, since homosexual behavior remained strongly stigmatized for about two more decades. The first gay pride demonstration in Spain took place in 1977 in Barcelona. The event was strongly repressed by the police. Five thousand people participated in the gathering. By the 1980s, the LGBT movement's primary goals were achieved (the abolishment of the Law of Dangerousness and Social Rehabilitation and the legalization of homosexuality) and it suffered a decline in activism.

As occurred in other countries in the region, the AIDS epidemic brought the gay and lesbian movement back to life in Spain, largely because the epidemic placed homosexuality at the center of social and mass media attention and made the needs of same-sex couples visible. In the late 1980s and early 1990s, activism and participation in organizations increased. This is most likely the foundation upon which the boom in the Spanish LGBT movement after 1995 was based.

During the 1990s, equality for homosexual people surfaced as a question in political debate. In 2005, Spain became the third country in the world to legalize same-sex marriage, as most of the parties in the parliament voted for reforming the civil code in order to recognize the right of same-sex couples to contract marriage. In 2007, the parliament approved a law that allows transsexual⁵ people to legally change their sex without having genital surgery.

EDUCATION

Spain has a free public education system. Parents can choose to send their children to a public school, a private school funded by the state, or a completely private school. A significant percentage of private schools are managed by the Catholic Church through agreements with the state. One-third of all students of primary and secondary education attend Catholic schools. The Catholic Church has teachers of the Catholic faith in all public schools that are paid by the state but hired and controlled by the dioceses. This explains the influence of the hierarchy of this religion in everything that has to do with education in the country.

Sex education was intended to be implemented with democracy, but it did not find a place in the official class schedule. It was supposed to be taught alongside other subjects, but most teachers were not trained to conduct sex education during their classes and almost no one did it. Sometimes, outside experts visit classes and spend a couple of hours explaining the basics of sexuality. During these lessons, same-sex relations are usually not discussed, and when they do, only male homosexuality in relation with HIV/AIDS is addressed.

In 2006, a new Law on Education was implemented. This law explicitly states in its preamble that respect for sexual and familial diversity has to be taught at school. It even created a new subject, *education for human rights and citizenship*, in which the fight against homophobia and the recognition of diverse forms of families must

be considered. This new subject elicited strong resistance from conservative groups and the Catholic Church.

These new legal instruments and some others, such as the proposition approved by the national parliament in 2006 to fight homophobia in schools, have had no impact yet because of the resistance of the Catholic Church, fears of parental reactions, the lack of resources for teachers, and the normalization of homophobic discrimination in the educational system.

Students continue to perceive schools as especially homophobic spaces for LGBT teenagers. According to studies conducted by the Spanish LGBT Federation,⁶ students who have a sexual desire for same-sex people or who are questioning their sexual orientation are at least three times more likely to be bullied than heterosexual students. About one-third of students show homophobic attitudes, but these rates are much higher among boys than among girls, marking the gendered reality of homophobia and the connection of heteronormativity with the sex-gender system. Lesbian, bisexual, and, especially, transsexual students are more vulnerable in the education system than gay males.

Lesbian students are more often exposed to sexual harassment from their male classmates (15% of secondary male students would come on to a lesbian classmate). This percentage is lower among younger students and increases to 33 percent among older groups. This means that in a class of 30 students, a lesbian could face harassment from 5 male classmates.⁷

The impact of homophobic bullying means higher school failure and attrition rates among LGBT students, but there are no official rates and almost no official programs to fight homophobia in schools. Most of the initiatives that support respect for sexual diversity in Spanish schools come from individual teachers (who face much resistance), from LGBT organizations, and from trade unions, which use funds to train teachers and to publish didactic materials.

A teacher cannot lose his or her job in the public school system for being openly LGBT, but many prefer not to come out in order to avoid being bullied or mocked by students or faculty. If he or she teaches at a private school, the chance of being fired because of sexual orientation is higher. This prevents students from having adult LGBT references at school. In the country of García Lorca, or gay Nobel Prize winners such as the writers Benavente or Alexandre, most students cannot name an LGBT person.⁸

In Spanish universities, there are no specific diplomas or departments of LGBT or queer studies. Some universities are beginning to conduct research and provide summer courses on the subject.

EMPLOYMENT AND ECONOMICS

As in many other areas concerning LGBT rights in Spain, the EU has had a major impact in terms of equality at work with its directive for establishing a general framework for equal treatment in employment and occupation, which entered into force at the end of the year 2000. Nonetheless, there is no concrete plan for fighting discrimination at work for lesbian, gay, bisexual, transsexual, or HIV-positive people. There are no official data on the subject, but Toni Poveda, president of the Spanish LGBT Federation and former trade unionist, has declared that only 15 percent of gay males and 7 percent of lesbians come out in their workplace. The great majority fears negative consequences if they do come out: being fired

or harassed, having no access to promotions, or experiencing problems with colleagues. Lesbian women, for example, are more exposed to sexual harassment at work than heterosexual women, according to one Spanish trade union.

Some people who marry same-sex partners are being pressured by their bosses not to take the 15 days off that they are owed after marriage according to Spanish law, something that would never happen to a heterosexual person. Other couples voluntarily give up their right to take a honeymoon vacation from their job because they do not want their boss, colleagues, or clients to know about their same-sex wedding. Some will say they were sick the day of their marriage because they do not dare to ask for a day off and they prefer not to explain the absence. Legal equality is certainly not social equality, and homophobia is still an enormous threat for many queers in Spain.

Transsexual women confront significant problems concerning employment. Exclusion of transsexual women usually begins at school, when they are bullied for challenging gender frontiers. There is a link between transphobic harassment and higher rates of school failure among transsexual women. Some have to quit school and cut off ties with their family, complicating their position in the labor market. In this context, sex work appears to be the only possibility for many of these women. Transsexual women are probably the most vulnerable sexual minority in terms of discrimination, which is why activists demand that they be recognized as a group that suffers significant social and juridical prejudices at work. They demand positive action for transsexual women.

Openly nonheterosexual people can legally serve in the Spanish army. In 2000, Lieutenant Colonel Sánchez Silva publicly came out on the cover of *Zero*, an important LGBT magazine, creating a great controversy. Since then, many others have followed. There have already been same-sex marriages between soldiers, and transsexual women have fought to be recognized as women in the barracks.

SOCIAL/GOVERNMENT PROGRAMS

After the legalization of same-sex marriage, the challenge for LGBT groups is the transformation of legal equality into real equality. Public policies are one of the main tools to achieve this objective.

At the national level, some laws are beginning to incorporate sexual diversity. One of the most important ones, as mentioned, has been the Law on Education. Several other new laws also take into account respect for LGBTs, including the Law Against Violence, Racism, Xenophobia and Intolerance in Sports (2007), which considers declarations, gestures, insults, and any other conduct implying discrimination of a person or group of persons because of his or her sexual orientation (among other personal characteristics) as a very serious infraction that can be punished with a temporary closure of the sports facility.

Another important milestone was the inclusion of homosexuals and transsexuals as priority groups when assuring equality of opportunity in the frame of the national plan of action for social inclusion (2005–2006). Nevertheless, this plan did not become a reality since there are no funds, department, institute, or directorate of the national government specifically dedicated to working against discrimination of gays, lesbians, bisexuals, and transsexuals in Spain.

On the contrary, regional governments are the leaders on this issue. The Basque government, for example, has a program called Berdindu dedicated only to the

fight against homophobia and to creating the means for social inclusion of LGBT people. The Catalanian government has a plan in all departments with similar objectives and, in 2007, joined the International Gay and Lesbian Association (ILGA), making it the first government to do so. Other regional governments, such as those of Madrid and Extremadura, prefer to fund associations that provide psychological or juridical support for LGBT people.

Different municipalities have specific programs for LGBT, usually related to their gender equality policies. Indeed, one of them, Vitoria, became the first public institution to recognize same-sex couples in 1994, and has created a psychological support program for nonheterosexual people. Maspalomas and Coslada have funded research on homophobia. Other local authorities such as Rivas-Vaciamadrid, Sagunto, Tarrasa, Elche, and Barcelona also have public policies for sexual diversity.

The major Spanish trade unions, Unión General de Trabajadores (UGT) and especially Comisiones Obreras (CCOO), are leading the struggle for social equality of LGBT not only at work, but also in society at large, with specific programs for sexual equality.

SEXUALITY/SEXUAL PRACTICES

Today, Spain is an open country in terms of sexuality. After 40 years of national Catholicism, any censorship on sexuality is considered a backlash and after the transition to democracy, sex is presented without a problem in most public spaces (advertising, movies, conversations, TV shows) except in the educational system.

Still, this openness toward sexuality was limited to the desires and practices of heterosexual people during many years after the arrival of democracy in 1978. In 1996, a scandal commonly known as the *caso Army* significantly changed attitudes toward gay men and homosexuality. Some 49 men, among them well-known public figures, were accused by a minor of having had paid sex with him at a bar (the Army) in Seville. Most charges were proved false, but the affair had a relevant impact on the gay public image and many famous people came out as gay in its wake. One of them was Jesús Vázquez, a famous and successful TV presenter who since then has become a positive gay icon for both homosexual and heterosexual Spaniards, and who married his long-time boyfriend and has even kissed him on the mouth in some of his widely seen TV appearances.

There are many places to find sex partners in Spain, especially for gay adult men, including specific neighborhoods, bars, discos, sex clubs, parks, cinemas, bath houses, and cruising areas in most cities and towns. The Internet revolution has meant a sexual revolution for most queers in Spain, as in many other countries. Not only do many LGBT sites have Spanish versions (such as gaydar.es) but local Web sites also stay very busy for finding sex partners because they are free and allow explicit sexual images like, for example, bakala.org or chueca.com. This means that anyone, no matter if they live in a big city or a small village, has access to other LGBTs from all over Spain (or the world) as long as they have an Internet connection.

Thanks to HIV prevention programs, there is now much more information about sexual practices among men who have sex with men (MSM), but less

available information relevant to lesbians. According to some studies,⁹ the most frequent practice is not anal penetration (15–20% never do it) but oral sex and masturbation, practiced by 85 percent of gay males when having sex with someone. Although more people prefer to be identified as a top than as a bottom, more than one-third define themselves as “versatile,” and the division between top and bottom identities does not seem to be very strict. More than half of gay males reported having more than 6 sexual partners in a year, and 15–20 percent (depending on the age) had more than 20 sexual partners in the past year.

There is not much information available about sexual practices between women, as research is never focused on this group. The National Survey on Sexual Habits, carried out in 2003 by the Spanish Ministry of Health, only considered *sexual relations* to involve a penetration of the penis in the vagina, mouth, or anus, completely concealing lesbian sex and preventing researchers and policymakers from gathering information about sexuality between women.

FAMILY

The Spanish family has changed from the Catholic conception (legal and cultural) that prevailed during Franco’s dictatorship in accordance with the legal transformations derived from Spain’s newly democratic 1978 constitution. Under Franco, the notion was: “no sex without children and no children without sex”; today, however, people can have sex without children and children without sex, too. The Spanish Law on Assisted Reproductive Techniques (ART) of 1988, for example, considered that any woman over 18 years has the right to use these techniques regardless of her civil status. That is, any woman, married or not, heterosexual or homosexual, can use ART. Ten percent of the women who use these techniques are not married and began this process without a partner, but how many of them are lesbian is unknown.

With the Adoption Law of 1987, any heterosexual couple (married or not) can adopt jointly. At the same time, any single person, heterosexual or not, is allowed to adopt a child individually. This created a way for many homosexual people to adopt children, although, legally, only one person could be the adoptive parent. Today, Spain ranks as the country with the second most international adoptions, a phenomenon that is creating new multiracial and multiethnic families. These children come mainly from China, Russia, and various countries in Latin America and Africa.

After the changes that took place immediately following the transition to democracy, Spain is experiencing a second wave of legal adjustments in the 2000s that reflect the social changes people have performed in their lives and that update the legal system to a new familial reality. These adjustments include regional laws recognizing same-sex partners (1998–2005), the Law against Gender Violence (2004), the legalization of homosexual marriage (2005), a new divorce law (2005), a new reproductive techniques law (2006), the Gender Equality Law (2007) and the Dependence Law (2007).

The most significant transformation that has taken place has been to give same-sex couples the possibility of marrying. This change could not have been possible without the evolution that took place in Spanish public opinion regarding the acceptance of homosexual marriage. According to various polls, in 1973 only

3 percent of society accepted homosexuality, whereas in 2004, two-thirds of the population was in favor of gay marriage.¹⁰

In the 2001 Spanish census, homosexual couples could declare themselves as such. Only 10,474 couples did so, that is, 0.11 percent of all homosexual couples and 0.051 percent of the Spanish population at that time. LGBT associations interpreted these data as indicating that most cohabitating homosexual couples did not identify themselves during that census because of the homophobia still present in our society. Within these 10,474 couples, the number of male couples (6,996) is double the number of female couples (3,478).

In June 2006, the Spanish National Statistics Institute published the 2005 demographic data, including for the first time marriages between same-sex couples. The number of marriages celebrated during the last six months of the year, when the law was enforced, totaled 1,275, that is, 0.61 percent of all marriages celebrated in 2005. The following year, 4,574 same-sex marriages were celebrated. In 2007 the number of same-sex marriages decreased slightly to 3,250, and in 2008 there were 3,549 marriages (2,299 between men and 1,250 between women), which equals 1.77 percent of all marriages celebrated in 2008. This seems insignificant in quantitative terms, but homosexual marriage has had a huge cultural, legal, and political impact. This would explain, for example, the strong resistance coming from the Catholic Church.

According to data offered by the Spanish LGBT Federation (FELGTB), by the end of July 2006, more than 150 same-sex couples had begun the process for joint adoption. Since same-sex marriage was approved, as of the end of 2007 only 42 couples had divorced.¹¹ The first divorce had a great media impact, especially in the conservative newspapers.

The people who are getting married are mainly: people in long-term relationships with common possessions; couples in which one member is ill or about to die; couples with offspring (in order to adopt the other partner's son/daughter); or couples in which one of the partners needs to stabilize immigration status. Indeed, the number of marriages between Spaniards and foreigners is higher in percentage among same-sex couples, especially in male-male marriages, where 4.5 out of 10 are held between a Spaniard and a foreigner.

Homophobia is still a widespread attitude in Spain. Some same-sex unions are being celebrated without the presence of any or some of the relatives of the spouses because family members are not aware of the couple's sexual orientation. Indeed, many same-sex couples prefer not to marry because it makes the fact that they are gay or lesbian completely public and visible: all legal documents will indicate that one is married to a person of the same sex and not everybody can afford such an outing. For some people who want to adopt, it is preferable not to be married, because most countries that accept adoptions from one-parent homes would never accept a homosexual couple as adoptive parents.

Gays and lesbians can also face difficulties with child custody after a divorce from a heterosexual partner, should a homophobic judge deny them custody due to their homosexuality. There have been several cases of homophobic sentences in recent years against same-sex couples, such as the one from a judge in Murcia preventing a woman from adopting her wife's child—conceived through ART—using the argument that a baby has the right to have a mother and a father. The judge was later suspended and fined, but the family had to confront a great deal of public controversy.¹²

COMMUNITY

According to the National Survey on Health and Sexual Habits conducted by the National Statistics Institute for the Spanish Ministry of Health in 2003, the rate of persons that declared having had homosexual relations at some time in their life has risen to 3.3 percent. This low rate can be explained by the fact that, in this survey, sexual relations among women were not considered, showing an important lesbophobic bias. Another study carried out among adolescents in 2007 revealed that around 5 percent declared themselves to be nonheterosexuals.¹³

Due to the repression of homosexuality during the dictatorship, it was not until 1971 that the first Spanish liberation group was created. In that year, the *Movimiento Español de Liberación Homosexual* (MEHL) was born. This group became the *Front d'Alliberament Gai de Catalunya* during the democracy. Since then, many other LGBT groups have been set up throughout Spain. Some of the most important ones, such as *Cogam* in Madrid, *Xega* in Asturias, or *Nos* in Granada, are confederated with almost 50 other associations in FELGTB. In Catalonia, the *Coordinadora Gai-Lesbiana* plays the same role as a regional federation. The organizations gathered within these two groups led the political and social fight to achieve same-sex marriage during the 1990s and 2000s. Other national LGBT Federations are the *Fundación Triángulo* and *Colegas*.

Most Spanish cities have some bars or gathering places for LGBT. Chueca in Madrid, Eixample in Barcelona, and Alameda in Seville are the main examples of neighborhoods where a high concentration of discos, bars, shops, saunas, or sex clubs for gays and lesbians can be found. Other Spanish cities such as Murcia, Bilbao, and Valencia (with an important lesbian community) also have very busy scenes.

Businesses targeted at an LGBT public have been crucial in the introduction of gay and lesbian identities in the country. There is even an association of LGBT entrepreneurs (AEGAL) that co-organizes the National Gay Pride in Madrid, one of the biggest gay prides in Europe, with more than half a million participants. This gay pride event is considered at once a celebration and a political demonstration: there is always a slogan and manifesto demanding rights for sexual minorities. Indeed, the presence of hundreds of thousands of people in the streets was one argument used to demand same-sex marriage. On the other hand, this demonstration in Madrid and other major cities in Spain is a way of gathering and celebrating community.

Gay and lesbian life is not only visible in big cities. In a country where tourism has traditionally been a way of life, there are some major international meccas for gay tourism: Ibiza, Sitges-Barcelona, Maspalomas, and Torremolinos. All along the coast, nudist and cruising areas can be found. Because cruising in beaches, parks, cinemas, malls, or gas stations is not illegal in Spain, many tourists come to Spain looking for a society with a tolerant attitude toward same-sex sexual encounters.

The coming out of many men and women, their visibility and pride, and the creation of a pink market were made possible in part by the dramatic increase in the number of LGBT media outlets, including independent radio programs and especially magazines (*Shangay Express*, *Zero*, *Odisea*, *Nois*, *Gai Inform*, *Gay Barcelona*, among others). The Internet has meant a sexual revolution for LGBTs in Spain. There are plenty of Spanish Web sites used to advocate or to chat, to find information, documents, support, friends, or sexual partners. There are some gay

TV programs on regional and local TV stations. Some nationwide television channels have broadcast American TV series for gays and lesbians or incorporated LGBT characters into their major sitcoms. There are reality shows that have cast LGBT participants who have subsequently become public referents of sexual diversity. *Big Brother*, for example, has made lesbians or transsexuals (both female to male [FTM] and male to female [MTF]) famous in the country. Indeed, TV showmen such as Jesús Vázquez or Boris Izaguirre are the main LGBT referents in Spain, together with some artists: the gay filmmakers Pedro Almodóvar and Alejandro Amenábar, and the transsexual woman and actress Bibi Andersen.

Since 2005, Madrid has held an annual festival of LGBT art and culture called Visible, as well as an important LGBT film festival, with an audience of more than 12,000 people. LGBT film festivals are also held in other cities and regions in Spain: Barcelona, Bilbao, Extremadura, and the Canary Islands.

HEALTH

The Spanish social security system provides universal health coverage for anyone living in Spain. This means that anybody living with HIV/AIDS has the right to treatment and medicine, with costs covered by the public health system.

The situation is very similar for those with sexually transmitted diseases (STDs): their treatment is part of the social security system, and most major cities have public health units specializing in STDs and HIV/AIDS where anyone can obtain anonymous and free testing.

The main channel of transmission of HIV/AIDS in Spain has traditionally been intravenous drugs use, but this tendency has changed significantly in the last years, and sexual (heterosexual and homosexual) transmission is on the rise. The rates of transmission among MSM are steadily increasing. The official numbers only reflect the rates of people living with AIDS, and there are no official national percentages for people living with HIV. In 2007, only Spain and Italy were unable to offer national data on new cases of HIV infections, despite the fact that Spain is one of the countries in Europe with higher rates of HIV infections.¹⁴ Still, some studies say that almost 25 percent of gay men are HIV positive in Barcelona.¹⁵ Cities such as Madrid and Barcelona and the Balearic and Canary Islands have higher rates of HIV-positive gay men than the national average.

The health system is decentralized in Spain and the autonomous regions are in charge of HIV/AIDS prevention campaigns, which means 19 different regional HIV prevention programs, each with its own objectives and campaigns. There exists a National Plan against AIDS with the objective of coordinating these public policies, and though it has led to some nationwide campaigns, they are usually generalist and not targeted at MSM. In 2007, the Ministry of Health launched its first advertising campaign targeting specifically at MSM, but the Minister of Health banned an image of two men kissing. Sex workers, transsexuals, and migrants are the focus of some other specific campaigns.

The health of lesbian women is an invisible reality. They do not exist for the public health system as lesbians and are not taken into account in any health program or research.

In 2007, the government included sex reassignment surgery in the list of public and free public health services. Previously, some regions, such as Andalusia and Asturias, had provided this public service, but the waiting list was so long that many

transsexual men and, especially, women, preferred to travel to southeast Asia and pay for their surgery.

Although genital surgery is no longer compulsory for legal sex change, some transsexual groups disagree with the fact that a psychiatrist has to certify gender dysphoria after at least two years of medical treatment (such as being injected with hormones). They consider these procedures to be a medicalization of gender.

Intersexuality is a medical reality, unknown to most people in Spain. If a child is born intersexual, he or she will be considered ill and will undergo clinical surgery and treatment.¹⁶ There are no public intersexual activists and the great majority of LGBT groups do not consider intersexuality to be an issue.

POLITICS AND LAW

One of the main objectives of the first LGBT groups created in the 1970s was the abolishment of the Law of Dangerousness and Social Rehabilitation in order to decriminalize homosexual relations. When this happened at the end of 1979, the associations emptied and the dance floors filled with people. In 1993, some LGBT groups began a campaign demanding registered partnership for heterosexual and same-sex couples, and equality for homosexual people then surfaced as a question in the political debate. It was then that the Spanish Workers Socialist Party (Partido Socialista Obrero Español, PSOE), in power since 1982, began to establish relations with the LGBT movement, but they lost the national elections of March 1996 and were unable to fulfill the promise of approving a law that would give homosexual couples certain rights. The conservative Popular Party, in government for eight years, restrained numerous initiatives presented in the Spanish parliament for the regulation of homosexual couples.

Since 1997, the Spanish LGBT Federation, together with the Coordinadora Gai-Lesbiana asked for the legalization of homosexual marriage, abandoning their fight for legal recognition of registered partners. Since then, 12 of the 17 autonomous regions have passed laws giving same-sex couples the possibility of contracting legal rights and duties, including the right to adopt jointly in 4 regions.

In the national elections of March 2004, gay marriage happened to occupy the center stage during the election campaign. All parties were forced to make their position on the matter clear, and most of them (except the conservative Popular Party) stated in their electoral platform that they were in favor of legalizing same-sex marriage. In the new parliament, the Socialist Party and its allies (former Communists and progressive nationalists from Catalonia) formed a majority and could pass any law. The new prime minister, Rodríguez Zapatero, announced in his inaugural speech to the parliament that:

The moment has finally arrived to end once and for all the intolerable discrimination which many Spaniards suffer because of their sexual preferences. . . . Homosexuals and transsexuals deserve the same public consideration as heterosexuals and they have the right to live freely the life they have chosen. As a result we will modify the Civil Code to recognize their equal right to marriage with the resulting effects over inheritance, labor rights and social security protection.¹⁷

For the first time, a president spoke about homosexuality to the parliament in the context of an inaugural discourse.

In the meantime, the Popular Party was the only representative political opposition to gay marriage. They proposed an alternative law giving extensive rights to homosexual couples, excluding both the right to adopt and to call homosexual unions *marriage*. The rest of the parties and the activists rejected this alternative law with the argument that only 100 percent equality is equality.

The Spanish debate about same-sex marriage aroused moral panic, but media, visibility, and social acceptance paved the way to making it legal. With the political opportunity open, activism, with a unified discourse and action, supported government approval with the arguments of equality, democracy, citizenship, and human rights. Spain became the third country in the world to recognize homosexual marriage nationwide, and the first one to give these couples the same rights that heterosexuals have.

Another significant milestone for LGBT rights in the country was the approval of the Gender Identity Law in 2007, which allows transsexual people to legally change their sex and name without having genital surgery, but with a report of gender dysphoria from a psychiatrist. Prominent transsexual activists had to go through hunger strikes before the socialist government would fulfill this electoral promise. At the end of the same year, the national government passed a law compelling all autonomous regions to conduct free genital surgery for both male and female transsexuals in the public health system.

Some politicians, especially gay males, have publicly come out as nonheterosexuals: the mayor of Las Palmas de Gran Canaria and former minister, Jerónimo Saavedra, and the city supervisor of Madrid and leader of the Spanish LGBT Movement, Pedro Zerolo. Manuela Trasovares, a transsexual who was elected as councilwoman in her little village but was isolated by the rest of the elected political officers in the town for transphobic reasons. Some well-known women in significant Spanish cities are known to be lesbians but have never openly disclosed themselves as such. This shows that transsexual and lesbian women face more difficulties in a political career than gay males in Spain.

RELIGION AND SPIRITUALITY

Spain is usually considered to be a Catholic country: 76.1 percent of Spaniards define themselves as Catholic, 13.3 percent say they do not believe in any religion, and 7 percent define themselves as atheist.¹⁸ Nonetheless, religion was considered an important aspect of their lives by only 34 percent of the Spanish population, Spain being one of the less religious countries in Europe:¹⁹ the numbers of Catholic marriages and baptisms are steadily falling and only 19.6 percent of the population attends mass weekly.²⁰ Although Spain is a nondenominational state, a concordat with the Vatican regulates ecclesiastical matters and allows Catholic priests and teachers to be paid by the Spanish government. At the same time, the Catholic Church has the means to spread its ideology in the country: its own TV and radio network, churches and schools, and plenty of general media attention whenever it gives an opinion on any subject.

The Catholic ecclesiastical hierarchy has been the most important opponent to same-sex marriage in Spain because of its factual, historical, political, and moral power in Spanish society, opposing any alteration that departs from the traditional notion of family. Nonetheless, there has been a social detachment from Catholic

morality in Spanish society, at least when it comes to issues regarding sexuality and family. People might tend to relate Catholic notions of family with the past and, by extension, with the dictatorship.

There is almost no research on the relationship between religion and attitudes toward homosexuality in Spain, but if three out of four Spaniards define themselves as Catholic and two out of three people in Spain are for same-sex marriage, then a definite incongruity exists between what the Catholic Church says and what Catholics think. Indeed, in a survey of adolescents, the percentage of homophobic attitudes was only slightly higher among Catholic students than those who were not religious at all. The highest percentages of homophobic attitudes came from students who declared themselves Evangelic, Adventist, and Muslim.²¹

On the other hand, there are many Catholic and religious groups in LGBT associations, but no significant confession in Spain has recognized same-sex couples or homosexual people.

VIOLENCE

There is no official data about homophobic aggression in Spain. Police do not record the specificity of this kind of violence whenever a formal complaint takes place. Most aggressions, anyway, are not reported to the police, because many victims do not want to disclose their sexual orientation. LGBT associations periodically document homophobic and transphobic violence all over the country, but there is almost no research about homophobic violence, as this is not yet officially considered a social problem.

In the last years, several cases have become public thanks to media attention. This might be a symptom of greater interest in this kind of violence or, most probably, just reflects a backlash increase in homophobic violence since the approval of same-sex marriage. Before this law, there were no specific groups against homosexuality or homosexuals, but during the legislative process, some antigay political and associative groups were formed. These groups are well funded by conservative sectors and operate mainly over the Internet, nourishing feelings of hate.

Although queer activists are demanding a specific law to protect LGBT people against homophobic and transphobic aggression, there is no special law in Spain to prevent hate crimes. The penal code does address crimes committed based on the sexual orientation of the victim. However, for this to apply, the judge must consider the aggression a crime, and not a misdemeanor, a distinction which may not be made by a homophobic judge. In Catalonia, there is a special public prosecutor for homophobic or transphobic crimes, as well as an association of gay and lesbian policemen and policewomen that trains LGBT people on how to avoid and deal with these kinds of assaults.

Cruising and public sex are not illegal in Spain (except if scandalous), but most homophobic attacks take place in public spaces such as parks, streets, or public toilets. In some cases, the private security employees of train/bus stations or malls perform these assaults against gay males having sex there. Transsexual women are the primary victims of transphobic aggressions, especially if they are sex workers on the street. Violence against lesbians usually takes place in the private sphere and is perpetrated by their families or close circles, such as colleagues or neighbors.

OUTLOOK FOR THE 21ST CENTURY

There are still many challenges for queer and LGBT activism in Spain, most of them related to the goal of achieving not only legal equality, but also social equality. New public policies being implemented for homosexual people are not backed with the budget to implement them, and such policies face strong resistance from the Catholic Church and the most conservative groups in the country. The power of the church in education makes schools one of the main strongholds of homophobia in Spain. Some homophobic elements in the Spanish judicial system hinder the effective defense of LGBT rights when they are violated or when homophobic bashing or attacks take place.

Although many LGBT groups in Spain argue that this civil code reform means homosexual and heterosexual marriages get 100 percent the same rights, that is not completely true: the law modifying the Spanish civil code to allow same-sex marriage makes an exception and does not modify the articles related to filiation of children born inside the marriage (article 116, 117, and 118). That is, if a child is born in a heterosexual marriage, filiation rights are automatically granted to, and recognized of, the mother's spouse; but if that child is born in a homosexual marriage, the filiation rights of the spouse are not automatically recognized or granted. This is only the case for lesbian women, who get two different family books: when this happens, the mother's spouse is obligated to adopt her spouse's child if she wants filiation rights. These problems also appear in the New Assisted Reproduction Law. This law, approved in 2006, (i) does not take into account that a marriage can be between two women; and (ii) has a heterosexist bias. The Spanish government, however, changed and eliminated the heterosexist conceptions of this law in 2007.

New conceptions of family appear in other laws that have been implemented in the last decades in Spain. For example, the new Catalan law for adoption allows unmarried and unregistered couples (homo- or heterosexual) to adopt jointly, basing the decision on psychological and social characteristics of the couple, not on their legal status.

Although a nationwide registered partners law was in the electoral program of the Socialist Party and its allied parties in parliament (along with homosexual marriage), no one has spoken about it since the recognition of homosexual marriage: not the parties, politicians, LGBT groups, or feminist groups. Nobody is demanding it, not even within the gay and lesbian community. A new national law for registered partners could not only unify the different regional laws on the issue, but would go further because of the more extensive competences the national government has on the subject.

New challenges have arisen with the demands of some small LGBT groups—mainly in Catalonia and mainly lesbian feminist—that are fighting for the abolition of civil marriage and for the recognition of personal rights outside family or kinship relations. For example, they argue for the right to have work or resident visas, to receive a pension, to have a house to live in, and, especially, to care and be cared for. These groups argue that it is neither necessary nor desirable for such rights to rest solely on an institution such as marriage, but rather that these rights must be assumed both collectively and provided for individually through the state, not necessarily through marriage.

Thus far, these demands have only been presented by these groups and have not been actively defended by other political groups (nonlesbian feminist, anarchist, etc.). And, as of yet, they have had almost no social impact.

RESOURCE GUIDE

Suggested Reading

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Films

- 20 centímetros* [*20 Centimeters*] (112 min.; 2005). Directed by Ramón Salazar. The main character, Marieta, is saving money for surgery in order to have her penis removed. Meanwhile, she falls in love with a boy.
- A mi madre le gustan las mujeres* [*My Mother Likes Women*] (96 min.; 2002). Directed by Inés París and Daniela Fejerman. Three women learn that their mother is in love with another woman.
- Amic, amat* [*Beloved/Friend*] (90 min.; 1999). Directed by Ventura Pons. The story of a male professor in love with a same-sex student.
- Cachorro* [*Bear Cub*] (100 min.; 2004). Directed by Miguel Albadalejo. A gay man takes care of his young nephew for several weeks. This film depicts the Spanish bear culture and deals with other issues such as LGBT families, coupling, sex, social life, and HIV/AIDS.
- El diputado* [*Confessions of a Congressman*] (110 min.; 1978). Directed by Eloy de la Iglesia. A gay politician is set up with a male hustler by political opponents for sexual entanglement.
- Electroshock* [*A Love to Keep*] (98 min.; 2006). Directed by Juan Carlos Claver. During Franco's dictatorship, a lesbian woman is confined by her family in a mental institution in order to cure her with electroshock treatment.
- Krámpac* [*Nico and Dani*] (91 min.; 2000). Directed by Cesc Gay. Dani is a teenager who wants physical contact with Nico, his school friend who is spending the summer with him.
- La ley del deseo* [*Law of Desire*] (102 min.; 1987). Directed by Pedro Almodóvar. A gay writer and director with a transsexual sister is strongly desired by Antonio, who stalks him.
- La mala educación* [*Bad Education*] (106 min.; 2004). Directed by Pedro Almodóvar. Sexual abuse, same-sex sexuality and love, drugs, friendship, and, overall, the effect of the Catholic and Franco's dictatorship educational system on the lives of a group of young men, are the main plot lines of this film.
- Las cosas del querer* [*The Things of Love*] (98 min.; 1989). Directed by Jaime Chávarri. A musical depicting life for Spanish homosexuals in the 1940s after the civil war. The plot is based on the life of the singer Miguel de Molina, who was incarcerated and exiled because of his homosexuality.
- Ocaña, un retrato intermitente* [*Ocaña, an Intermittent Portrait*] (85 min.; 1978). Directed by Ventura Pons. A documentary not only about the life of painter Ocaña, but about his time and the places where he lived, revealing what happened after Franco's death.

Perdona bonita, pero Lucas me quería a mí [*Excuse Me Darling, but Lucas Loved Me*] (92 min.; 1997). Directed by Dunia Ayaso and Félix Sabroso. A camp comedy in which three gay housemates are involved in a murder.

Reinas [*Queens*] (107 min.; 2005). Directed by Gómez Pereira. Gay marriage is legal in Spain and this movie deals with the issue when presenting five mothers whose sons are getting married.

Web Sites

Organizations and Federations

Ambiente G, <http://www.ambienteg.com>.

Commercial blog with news from the LGBT community.

Asociación de Familias de Gays y Lesbianas con Hijos y Hijas, <http://www.galehi.org>.

This association is a gathering point for all gays and lesbians who have children or want to have them. They provide information and counseling, and organize meetings and visits, especially for families with children.

Associació de Mares, Pares y Familiars de Gais y Lesbianes, <http://www.ampgil.org>.

Parents of LGBT organized to protect their sons and daughters and themselves against homophobia. They have national meetings and workshops and organize information campaigns.

Asociación Española de Transexuales - Transexualia, <http://www.transexualia.org>.

Spanish Association of Transsexual and Intersexual People Web site, with plenty of information and links concerning transsexuality and, to a lesser extent, intersexuality.

Bakala.org, <http://www.bakala.org>.

Most successful local Web site for gay dating or just to find sex partners.

Chueca.com, <http://www.chueca.com>.

Main Spanish LGBT Web site with news, chat rooms, surveys, blogs, personal profiles, Web dating, and more.

Colectivo de Transexuales de Cataluña, <http://www.transsexualitat.org>.

Catalan Transsexual Association Web site that displays links, videos, documents, and other data about transsexuality.

COGAM, <http://www.cogam.org>.

Madrid's main group is not only devoted to defending LGBT rights, but has extensive and specific programs for the community, including youth, lesbians, migrants, the elderly, deaf people, and transsexuals, as well as education and counseling programs, among others.

Coordinadora Gai-Lesbiana (Catalonia), <http://www.cogailes.org>.

Catalonia LGBT Federation that works coordinately with FELGTB. For nationalist reasons, Catalan LGBT associations prefer not to join the Spanish federation.

Diario Digital Transexual, <http://www.carlaantonelli.com>.

Everything concerning transsexuality.

Dos Manzanas, <http://www.dosmanzanas.org>.

Daily updated blog with news for the LGBT community in Spanish. There are always plenty of discussions on controversial issues.

FELGTB (Spanish LGBT Federation), <http://www.felgtb.org>.

More than 50 local LGBT associations are members of this federation to conduct political activism, HIV/AIDS prevention, campaigning for LGBT rights, and many other activities.

Fundación Triángulo, <http://www.fundaciontriangulo.es>.

This foundation works in several regions of Spain (Madrid, Extremadura, Valladolid, Andalusia, and Valencia). Fundación Triángulo is behind the main LGBT film festivals throughout the country and in Latin America. They have specific programs for young LGBT and sex workers.

Federación Colegas, <http://www.colegaweb.org>.

Federation of LGBT associations from southern Spain. They have campaigned for lesbians and transsexual rights and put a strong emphasis on fighting homophobia with a specific Web page, <http://www.stophomofobia.com>.

Grup de Lesbianes Feministes (Lesbian Feminist Barcelona), <http://www.lesbifem.org>.

With background in both the LGBT movement and the feminist movement, this Catalan group works for lesbian women's rights, giving special importance to creating spaces for reflection and action.

El Hombre Transsexual, <http://www.elhombretranssexual.es>.

FTM transsexuals can use this site to contact other FTM and get legal and health information.

Kamasutra Lésbico, <http://www.kamasutralesbico.net>.

Lesbian girls' site providing erotic images of sex between women.

HIV/AIDS

Coordinadora Estatal de VIH/SIDA, <http://www.cesida.org>.

Spanish Federation of Organizations working in HIV/AIDS issues.

Gaispositius, <http://www.gaispositius.org>.

Gay men living with HIV/AIDS.

Stop Sida, <http://www.stopsida.org>.

HIV/AIDS prevention for MSM.

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SWITZERLAND

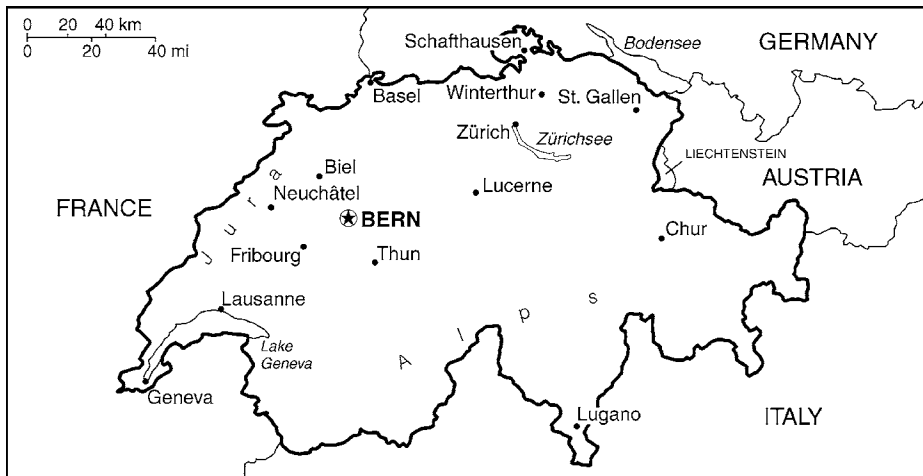
Natalia Gerodetti

OVERVIEW

Switzerland is a land-locked country in the heart of Europe. It shares borders with France to the west, Italy to the south, Liechtenstein and Austria to the east, and Germany to the north. The Swiss territory encompasses approximately 16,216 square miles, and currently has an estimated 7.5 million inhabitants. Although its mythical origins and traditions go back to 1291 when William Tell famously defied the landlords, it has been a modern nation since 1848. Today, Switzerland is a complicated federalist state composed of central government, cantons, and communes with referendums and initiatives underpinning its political system, and has three official and four national languages (German, French, Italian, and Rumantsch).

Switzerland is characterized by an institutional balance between consensus democracy and pluralism, and celebrates its fundamental political institutions—neutrality, federalism, and direct democracy—as sacrosanct. These institutions are responsible for political, linguistic, confessional, and other compromises and conflicts in Switzerland.¹

With few natural resources within its territory, a specialized economy has evolved in Switzerland, generating income from financial institutions, technology,



and leisure and tourism, as well as the export of food products such as cheese and chocolate. It has astonishing wealth but is also hugely reliant on its huge proportion of foreign workers. Switzerland has always been a country of emigration as well as immigration; its present multicultural society comprises further languages, cultural traditions, and ethnicities than its four national languages would suggest. While Switzerland has been a progressive pioneer in areas such as technology, education, and psychology, it is also known for some of its discriminatory practices, such as its exclusion of women from the vote until 1971.²

In terms of the rights of citizens, Switzerland may have been the first nation to enfranchise all its male citizens in the late 1900s, but for many years this has obscured the limited political rights of other groups such as women and migrants. In other areas, however, the Swiss have produced legislation and policies that compare much more favorably with those of its European neighbors. In contrast to formal political rights, women gained an early access to higher education in Switzerland from the 1860s,³ before any other European country. Inclusive education, it appears, has a longer and stronger tradition in Switzerland than political equality. This is probably not least due to educational pioneers such as Jean-Jacques Rousseau, whose ideas were well received among the French-speaking population, and Johann Pestalozzi, whose plea for compulsory education of boys and girls was implemented in German-speaking Protestant cantons even before the foundation of the nation state.

OVERVIEW OF LGBT ISSUES

Switzerland was a pioneer in relation to its criminal law, which legalized consenting same-sex relationships in 1942, before other European countries did so.⁴ While the age of consent was set at 20 years in 1942 for both sexes, a more recent revision of the criminal law lowered the age of consent to 16 years in 1991.⁵ In 2005, the ILGA (International Lesbian and Gay Association) World Conference was held in Geneva and registered partnerships became a legal option on a cantonal basis. Since January 1, 2007, registered partnerships have been legal under federal law. Political activism in the LGBT movement in Switzerland now centers not only on international equality issues but also on education, which is seen as an important location of intervention because the rate of suicide is still considerably higher amongst LGBT youths than their heterosexual peers.

As for religion, the predominant religion of Switzerland is Christianity, and the country is evenly balanced between Protestants and Catholics with a complex patchwork across the nation. There are also sizeable minority religions such as Islam and Eastern Orthodox Christianity due to the immigrant populations, and there are a significant number of atheists. Religion has a historical importance and a personal importance for Swiss individuals, but it is less overtly found in the majority of public discourses. The campaign for marital rights and recognized same-sex partnerships has invoked some reactions from religious leaders who spoke out against them, yet their opinions found no majority.

As for the Swiss military, the gays in the military debate has been largely absent in Switzerland, not least because the Swiss Army is largely based on conscription. All males are conscripted at the age of 19 years for introductory and then annual short training courses, and women can join the army on a voluntary basis. The army has not been involved in war or combat for a long time, and it is largely

involved in peacekeeping or civic activities. What has shaken the Swiss military most in its foundation recently was an initiative to abolish the army, which received support from 35.6 percent of the electorate. This has been taken to mean that the army is no longer the national icon it perhaps once was. Nonconformist identities, therefore, no longer pose a strong threat to national identity, as they once did. In contrast to civil life, the military penal code had outlawed same-sex activities.

EDUCATION

Within the federal state, education remains, somewhat controversially, a cantonal matter. Because of this, names of schools, subjects, and the starting age of students and duration vary significantly. Textbooks are under no obligation to address sexuality, although efforts to address sexuality are intensifying with regard to both sexual education and institutional support of diversity in the education system. A number of organizations (Pink Cross, LOS [the Swiss Lesbian Organization], and FELS [Friends and Parents of Lesbian and Gay People]) actively lobby the cantonal education authorities to support gay and lesbian pupils in schools. While the last 30 years have seen remarkable success in relation to the visibility of sexual minorities, schools do perpetuate forms of discrimination or isolation. Lesbian and gay youth have a suicide rate four to seven times higher than that of heterosexual youth.⁶ Organizations such as Pink Cross, LOS, and FELS want to encourage lesbian and gay teachers to be visible role models without fear of re-priming, and they also want education about sexual orientation incorporated into the curriculum.

With regard to these issues, Swiss organizations call for the state to adopt official support of the International Day against Homophobia on May 17, which is already supported by 50 states. The date was chosen because the World Health Organization (WHO) crossed homosexuality off the list of pathologies on that day. Various forms of awareness-raising and direct action campaigns are also used to bring lesbian and gay issues into the education agenda. For example, an organization called RainbowLine posts advertisements in the form of stickers in school restrooms for support groups for gay male students in vocational training and further education. In recent years, campaigns to promote sexual education that includes a portrayal of homosexuality in a neutral way and that constitutes part of the curriculum have been increasing. With the increasing use of the Internet as a tool of education, and with public funding to support the inclusion of Web-based knowledge in schools, LGBT organizations have been critical of schools and Internet providers that deny access to lesbian and gay support and information sites. This effort to police access to sexual information, while targeted at pornography, deploys such a wide definition of indecency that it has a severe discriminatory effect on lesbian and gay issues. Several organizations, beyond the national lobby groups, work in school environments with students, teachers, parents, and educational authorities to address issues that affect LGBT students.

There has been an increasing interest in LGBT issues in academic contexts and although there are no LGBT studies or queer theory programs in Switzerland, courses on these subjects are being taught by interested academics as part of their modules within existing undergraduate or postgraduate programs, particularly at universities where there are gender studies departments or programs available.

EMPLOYMENT AND ECONOMICS

Switzerland has few natural resources and has traditionally fostered a highly qualified labor force that performs highly skilled work in areas such as microtechnology, hi-tech, biotechnology, and pharmaceuticals, as well as banking and insurance. Like many industrialized countries, the service sector is the biggest employer where many people work in small and medium-sized enterprises, which are crucial to the Swiss economy. Situated within a geographical region that has a fragile environment, the Swiss have long been concerned about the environmental impact of economic activity, and energy and transport policies in particular have been trying to be environmentally friendly.

While concern for the environment has been long established, policies regulating and safeguarding employment relations are somewhat slower to emerge. In relation to gender, employment relations are safeguarded by federal legislation mandating equal pay for men and women, maternity insurance, and retirement benefits. The principle of gender equality has been part of the constitution since 1981, and in 1996 the Gender Equality Act came into effect. Legislation addressing LGBT issues has existed since 2000, when it was laid down in the constitution that it is illegal to discriminate on the basis of *lifestyle*, meaning sexual orientation. In reality, this legislation has been slow to take effect. In relation to pension systems for same-sex partners, for instance, varied practices existed until registered partnerships became a legal reality.

Gay and lesbian organizations demand greater efforts to safeguard the rights of lesbian and gay employees, who continue to experience discrimination in the workplace. LGBT people can face nonemployment because of their identity, harassment at work, being prevented from promotion, or even termination. While there is some legal protection, it is often hard to find evidence that would hold up in court for these discriminatory practices, and victims of discrimination might simply choose to move away from the troublesome workplace.

Other strategies have been found to strengthen the position of LGBT people in employment, such as the creation of networks. The conservative gay manager organization network is concerned about educational issues as well as employment issues, and demands more respect and recognition of homosexual rights, particularly in the context of cultural diversity. Demands are made for better federal protection and policies that address citizenship issues, including sexual citizenship. Network is an organization of 270 male managers in Switzerland and explicitly excludes women. A female equivalent, WyberNet, was thus created to address the particular issues of lesbian women in management and executive positions. WyberNet serves to establish a wide range of connections between lesbians and aims to have a strong public presence to contribute to the recognition of a gay women's community in society, economy, culture, and politics. Another lobby group, Fachgruppe Arbeitswelt, aims to deal with employment issues and a wider recognition of diversity across the gender divide.

PinkRail, on the other hand, has been campaigning successfully on employment and public service issues in relation to public transport and, in particular, to the national railways. Most notably, they have been successful in obtaining equal recognition of same-sex partnerships for the purpose of discount rail season tickets. Given the centrality of the railways to transport and to Swiss national identity, this has been seen as an important milestone. In addition, as a public sector employer,

upper management has since been supportive of a number of demands and has publicly supported gay and lesbian events.

SOCIAL/GOVERNMENT PROGRAMS

Funding for LGBT projects can be obtained from publicly funded organizations. In addition, there are specific funding opportunities for LGBT issues such as the nongovernmental organization (NGO) Respect. The aim is to secure long-term funding for projects and services that assist in promoting nondiscriminatory views and practices in society, but that also help to strengthen the identity of lesbians and gay men.

SEXUALITY/SEXUAL PRACTICES

The Swiss moral fabric is as complex as anywhere else but could be placed somewhere along the liberal continuum. The decriminalization of consenting homosexuality in 1942 was an early indicator that what is done in private is not of particular interest to the public or the state. In 1991, the age of consent for same-sex sexual practices was lowered to 16 years, equalizing it with the age of consent for heterosexual sex. This has meant that teenagers' sexual intercourse was no longer threatened by legal prosecution. Leading up to this change in law was a much stronger presence of the lesbian and gay movement, which has campaigned since the 1970s, together with the women's movement, on changing the law in relation to sex-related offenses. This Swiss respect for privacy, on the other hand, has also meant that public figures are rarely outgossiping about their sexual identities.

Part of a new visibility in relation to sexuality was prompted by HIV/AIDS and, in 1985, the Swiss Aids Federation (SAF) was founded. While a public profile and campaigns around HIV transmission that treated all routes of transmission equally was rapidly established, sex education and the free distribution of condoms in schools was rather slower to happen if at all. While adults could reasonably easily access information and free condoms, there was a marked difference in the treatment of young people. With the lowering of the age of consent and a more general change in society and popular culture in regard to sexuality, this could be expected to change in future.

FAMILY

LGBT people in the West have gone some way to redefining the traditional nuclear family that has been upheld in the postwar era as a social ideal. Given the relative social, political, and cultural parallels across the West, in Switzerland as elsewhere LGBT people have formed couples, families with children, extended families including blood family and/or extended family, and a variety of other understandings of *family* to which individuals see themselves as belonging. The sociological literature, which attests that understandings of love and intimacy, which can be found amongst LGBT people, have an increasingly wider impact, also holds true for Switzerland in general, where people are engaged in a variety of relationships.

This variety of practices is, to some extent, under threat from the metanarrative of legally recognized and registered partnerships as they are increasingly available to people. The registration of same-sex partnerships has become a widely recognized

and debated form of same-sex intimacy. From January 2007 to April 2008, 2,300 partnerships were registered, of which 1,600 were between men.⁷

While Swiss law and the constitution hold that that people should have the right to privacy and a protected family life,⁸ the federal court has decided that this does not apply to same-sex partnerships. Partners of Swiss nationals or of foreign nationals with permanent residency in Switzerland face severe difficulties to obtain a permit to stay, and decisions are left with cantonal authorities, which decide whether non-Swiss partners will receive residence permits.

Since 1998, 557 permits have been issued for same-sex couples when SLAP was founded in 1998, on the one hand to support same-sex couples of different nationalities in their pursuit to obtain residency status, and on the other hand to carry out public promotional and educational work to raise awareness about the difficulties that same-sex couples face in that situation. SLAP stands for Gay and Lesbian with Foreign Partners (Schwule & Lesben mit ausländischen PartnerInnen), but the English meaning of the acronym is equally invoked to signify waking up the authorities.

It is legal in Switzerland for transsexuals to alter their birth certificate and marry following surgery.

COMMUNITY

The LGBT community has had a long history in German-speaking countries. Germany, for example, had seen quite outspoken gay organizations before the destruction of Magnus Hirschfeld's Institute for Sex Research and the Scientific Humanitarian Committee in 1933. In Switzerland, the organization and the international magazine *Der Kreis* continuously promoted the legal and social rights of gay men from 1932 until 1967. *Der Kreis* was the only continuously existing gay organization bridging the first and second wave of cultural and political activism.

The decriminalization of consensual adult same-sex relations in 1942 was an important legal step not just for lesbian and gay people in Switzerland, but also for those migrating during the war years. The border canton of Basel had been renowned for its liberal law on same-sex relations since 1919, and had been an attractive city for traveling homosexuals. At the same time, early access for women to higher education had already attracted many international sapphists to Swiss university towns since the late 1800s.

The New York Stonewall riots claim their place in Swiss LGBT history, although it was an event that was mostly known through the media. They were a catalyst for changing perceptions of community and the secrecy under which gay clubs operated beforehand. The 1970s witnessed activism to change the criminal law in regard to the age of consent; although Swiss criminal law did not penalize consenting homosexual relations from 1942, it set the age of consent at 20 years of age. Integral to the gay liberation movement of the 1970s were the newly emerging social understandings of homosexuality, which were also fuelled by pride marches. The first Gay Pride march in Switzerland took place in Zurich in 1978. Since then, an annual Gay Pride event takes place in different cities or towns each year, with some locations proving more contentious than others.

Criticizing the institutions of heterosexuality, marriage, and the family allowed distinct, positive gay and lesbian identities to emerge. In the 1980s, various local

urban homosexual pressure groups (*Homosexuelle Arbeitsgruppen*) emerged that had a political as well as a social purpose. In 1989, the LOS was founded. The removal of homosexuality from the list of pathologies by the World Health Organization (WHO) spurred more local organizations to emerge, such as the Pink Cross in 1993, the Fondation d'Alpagai in 1994, and the Fondation de Vogay in 1997.

Most groups have always had a larger male membership and continue to do so. Lesbians who were politically engaged in Switzerland would more likely join feminist groups. At times this proved to have its own problems when the women's movement, which only just had a major success with the women's vote in 1971, did not want to engage in the politics of sexuality. From the 1970s to 1989, lesbians struggled to have their distinct voices heard. LOS was founded in 1990, and aimed to specifically represent lesbian interests. Some social movements in Switzerland continue to operate with membership and statutes. Social and political organization in Switzerland works overwhelmingly through groups with statutes, attesting perhaps to a notable adherence to social order and rules. Direct public action mostly adheres to sanctioned campaigns. Nevertheless, less formal, non-mainstream LGBT political movements also emerged in the late 1980s through the youth movement and its urban manifestations in cultural centers and cultural politics.

HEALTH

HIV/AIDS has received public attention since the early 1980s, and the federal government has worked together with organizations engaged in preventative work. The SAF (Swiss AIDS Federation), established in 1985, is a national AIDS organization. AIDS campaigns in Switzerland were deployed early on and have had a relatively high profile without stigmatizing particular populations. The three main aims of the SAF remain the prevention of HIV infection, the defense of a good quality life for people with HIV/AIDS, and legal representation and the promotion of solidarity. In addition, SAF generally strives to prevent the spread of other STDs (sexually transmitted diseases) such as hepatitis, as well as to promote good sexual health.

Currently, about there are about 25,000 people living with HIV and AIDS in Switzerland. With regard to the cumulative number of AIDS patients in Switzerland, it is regularly one of the highest in Europe. Since 1996, fewer Swiss people have developed AIDS due to the newly developed medicines, but challenges still face those living with HIV to deal with the impact on their career and social prospects. Life quality includes social integration in addition to from physiological and mental health, and it is recognized that many HIV-positive people have to deal with discrimination at work and difficulty in finding partners.

In addition, between 70,000 and 90,000 people in Switzerland have a form of chronic hepatitis B or C, and many others do not know their status. The notion of sexual health with which SAF operates is derived from the WHO definition, which sees sexuality as an important aspect of health and as part of sexual and reproductive rights.⁹ From the start of the epidemic to the end of December 2006, more than 8,600 cases of AIDS have been recorded, and 5,738 people have died of the consequences of AIDS. In 2007, 761 new positive HIV test results were recorded and, of these, 30 percent were women. Approximately 45 percent of all infections in Switzerland are due to heterosexual contact. In 2006, 60 percent of

the men acquired HIV/AIDS through sex with men, while 29 percent acquired it through sex with women, and 8 percent through intravenous drug use. Meanwhile, 83 percent of female HIV/AIDS patients acquired the disease through sex with men, 7 percent through intravenous drug use, and 10 percent through unknown means.¹⁰

Health needs of lesbians or bisexuals are acknowledged by organizations such as LOS and advice and support given. Though health needs may not directly relate to sexual identity per se, such that breast cancer is not thought to occur more frequently amongst lesbians, health needs may be exacerbated by sexual identity. Mental health issues tend to be greater amongst all minorities concomitant with society's lack of acknowledgment of diverse identities. Similarly, domestic violence may pose an even bigger problem to lesbians, as same-sex domestic violence is rarely mentioned in domestic violence support documentation.¹¹

POLITICS AND LAW

As of 2000, the new federal constitution prohibits discrimination on the basis of sexual orientation, paving both the way for better employment protection and same-sex partnership recognition acts, first on a cantonal basis then on a national basis. Since 1996, the Gender Equality Act has provided a legal framework against discrimination on the basis of gender. In terms of the treatment of sexual violence in the Swiss criminal law, rape is treated differently according to gender. The traditional paragraph dealing with rape defines it explicitly as "forced sexual intercourse of a woman" because sexual intercourse has always been defined as a heterosexual act in law. Nevertheless, there are provisions to prosecute sexual violence against men, although the perpetrators of these crimes are less severely penalized. Rape within marriage has only been acknowledged since 1992 in Swiss law.¹² Violence against people is punishable without making specific provisions for gender or sexual orientation.

Switzerland introduced registered partnerships first on a regional and cantonal basis, creating a fragmented patchwork that largely made this form of legal recognition available in the bigger cities. Geneva was the first city to allow registered partnerships in 2001, followed by Zurich in 2003, then Neuchâtel and Fribourg in 2004. The French-speaking cantons, regardless of religious influence, were thus the first to make provisions for partnership recognitions.

Since January 1, 2007, a federal law has come into force that allows nationally recognized registered partnerships. Registered partnerships give same-sex couples some of the same rights and responsibilities under the law as heterosexual married couples, except for rights related to adoption, fertility treatment, and taking the same surname. Thus, registered partners are considered as one economic unit with the duty of financial support between the partners. Taxes are paid on the same basis as married couples, and public and private pension provisions are also calculated the same way as for married partners.¹³

There has been some opposition to both the cantonal and the national legislation by the Federal Democratic Union, which collected enough signatures to force a national referendum. Given that the national legislation was put to a public vote and gained majority support, however, it is reasonable to conclude that those lobbying against registered partnerships were a vocal but ultimately insignificant minority.

Lesbian and gay organizations have been slow to incorporate further sexual and gender diversity initiatives into their cultural and political efforts, although in recent years this can increasingly be seen in urban centers. Opportunities for transgender and intersex people to organize, campaign, and socialize have thus been vastly increased by virtual and online technologies that allow for anonymity and communication across great distances. The French-speaking Intersex Network of Europe (FINE) is an important site for local, national, and international connections, publications, and blogs for intersex communities. The Swiss German intersex group intersex.ch has named four demands that overlap between health issues and social and political demands: no forced operations on intersex children who have not given informed consent; policies on respecting intersex children's particular needs, including fostering contact with other intersex children; information and support for parents of intersex children; and the dissemination of information to society in general and health professionals in particular about intersexuality.¹⁴

Gender reassignment is legal or openly performed without prosecution. Upon surgery, all personal documents such as the birth certificate, driving license, passport, social security, and so forth, can be reissued to reflect the change. Consequently, transsexuals are also allowed to marry.¹⁵

Nevertheless, transgender and intersex politics, communities, and identities continue to suffer from discrimination and acts of violence. Transgender Association Switzerland (TAS) is a group that works on both transgender and intersex issues in an attempt to combine efforts despite differences. TAS campaigns against the exclusion of transgender and intersex people from social, cultural, and institutional life in Switzerland. In addition, it offers a platform for discussion, provides a social space, and organizes self-awareness groups.

Transgender and intersex people often face a lack of understanding and exclusion from lesbian and gay communities and organizations. Some continue to use the acronym of LGBT in their documents and programs without specifically taking account of the specificities of either transgender or intersex people, while other groups consciously restrict their aims and goals to lesbian and gay people, in an effort to gain ground and acceptance within society for lesbians and gay men.

RELIGION AND SPIRITUALITY

LGBT people are active members of many churches, but at the same time, do not receive complete acceptance from their churches. The Catholic Church in particular, which has a stronghold in some cantons in Switzerland, has been generating public discourse about the dangerousness of LGBT people, casting them as child abusers who endanger the health of the population. Calling the 2001 pride events in the Catholic canton Wallis a "devilish game," the Catholic Church was most vocal in denouncing these public manifestations, and also raised opposition to the registered partnership act.

In terms of being included in religious communities, LGBT people also face marginalization or exclusion, despite the efforts of groups such as COOL (Christliche Organisation von Lesben) and ADAMIM (Verein Schwule Seelsorger) are the lesbian and gay groups within the Swiss Christian church that work to combat LGBT discrimination and exclusion from religious life.¹⁶ It is acknowledged that the choice between partner and faith can lead to pressures that can in turn lead to

physical and mental health difficulties, and that more lobbying is necessary before the churches acknowledge homosexuality as an equal lifestyle.

VIOLENCE

Violence towards LGBT people exists in Switzerland in subtle as well as more overt forms. There were more reports of antigay violence in 2007 than ever before,¹⁷ though it is unclear whether this is due to the efforts of gay organizations to encourage more people to report or whether actual incidents have increased. In addition to encouraging people to report all incidences of homophobic violence, Pink Cross has also launched a campaign to address antigay violence in the public sphere more widely. Agencies seem to address a variety of forms of violence, such as sexual abuse during youth and antigay violence during adulthood, and a number of support services are available. It appears, however, that these agencies have not yet acknowledged and addressed the existence of abuse or domestic violence within same-sex couples.

Men's bureaus (*Männerbüros*) exist in all bigger Swiss cities, and they address wider issues in relation to masculinity and identity. They work with men who are violent, men who have been abused, and gay men who have experienced antigay violence.

OUTLOOK FOR THE 21ST CENTURY

Awareness of LGBT issues in Switzerland will increase in years to come. The presence of LGBT people and their concerns in the public sphere, both in terms of legislative protection and cultural expression, will continue to be an issue for campaigners. Bisexuals, transgender people, and intersex people still remain invisible to the mainstream Swiss population, and they are just beginning to promote their issues to the mainstream as well as the lesbian and gay communities.

RESOURCE GUIDE

Suggested Reading

- Beat Gerber, *Lila ist die Farbe des Regenbogens, Schwestern, die Farbe der Befreiung ist rot: Die Homosexuellen Arbeitsgruppen der Schweiz (HACH) von 1974–1995* (Köniz, Switzerland: Edition Soziothek, 1998).
- Natalia Gerodetti, *Modernising Sexualities: Toward a Socio-historical Understanding of Sexualities in the Swiss Nation* (Bern, Switzerland: Peter Lang, 2005).
- Rudolf Jaun and Brigitte Studer, eds., *Weiblich—männlich. Geschlechterverhältnisse in der Schweiz. Rechtsprechung, Diskurs, Praktiken* (Zurich: Chronos, 1995).
- Hubert Kennedy, *The Ideal Gay Man: The Story of "Der Kreis"* (Binghamton: Haworth Press, 1995).
- Ilse Kokula and Ulrike Böhmer, *Und die Welt gehört uns doch! Zusammenschluss lesbischer Frauen in der Schweiz der 30er Jahre* (Zurich: eFeF-Verlag, 1991).
- Rüdiger Lautmann, ed., *Homosexualität. Handbuch der Theorie- und Forschungsgeschichte* (Frankfurt am Main: Campus, 1993).
- Helmut Puff, ed., *Lust, Angst und Provokation. Homosexualität in der Gesellschaft* (Göttingen and Zürich: Vandenhoeck und Ruprecht, 1993).
- Udo Rauchfleisch, *Schwule—Lesben—Bisexuelle. Lebensweisen, Vorurteile, Einsichten* (Göttingen, Germany: Vandenhoeck and Ruprecht, 1994).

Web Sites

ADAMIM (Organization of Gay Curates in Switzerland), <http://www.adamim.ch/>,
E-mail: info@adamim.ch

Open to all who are active within the church, interconfessional.

Cool—Christliche Organisation von Lesben, <http://www.cool-schweiz.ch/> Religious organization for lesbians.

CSD-Zurich, <http://www.csdzh.ch>

Organizer of pride events, taking its acronym from Christopher Street Day in New York.

Frauenraum (Women's Room), <http://www.frauenraum.ch/reitschule/frauenag/index.shtml>.

Frauenraum is an alternative cultural space for sociopolitical work as well as a party space.

HAZ, Homosexuelle Arbeitsgruppen Zürich, <http://www.haz.ch/>

Local network and campaign group for the Zurich region.

ImMigration, SLAP *Schwule & Lesben mit ausländischen PartnerInnen*, <http://www.swiss-slap.ch/>

Network and support forum for binational couples.

Lesbische und Schwule Basiskirche Basel, <http://www.lsbk.ch/>

Lesbian and gay ecumenical community in northern Switzerland, bordering onto France and Germany.

Lestime, <http://www.lestime.ch/>

Geneva-based lesbian organization and network.

LOS (Lesbian Organization Switzerland), <http://www.los.ch/>

National lesbian organization with local regional and national events, campaigning groups, and much more.

Pink Cross, <http://www.pinkcross.ch>

National gay organization with local regional and national events, campaigning groups, and much more.

Spot 25, Gay Youth Group Zurich, <http://swix.ch/spot25/> (German), <http://swix.ch/spot25/englisch/index.html> (English)

Youth group in the largest Swiss city.

Health

Swiss AIDS Federation, <http://www.aids.ch/>
NGO working on HIV/AIDS issues.

Sport

Gaysport Zürich, <http://www.gaysport.ch/>

Gay sports organization and network for Switzerland's biggest city.

Education

French-speaking Intersex Network of Europe (FINE)
[intersex.ch](http://www.intersex.ch), <http://www.intersex.ch>

Online support and campaigning network.

Männerbüro Bern, <http://www.mumm.ch>

Network, support, and campaign initiatives for men.

RainbowLine, <http://www.rainbowline.ch>

Phone helpline and Internet support for LGBT teenagers and people working in education.

GLL—*das andere schulprojekt Gleichgeschlechtliche liebe leben*, <http://www.gll.ch>
Educational promotion materials and training.

Réseau des Intersexué-e-s Francophones d'Europe (RIFE), rife@webglaz.ch
Online intersex network.

Transgender Association Switzerland, <http://www.tas-org.ch/>
Transgender support network.

Film Festivals

<http://www.pinkapple.ch/>
Schwulesbisches film festival in Zurich and Frauenfeld.

<http://www.queersicht.ch/>
Lesbisch-schwules Filmfestival Bern.

NOTES

1. Deconstructing this mythology, it has been argued that rather than happy together, the Swiss live happy apart, and that, indeed, Switzerland is highly compartmentalized. As Kriesi says: “The Swiss get along because they don’t understand each other,” Hanspeter Kriesi, *Le Système Politique Suisse* (Paris: Economica, 1998).

2. For good introductions to the Swiss social, historical, and political context, see for example Jonathan Steinberg, *Why Switzerland?* (Cambridge: Cambridge University Press, 1996) or Frederick William Dame, *A History of Switzerland*, vols. 1, 2, and 3 (New York: Edwin Mellen Press, 2001).

3. Nadescha Suslowa was the first woman to get a doctorate from Zürich University in 1867 (see, Beatrix Mesmer, *Ausgeklammert—Eingeklammert: Frauen und Frauenorganisationen in der Schweiz des 19. Jahrhunderts* [Basel: Helbing & Lichtenhahn, 1988]), but women were allowed into the auditoriums of the University of Zürich from the early 1860s. It was upon a petition of Swiss mothers, amongst them Marie Goegg, that women were allowed to graduate from Swiss universities from the 1870s onward, albeit with massive resistance from some universities such as Basel, see Elisabeth Joris and Heidi Witzig, eds., *Frauengeschichte(n). Dokumente aus zwei Jahrhunderten zur Situation der Frauen in der Schweiz* (Zürich: Limmat Verlag, 1986). However, restrictions remained in place as to the professional possibilities available to these women.

4. Natalia Gerodetti, *Modernising Sexualities: Toward a Socio-historical Understanding of Sexualities in the Swiss Nation* (Bern: Peter Lang, 2005).

5. See Gerodetti, *Modernising Sexualities*, or Beat Gerber, *Lila ist die Farbe des Regenbogens, Schwestern, die Farbe der Befreiung ist rot: Die Homosexuellen Arbeitsgruppen der Schweiz (HACH) von 1974–1995* (Köniz: Edition Soziothek, 1998).

6. See the Bernese Coalition against Depression, which draws on research by Hansruedi Völkle and has worked hard to combat the high rates of suicide amongst LGBT teenagers, “Suizid bei jungen Homosexuellen. Berner Bündnis gegen Depression,” http://www.zugerbuendnis.ch/buendnis/docs/s46_47.pdf (accessed May 28, 2008).

7. Swiss Office for Statistics, *Bevölkerungsbewegung—Indikatoren. Eingetragene Partnerschaften*, 2008, <http://www.bfs.admin.ch/bfs/portal/de/index/themen/01/06/blank/key/07.html> (accessed May 28, 2008).

8. BV Art. 13 Abs. 1 and EMRK Art.8.

9. The World Health Organization’s (WHO) definition of sexual health is “A state of physical, emotional, mental and social well-being related to sexuality; not merely the absence of disease, dysfunction or infirmity. Sexual health requires a positive and respectful approach to sexuality and sexual relationships, as well as the possibility of having pleasurable and safe sexual experiences, free of coercion, discrimination and violence. For sexual health to be attained and maintained, the sexual rights of all persons must be protected,

respected and fulfilled,” http://www.lho.org.uk/LHO_Topics/Health_Topics/Determinants_of_Health/Lifestyle_and_Behaviour/SexualHealth.aspx (accessed July 8, 2009). Or see World Health Organization (WHO), for more information, <http://www.who.int/en/> (accessed May 28, 2008).

10. See Swiss Aids Federation, <http://www.aids.ch/d/fragen/zahlen.php> (accessed July 8, 2009).

11. See also International Lesbian and Gay Association (ILGA), *Lesbian and Bisexual Women's Health: Common Concerns*, local issues report 121, ILGA, March 2006, http://doc.ilga.org/ilga/publications/publications_in_english/other_publications/lesbian_and_bisexual_women_s_health_report (accessed May 28, 2008).

12. See StGB (Schweizerisches Strafgesetzbuch [Swiss Criminal Code]) but also Peter M. Leuenberger, *Vergewaltigungsmythen in der Literatur von 1980–2000 zum Thema Vergewaltigung*, Semesterarbeit, Fachhochschule Solothurn Nordwestschweiz, 2002.

13. Although female partners are treated the same as widowers, a remaining female partner will only receive a pension when there are children younger than 18 years present who are also entitled to a pension. By contrast, a regular widow will receive a pension if she is 45 years or older and was married for at least five years, http://www.vpod-ssp.ch/vpod/berufe/infoblatt_partnerschaftsgesetz.pdf (accessed May 28, 2008).

14. See www.intersex.ch for a more extensive discussion.

15. See Press for Change, which campaigns for respect and equality for trans people. Integrating Transsexual and Transgendered People, <http://www.pfc.org.uk/node/345>, and for an International comparison see *Sexual Minorities and the Law: A World Survey* (updated 2006), <http://www.asylumlaw.org/docs/sexualminorities/World%20SurveyAIhomosexuality.pdf>.

16. ADAMIM are an active networking group of gay men from different confessional denominations who work within religious settings. See the link and archival material on the media debate through ADAMIM's Web site, http://www.adamim.ch/archiv_verzeichnis.htm.

17. See support and reports on www.pinkcross.ch, which is the umbrella association of gay organizations in Switzerland, as well as queeramnesty.ch, the Swiss Amnesty International LGBT-group, fighting against identity-based discrimination and for the rights of lesbians, gays, bisexuals, and transgender people in Switzerland, <http://www.queeramnesty.ch/index.htm>.

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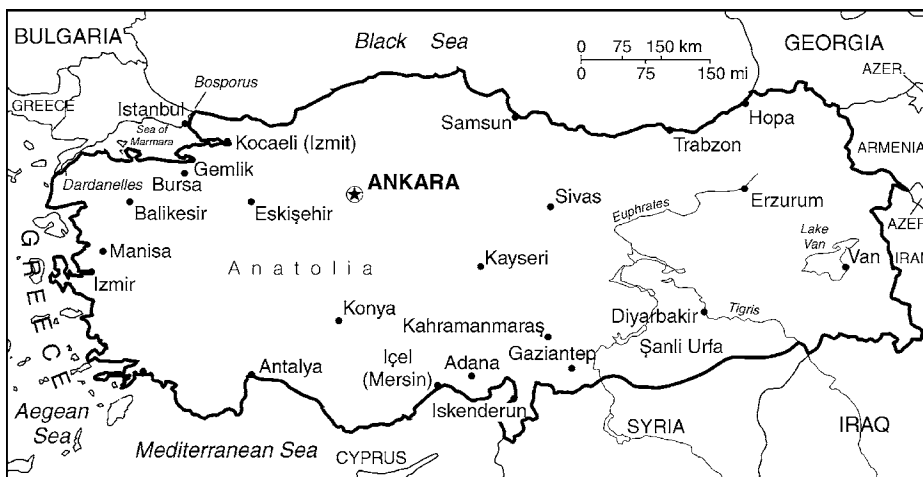
TURKEY

Emrecan Özen

OVERVIEW

The Republic of Turkey has an area of 300,948 square miles. One of the few transcontinental countries, 291,772 square miles of Turkey's land is in Anatolia (in Asia), while 9,175 square miles is in southeast Europe. The Marmara Sea lies between the two continents, and is connected to the Black Sea by the strait of Bosphorus, and to the Aegean Sea by the Dardanelles. Turkey's neighboring countries are Greece and Bulgaria in Europe, and Georgia, Armenia, Azerbaijan, Iran, Iraq, and Syria in Asia. The Anatolian peninsula is surrounded by four seas: the Black Sea to the north, the inland Sea of Marmara to the northwest, the Aegean Sea to the west, and the Mediterranean Sea to the south.

The country has a rapidly growing population. As of December 2007, Turkey's population was 70,586,256,¹ while the official 2000 census showed 67,803,927 people,² with a density of 40 people per square mile. The growth rate is 1.5 percent per year. Over 10 million people live in Istanbul. Ankara is the capital city, and is the second largest city after Istanbul, followed by Izmir on the Aegean coast.³ The country is divided into 7 regions and 81 provinces.



The republic was proclaimed on October 29, 1923, following the fall of the Ottoman Empire and the Turkish War of Independence. After 22 years of a single-party system, the republic is now a multiparty, parliamentary representative democracy. It is a secular, unitary state. It is also currently a candidate to join the European Union (EU), and the negotiations for this started in late 2004.⁴

Turkey has been described as a bridge between the East and the West, not only because of its geographical position, but also thanks to its immensely diverse cultural heritage. All over the country, it is possible to find, side by side, the modern and the traditional, the West and the East, the European and the Islamic, the wealthiest and the poorest. While life in big cities is relaxed enough to let sexual minorities thrive, smaller cities and rural areas are still steadfastly traditional. Istanbul—renowned throughout the world as a popular vacation destination, an industrious business hub, and a center of culture and entertainment—remains the safest and easiest place to live for LGBT people in Turkey.

OVERVIEW OF LGBT ISSUES

While gay life and the gay scene are flourishing in contemporary Turkey, legal rights and LGBT visibility suffer greatly from censorship and invisibility. With a modernization process in full force, progress in gay rights has been swift, but rarely solid enough to keep the momentum going. The media pays little attention to gay and lesbian issues, and when it does, it is threatened with legal action due to ambiguous regulations about public order and morals. Therefore, almost all developments in the LGBT world—legal battles, hate crimes, pride parades, and all other negative or positive news—go unacknowledged or censored in the media, and the biggest challenge that faces the country's LGBT rights organizations is to find a mechanism by which to bring important matters into public view to create an active gay rights discourse.

At the same time, LGBT-related issues generally cause tension and controversy when brought up in a public forum. Man-boy love (pederasty) was very prevalent in the Ottoman culture, and contemporary Turkish gay culture has made this a pivotal point in the fight for gay rights.⁵ However, the official history books rarely, if ever, mention this, and hard-line nationalists strongly oppose discussions of what they see as an insult to their ancestors.

Almost all gay rights organizations in Turkey have histories full of legal battles against public prosecutors who try to close them down, with many, though not all, pride parades and other demonstrations obstructed.

EDUCATION

The Ministry of National Education controls matters of education in Turkey. The Council of Higher Education of the Republic of Turkey was formed as an autonomous body in 1981, to preside over all the universities in the country. Whether the council of higher education should exist is highly contested by many, its far-reaching duties questioned and criticized, with frequent demands to grant universities autonomy.

There is no government or nongovernmental organization (NGO) program working specifically against homophobic bullying in schools. However, two gay rights groups exist in universities. The *Üniversitelerarası Lezbiyen ve Gey Topluluğu*, also known as LEGATO (Lesbian and Gay Interuniversity Organization), was

formed at the Middle East Technical University in Ankara in 1996. Shortly thereafter, other branches were opened in other universities, and in 2002 all branches were merged to form the biggest gay and lesbian organization in Turkey.

Additionally, the Bilgi Gökkuşuğu LGBT Kulübü (Bilgi Rainbow LGBT Club) was formed in early 2007 and became the first LGBT group in a Turkish university with an official authorization from the university rectorate and the council of higher education. News about the club caused an outrage where reported, and members of an education union filed an official complaint to the chief prosecutor's office against the council and the rectorate for giving authorization for the club.⁶ The rectorate has also been criticized by the club members, who have alleged that the university gave permission to the club only as a superficial gesture to seem liberal and Western, while the activities of the club have been unofficially suppressed.

EMPLOYMENT AND ECONOMICS

In Turkey, the private sector's involvement has drastically increased in the past couple of decades, and the country's economy has been growing rapidly. Industrial growth has been swift, and the agricultural output is dramatically higher, while the service sector is expanding. At the same time, the public sector still enjoys considerable size and influence. The country's per capita gross domestic product (GDP) is \$10,737.

There is no antidiscrimination law in Turkey regarding sexual minorities, and discrimination in the workplace forces many gay men and women to stay in the closet. Coming out can cause homophobic bullying, or can even be grounds for dismissal. Virtually no workplace offers jobs for transsexuals, and almost all transgender persons are forced into some form of sex work, where they are harassed by the police and the public.

The biggest problem facing male LGBT persons when joining the workforce is closely related to the mandatory military service for all male citizens of a certain age. (This age is fixed at 20, but the service is postponed for university students until they graduate.) With an official application, gay men can get exemptions from mandatory military service.

While getting an exemption might mean getting out of a 15-month service at a strongly and openly antigay institution where homophobic abuse and assault is very likely, it also substantially lessens one's employability. As with all others exempted from mandatory military service, exempted gay men are deprived of the right to work for any institution that is owned by the state (including public offices, the government, some universities, and banks), because they are registered as mentally unfit for service.⁷

At the same time, the necessity to provide details of personal military history in job applications (because employers rarely hire people who will soon be recruited) is another obstacle for exempted gay men who are looking to find a job in the private sector. The required disclosure of the details of exemption works as a forced coming out, and employers are likely to choose not to hire gay men—especially considering that there is no law that prohibits discrimination based on sexual orientation.

SOCIAL/GOVERNMENT PROGRAMS

There are no social or government programs that are directed to reach out to LGBT persons in Turkey.

SEXUALITY/SEXUAL PRACTICES

Even in big cities, masculinity is ardently treasured, and machismo is very strong. At the same time, strict gender-based understandings of sexuality are very prominent. Therefore, homosexuality is considered a sort of feminization—a loss of manhood, a failure in one's masculinity. Similarly, a man can retain his masculinity as long as he remains solely the penetrative partner. Therefore, the active-passive distinction in homosexuality is very prevalent, with one partner irreversibly assuming the feminine role, and the other, the masculine.

LGBT rights organizations have been working hard to challenge this understanding. In the last decade, they successfully put the word *gay* into everyday use (sometimes spelled *gey*) to distinguish between the traditional understanding of the emasculated homosexual and a more modern identity. However, gay bars and traditional Turkish baths (*hamams*) are still frequented by heterosexual men who are looking for a quick fling with homosexuals. On the other hand, a Turkish gay identity in the Western sense has been developing in bigger cities, leading to a more egalitarian relationship within gay encounters.

FAMILY

Family values are highly esteemed everywhere in the country. The crude marriage rate was 6.43 in 2002,⁸ while the crude divorce rate has remained lower than 1 per thousand per year, which is much lower than international rates.⁹ A religious marriage ceremony is not legally valid on its own; however, couples may choose to have both a civil and a religious ceremony.

Rural and urban areas of the country show great diversity in how family life is conducted. In eastern and rural parts of the country, arranged marriages are very common, young women are still sold into marriages, and honor killings are still an unsolved problem, while in western and urban areas, single motherhood and children out of wedlock are not unheard of, albeit definitely not the norm. Similarly, the divorce rate in eastern Anatolia is much lower than in the western part of the country.¹⁰

Domestic violence is still very much an issue that is actively combated by feminist organizations and the Turkish Family Health and Planning Foundation.¹¹

No legally recognized civil union or other legal partnerships exist between same-sex partners. However, postoperative transgender persons can marry a partner of the opposite sex without any legal obstacles. At the same time, many gay men and women end up having to marry a partner their parents choose for them, in order to conceal their homosexuality.

The supreme court ruled in 1982 that the custody of a female child cannot be given to a lesbian mother, and this ruling is still in effect.¹²

COMMUNITY

Organized gay activism is still in its preliminary stage. Gay activist organizations are small and invariably local in scope. Due to censorship in the media, these organizations have little or no political power. Therefore, they function mainly as cultural centers and help lines for sexual minorities. While these local organizations largely work together, there is no centralized entity that covers the whole country.

Arguably the strongest organization is Kaos GL in Ankara, founded in 1994. It mostly works as a cultural center, devoted to the education and self-awareness of LGBT persons. Its magazine, also called *Kaos GL*, is published biannually. It also owns the first LGBT library of Turkey. As of 2007, Kaos GL has organized two international antihomophobia meetings in Ankara to great success, with activists, journalists, academics, and lawyers from all over the world. Since October 2005, Kaos GL has worked as a legally registered association.

Lambdaistanbul was established under the name Gökkuşağı (Rainbow) in 1993, after the Governor's Office obstructed the planned gay pride celebrations. The organization rapidly grew. In 1996 and 1997, it hosted and broadcasted on Açık Radyo the first radio program to take up issues of LGBT people. In 2003, it organized the first pride parade in Istanbul. By 2007, the parade had become very popular among sexual minorities, with politicians, singers, authors, and journalists attending. Lambdaistanbul also runs a switchboard to provide immediate help and answers for anyone who has questions about LGBT issues. The group retains its strong antimilitarist stance and continues to work with women's rights groups. A May 2008 court verdict ruled that Lambda should close down, but the group's lawyers stated that they will take the case to the appeals court.

Other than these very salient groups, there are many smaller communities that are sometimes formed around specific identities. Pembe Üçgen Topluluğu (the Pink Triangle Group) is an LGBT organization in Izmir. Pembe Hayat (Pink Life) in Ankara is a foundation that provides assistance to transgender people. Antalya Gökkuşağı Eşcinsel Oluşumu (Antalya Rainbow Gay Group) is a small group that works in the coastal city of Antalya in southwest Turkey. Pyramid GL was formed in Diyarbakır and is the first gay rights group that works in the southeastern part of Turkey, with an emphasis on the Kurdish culture in that region. *Gacı Istanbul* is a magazine published by transsexuals, transvestites, and sex workers. Türkiye Ayıları (Turkish Bears) is a community with an emphasis on bear culture. Homoloji.com, a newly formed but already prolific online community, is a forum in which information on sexual minority cultures is compiled by LGBT users and moderators.

HEALTH

According to the World Health Organization (WHO), life expectancy at birth in Turkey has risen from 65 to 73 years between 1990 and 2006.¹³ According to 2003 WHO estimates, Turkey is among the countries with higher child mortality rates, with 35 to 41 children under the age of five dying per 1,000 live births, following the rate in the Turkic republics of the former Soviet Union. Ten percent of government expenditure is on health.

In Turkey, AIDS is not necessarily considered a gay disease. After the Soviet Union's dissolution, many immigrants from Russia, Moldova, and Ukraine came to the big cities of Turkey and the northern region of Anatolia. With not many choices in employment for these immigrants, there was a considerable rise in prostitution in the late 1980s and early 1990s in Turkey. Unsafe sex acts gave rise to many sexually transmitted diseases (STDs) like HIV/AIDS in men, women, and children, with men often transmitting STDs to their families. According to the Ministry of Health figures, there have been 2,711 reported HIV infections in Turkey between 1985 and June 2007, and most (50 to 60%) of infections occur through unprotected heterosexual intercourse.¹⁴

In the past couple of decades, the Ministry of Health has been working to raise public awareness about STD prevention. However, a research study of married women, carried out as part of the Turkey Demographic and Health Survey in 2003, proved that one in three married women is not informed about HIV/AIDS or methods of prevention.¹⁵

Another research study done with the help of Kaos GL points out that over 50 percent of sexually active gay men and women are aware of the fact that they are in a risk group for HIV/AIDS and that, despite this awareness, only one-third of the male respondents use condoms.¹⁶

POLITICS AND LAW

Homosexual conduct was never a criminal offense in Turkey. Age of consent for all people is 18. Gender reassignment surgeries with medical approval were legalized in 1988. There are, however, no laws that protect sexual minorities from discrimination.

In 1999, Demet Demir, a male-to-female (MTF) transsexual and activist, became the first transgender person to run for public office.

In 2002, women's and LGBT rights groups started a campaign to change the Turkish penal code; part of their campaign was to criminalize discrimination based on sexual orientation. The year 2004 saw the first visit of a delegation of sexual minorities to the Justice Commission; however, the draft of an antidiscrimination reference was dropped the same year. Although ultimately discrimination against LGBT people was not criminalized, the campaign is still considered a very important step in securing legal rights for sexual minorities, thanks to the public debates resulting from it.

After the elections of 2007, the new government started to work on a draft for a new constitution with the intention of replacing the much criticized constitution of 1980, which was written after the military coup of September 12, 1980, and was ratified in 1982. Kaos GL sent a letter to the government officials, demanding the addition of sexual orientation and gender identity to article 10, which prohibits discrimination based on "language, race, color, sex, political opinion, philosophical belief, religion and sect."¹⁷ Members of many LGBT rights groups and associations all over Turkey (Antalya Gökkuşluğu Eşcinsel Oluşumu, Kaos GL Derneği, Kaos GL İzmir, KAOSİST Eşcinsel Sivil Toplum Girişimi, Lambdaistanbul LGBTTT Derneği, Pembe Hayat LGBTTT Derneği, and MorEL Eskişehir LGBTTT Oluşumu) gathered together to form the Constitution LGBT Commission (Anayasa LGBTTT Komisyonu). When the LGBT Commission chairman Burhan Kuzu from the parliament apathetically mentioned in a newspaper that "naturally, we won't grant them [any rights]," the LGBT Commission started a campaign that involved sending rainbow postcards to the parliament.

After years of NGO work, Lambdaistanbul became a registered association in May 2007. After a short while, the Governor's Office of Istanbul moved to close down Lambda, on the grounds that "No association may be founded for unlawful or immoral purposes."¹⁸ The prosecutor rejected the case, but the Governor's Office went to a higher court, and the case was opened in July 2007. In May 2008, after six hearings, the judge ruled to close down the association, to the shock and dismay of many national and international human rights groups. Lambda's lawyers took the decision to the appeals court and in late 2008 the decision was overruled.

In a final hearing in April 2009, the local court decided that the association will not be closed, finalizing the lengthy legal battle. Lambdaistanbul again applied to the appeals court to get a homophobic statement amended in the final decision, however, the decision remains in favor of the association.

By law, gay men are not allowed in the military. Article 17 B/3 of the Compilation of Ailments and Defects (part of the Turkish Armed Forces Health Requirement Regulation) lists homosexuality, transsexuality, and transvestitism as “psychosexual disorders,” alongside “chronic antisocial behavior, substance abuse,” and “mental deficiency.”¹⁹ Should a gay man want to be exempted from mandatory military service, he is required to prove his homosexuality to the psychiatric facility of a hospital appointed by the headquarters. The procedure is not standardized, varies greatly from hospital to hospital, and is highly ambiguous: the proof of homosexuality almost always calls for highly invasive methods such as an anal examination and photos taken while the candidate for exemption is having passive anal sex with another man.²⁰

RELIGION AND SPIRITUALITY

Ninety-nine percent of the Turkish population is said to be Muslim.²¹ Though the practice may be merely nominal in the secular state, Islam is certainly the predominant religion in the country.²²

Islam’s holy book, the Quran, strictly bans extramarital affairs, and modern interpretations of this ban are strongly conservative. Despite the fact that homosexuality is only frowned upon in the Quran and not forbidden per se, due to readings of hadith (unwritten rules of Islam, based on sayings attributed to the prophet Mohammed) and fatwas (judgments made by Islamic scholars under the sharia), it is traditionally accepted as a sin.

That said, it might be safely claimed that the dynamics of homophobia in Turkey are very different than the strongly religious homophobia of Islamic countries like Iran, Saudi Arabia, and Egypt. Turkey has been a firmly secular country since the declaration of the republic in 1923. However, the highly secular governmental institutions and the army, although they distance themselves drastically from religion, remain extremely homophobic.

VIOLENCE

Violence against sexual minorities is still a very big problem in Turkey, with many gay bashing incidents and open hostility from the police, directed especially toward transgender people. Due to police brutality, many incidents go unreported, unless there is a fatality.

The violent events at Ülker Street in Istanbul in 1996 and the evacuation of the transgender population in the area is widely accepted as the epitome of this phenomenon, likened by many members of the local LGBT community to the Stonewall riots in New York. It has been speculated that the district’s police force instigated and participated in the incidents.²³

A decade later, similar events occurred in the Eryaman district of Ankara, when a group of vigilantes carried out a series of violent assaults on the transgender population in what seemed to be a systematic attempt to cleanse the area.

Both events were large enough to get relatively extensive media coverage and inspire sociological studies, but the majority of singular incidents of hate crimes still go largely unnoticed. LGBT rights organizations have rightly criticized the media for ignoring these problems. At the same time, the murder of openly gay author and journalist Baki Koşar in February 2006 generated considerable media attention, due to his friendships in media circles.²⁴

In 2007 the Commission for Monitoring the Human Rights of LGBT Individuals and Law, which was assembled by several local LGBT rights organizations, collected first-hand retellings of human-rights violations against LGBT persons and prepared a report about media coverage of the hate crimes perpetrated against sexual minorities between January and October 2007. The report warned the media against fostering a hostile environment against sexual minorities and drew attention to the fact that nonrecognition of sexual minorities in hate crime law facilitates violent attacks on LGBT persons. In 2008 the Commission for Monitoring the Human Rights of LGBT Individuals and Law changed its name to LGBT Rights Platform, and compiled and published a similar report for that year. The 2009 report will be published by the end of the year.

Similarly, the Human Rights Watch report on LGBT issues in Turkey, released May 2008, includes many cases of gay bashing and police brutality.

OUTLOOK FOR THE 21ST CENTURY

By the late 1990s and the beginning of the 21st century, gays all over Turkey have come a long way, swiftly moving from a gender-based understanding of homosexuality to a more egalitarian interpretation. At the same time, a distinct gay identity has rapidly taken root, especially in big cities. With these social advents, the Turkish gay rights movement has started to parallel similar movements in Western countries.

Still, there is a long way to go before LGBT people are granted total equality—or even acceptance—and controversial issues such as gay marriage will be debated for years to come. However, the new century has been a good start for the Turkish gay rights movement, and it has brought about a clearer view of the problems at hand. NGOs addressing gay issues have been better organized, and with the help of all other NGOs working for a more advanced democracy in Turkey, one can expect a brighter future for LGBT people there.

RESOURCE GUIDE

Suggested Reading

- Tank Bereket and Barry D. Adam, “The Emergence of Gay Identities in Contemporary Turkey,” *Sexualities* 9, no. 2 (2006): 131–51.
- Selin Berghan, *Lubunya: Transseksüel Kimlik ve Beden* (Istanbul: Metis Yayınları, 2007).
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- Commission for Monitoring the Human Rights of LGBT Individuals and Law, “LGBT Bireylerin İnsan Hakları Raporu 2007” (Ankara: LGBT Hakları Platformu, 2008).
- Murat Hocaoğlu, *Eşcinsel Erkekler: Yirmi Beş Tanıklık* (Istanbul: Metis Yayınları, 2002).

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Directed by Aydın Öztekin.
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UNITED KINGDOM

Zowie Davy

OVERVIEW

The United Kingdom of Great Britain and Northern Ireland (UK) has a landmass of approximately 81,081 square miles. The population at present is about 60,000,000, and population density is approximately 110 people per square mile. The United Kingdom consists of England, Scotland, Wales, and Northern Ireland, as well as a number of small islands, such as Jersey, Guernsey, and the Isle of Man. However, the islands and states have various political relationships with the main UK government in London. England, Scotland, and Wales are connected lands, whereas Northern Ireland is separated by the Irish Sea and lies at the northeast of the island of Ireland. The United Kingdom's west coast faces the Atlantic Ocean and Irish Sea, the east coast faces the North Sea, and the south coast faces the English Channel.

In the 13th century, Wales became a principality of England and was integrated under English rule in the 16th century. In 1999, Wales was granted limited self-governance from Britain. From the 17th century, there has been a political union between England and Scotland of various types, which formed the United Kingdom of Great Britain. Scotland was granted home rule in 1999. Ireland, through the implementation of the Act of Union in 1801, became a part of the United Kingdom, which resulted in the name change to United Kingdom of Great Britain and Ireland. In 1922, the Irish Free State was formed, which consisted of 26 counties. In 1937, the Irish Free State, through legislation, removed most of the constitutional powers of the government and monarch of the United Kingdom, and was renamed Eire. This national break left only counties in Northern Ireland under the United Kingdom's rule until 2007, when power was restored to the Northern Ireland Assembly, which was established as part of the Belfast Agreement.

While most laws are similar, if not equal, in each part of the United Kingdom, there are cultural variations. In some of the smaller islands, such as the Isle of Man situated in the Irish Sea, and Jersey, Guernsey, Sark, and Alderney, which are collectively known as the Channel Islands, some aspects of the legislature have minor differences and they have their own governments. The islands are situated off the northwest coast of France; they are Crown Dependencies, and although not strictly a part of the United Kingdom, owe allegiance to the British Crown. Each of the islands has its own primary legislature and is not represented in the UK parliament.



These state governments are known as the States of Guernsey, States of Jersey, and States of Alderney. In Sark, the government is known as Chief Pleas. Laws passed by the states are given Royal Sanction by the UK's Monarch in Council, to which the islands' governments are responsible. Acts of the UK parliament may, however, be extended at any time, to any of the Channel Islands (as with the Isle of Man) by Order-in-Council, thus giving the UK's government the ultimate responsibility for governance in the islands. On the Isle of Man, laws are debated in the House of Keys.

The British Empire was the largest empire in history and for many years was an immense global power. Following World War II, most of the territories of the empire became independent. However, many territories and former colonies went on to join the Commonwealth of Nations, which makes up one-third of the population of the world. The UK's imperial past has given the states of the Commonwealth of Nations a legacy of shared language, and similar legal and political systems. Many people were invited to the United Kingdom from the former colonies and the Commonwealth countries to fill in the worker shortage after World War II. This met with hostility from some of the British public, and much racial discrimination was evident. The Race Relations Act came into force on December 8, 1965, making racial discrimination unlawful in public places. The act forbids discrimination on the grounds of skin color, race, or ethnic and national origins, and covered both UK residents and overseas visitors. The law was strengthened in 1968 when racial discrimination was extended to include legislation on employment and housing provision.

Initially, there were three separate equality commissions in the United Kingdom: the Commission for Racial Equality, the Equal Opportunities Commission, and the Disability Rights Commission. On October 1, 2007, the three commissions merged into the Commission for Equality and Human Rights (CEHR). The Discrimination Law Review in 2005¹ was initiated by Tony Blair's Labour government to put an end to all forms of discrimination, whether based on disability, gender, age, race, religion or belief, or sexual orientation. Furthermore, this review was intended to help simplify and modernize the discrimination law and ultimately make it more effective. The Labour government at the time wanted a single equality act, which would later be used to secure LGBT rights, among other groups of people deemed at risk of prejudice. The Equality Act of 2006, which established the CEHR, was granted Royal Assent on February 16, 2006.

In the 2001 census 92 percent of the population was recorded as white. South Asians were the largest of the other ethnic minority groups, followed by people

with mixed ethnic backgrounds. The next largest groups were black Caribbean and black Africans. These figures, however, do not fully represent the UK population in 2007. Following the breakup of the Soviet Union and the inclusion of some of the newly independent states into the European Union (EU) and the lessening of controls over movement in the EU, migration to the United Kingdom has increased. Polish and Portuguese migrants have been the largest groups to migrate to the United Kingdom in recent years.

The Treaty of Rome established the Economic European Community (EEC). The treaty was signed in Rome on March 25, 1957, and entered into force on January 1, 1958. After being refused entry in 1963 and 1967, the United Kingdom joined the EEC in 1973. This political unification enhanced trade relations. The United Kingdom also has strong economic links with the Commonwealth of Nations. This is also the case with the United States, and investments between the two countries are very high. The United Kingdom is the largest foreign investor in the United States and the United States is the largest foreign investor in the United Kingdom. Approximately 45 percent of the UK's outward investment goes to the United States, and 40 percent of overseas direct investment in the United Kingdom comes from the United States. The service sector accounts for about 66 percent of the gross domestic product (GDP) in the United Kingdom, and the United Kingdom has the largest financial services trade surplus in the world. London remains the largest center in the world for international financial services. London's command in Europe's financial service sector is also increasing. The *Pink Pound*, a term describing the spending power of the LGBT community in the United Kingdom, is estimated to be worth 70 billion pounds (\$113.3 billion).² The UK's defense budget between 2005 and 2006 was 30.1 billion pounds (\$48.5 billion). In terms of government expenditure, this puts the United Kingdom second in the world on defense spending. This expenditure is, however, a long way behind the biggest spender, the United States. Defense represents approximately 5.4 percent of the total government expenditure.

OVERVIEW OF LGBT ISSUES

More than ever, LGBT people are prominent in the news and media; LGBT issues are debated in parliament, and LGBT concerns are the focus of many legal reforms. There have been great legal gains in recent times, such as the Gender Recognition Act of 2004 for transsexuals, civil partnerships for lesbians and gay men, the institution of a Single Equality Act that awards LGBT people greater legal protection at work and in public places, and the allowance of LGBT people in the armed services.

These gains have helped community organizations to refocus their efforts toward aspects that are still causes of concern. For example, transsexual organizations are highlighting the long waiting lists for sex reassignment surgery in the National Health Service (NHS). Gay and lesbian organizations are highlighting bullying in schools, drawing attention to homophobic violence and hate crimes that are not abating. In addition to these concerns, there is also an effort to produce positive representations in film, television, and the media.

HIV continues to be a major concern. Various community organizations are combining HIV, AIDS, and sexual health awareness campaigns alongside local authority mandates to inform young people about the benefits of safe sex, hence

lessening their chances of being infected. Health screenings and vaccinations have been widened to include other sexually transmitted diseases (STDs), such as hepatitis B, syphilis, and gonorrhea, due to the rising numbers of infections.

EDUCATION

In the UK education system there are different types of state schools, partly state-funded schools, and private schools. County schools are owned and funded by local education authorities. These schools provide primary and secondary education. Voluntary schools are mostly established by religious denominations and can be financially maintained in full or in part by the local education authority. The content of worship is in accordance with the religious character of the school. Those with greater financial independence and more control over admissions policies are known as *voluntary aided schools*. These schools are funded in a similar way to other categories of school, but the governing body must pay at least 10 percent of the costs of capital work, which is necessary work on school design and buildings. *Voluntary controlled schools* are funded in full by local education authorities. There are also special arrangement schools. In the aftermath of section 28, which made it illegal to support LGBT issues in the curriculum, and its subsequent repeal, teachers are still wary of approaching LGBT issues in the classroom. The reluctance to intervene is also witnessed when dealing with homophobic or transphobic language and behavior.

A survey about homophobic bullying in 2007,³ which received 1,145 responses from young people at secondary school, suggested that almost two-thirds of young lesbian, gay, and bisexual people experience homophobic bullying in school.⁴ Almost 58 percent of those experiencing homophobic bullying never report it, and if they do the survey shows that 62 percent of the time nothing is done about it. One-half of teachers fail to respond to homophobic language when they hear it being used. Many teachers who took part in the survey thought that they could not talk about sexuality or deal with this kind of bullying because of section 28. However, addressing issues of sexuality and homophobic bullying was never articulated in the legislation.

The Department for Children and Families, working in partnership with Stonewall and Education Action Challenging Homophobia, has recently launched an awareness week that highlights the extent of homophobic bullying and the harm that it can create. The government department has also produced a document that offers guidance on the legal framework that currently exists. This document also covers areas such as how to recognize, prevent, respond to, and monitor homophobic bullying in schools. This information is aimed at teachers and school staff, head teachers, and senior management and school governors.

EMPLOYMENT AND ECONOMICS

The Equality Act (Sexual Orientation) Regulations of 2007 outlaws discrimination in a range of important areas in the public and private sectors. These range from health care providers, such as hospitals, and education providers to other public sector agencies, and from hotels to banking in the private sector. It is recognized that LGBT people pay taxes, and so service providers are obliged to treat everybody equally and without discrimination. It is now illegal for businesses

including banks, estate agencies, and hotels and bars to turn away LGBT customers. The new legislation will make a huge difference in schools. It is now illegal for a school to refuse to place students because they are gay or lesbian, or because their parents are. A school that does not take homophobic bullying seriously could also be brought before the law. In the public and private health care sectors, general practitioners can no longer turn anybody away or refuse lesbian, gay, bisexual, and transgender people treatments they would offer anybody else. Council services are also affected by the new legislation. Councils have a duty to recognize that homophobic behavior toward a tenant is reason to start an investigation and to begin gathering evidence for the rehousing of the victim or the eviction of the perpetrators of abuse. LGBT people no longer have to tolerate being treated differently from anyone else.

In the private sector, hotels and bed and breakfast establishments can no longer refuse double rooms to same-sex couples. LGBT businesses also have to abide by the legislation and cannot discriminate against heterosexuals who wish to enter and use the services on offer.

Religious organizations have argued that they should be exempt from these regulations. Regulation 14 of the Equality Act provides an exception for organizations relating to religion and belief. It continues to allow a religion to advance a belief and teach the principles of the religion. Any activity within the structure of the religion, such as marriage, is not included in the legislation. However, the law does extend to those people who act on behalf of a religious organization whose goods and services are commercial or those who provide welfare services on behalf of the government—for example, religious-based adoption and fostering agencies. Religious groups providing publicly funded welfare services to the community, like Meals-On-Wheels or drug rehabilitation, have no right to discriminate against LGBT individuals.

SOCIAL/GOVERNMENT PROGRAMS

The Equalities Review is a government-led program set up to widen ways of understanding how to implement institutional strategies for the advancement of equality in British society. As part of this initiative, LGBT people in the United Kingdom have been included. The initiative is underpinned by understanding *equality* as something more than economic parity. Equality initiatives in the past have focused mainly on LGBT people gaining economic and financial benefits, rather than recognizing legal, social, physical, and political restraints working to constrain equal opportunities. Various research reports have been commissioned by the government in a bid to garner practical recommendations for social policy implementations and best practice guidelines for government and public sector employers and employees. These guidelines will also be utilized for bringing equity within voluntary sector organizations, trade unions, and those working for and receiving services from civic society organizations. The reports for governmental consideration have been produced by nongovernmental organizations (NGOs), such as Stonewall⁵ and Press for Change.⁶

There are a number of contemporary pilot schemes to integrate LGBT people into mainstream society. These range from sexual health programs, training, and workshops for employers on the diversity and integration of LGBT people. A controversial pilot was implemented as part of the No Outsiders program, which

teaches children about same-sex relationships. Various books depicting gay and lesbian relationships are being used in teaching school children. The program's purpose is to support schools in meeting their requirements of equal access for and equal treatment of LGBT people under the newly implemented Equality Act 2007.

Stakeholders are currently working with the government's Department of Health in developing a strategy to highlight inequality in relation to gender identity and sexual orientation. The Sexual Orientation and Gender Identity Advisory Group (SOGIAG) is assisting the Department of Health on three tiers: health inequalities, better employment of LGBT people, and transgender health provision. This program is to ensure both LGBT users and providers are ensured opportunities to offer their experiences to improve the services available and direct training standards related to sexual orientation and gender identity.

SEXUALITY/SEXUAL PRACTICES

Since the decriminalization of male homosexuality, sexual practices such as sodomy were also decriminalized. Sodomy still retains a certain amount of cultural taboo in the United Kingdom. Often, gay male sex is ridiculed within popular culture as part of British humor. Sex acts between men are often thought of as not falling under equality and human rights legislation, and thus no recourse to defamatory language has been tried in a court of law. CEHR works to combat discrimination against sex, sexual orientation, and gender reassignment by providing support to individuals bringing claims.⁷ Although there are such safeguards in place, it does not stop people from making jibes. For example, in 2008 a rector from the Church of England published a post on his blog suggesting that "sodomy can seriously damage your health" and "fellatio kills."⁸ A church spokesperson did condemn the jokes; however, these forms of discrimination often go on without denunciation.

There was no equal legislation for lesbians in the United Kingdom and, therefore, lesbian sexual acts have always been legal. The *tribade*, an old name for a lesbian, appears in English texts from circa 1600. The term comes from the Greek word *tribein* (to rub), suggesting the rubbing of the genitals.

FAMILY

The notion of citizenship has been historically colored by its familial and exclusively heterosexual connotations. The citizenship models embodied in the postwar welfare state were explicitly built around the nuclear family and a traditional division of labor between men and women. Changes in family life, combined with other social, cultural, and demographic changes, had an impact on family relations. For example, women's participation in the labor market has increased, children are financially dependent for longer, and kinship relations have changed because families sometimes move away, so that grandparents, aunts, and uncles are not living as closely to their family members as they would have in the past. A multicultural society also makes for diverse family traditions and care commitments. There is also greater acceptance of same-sex relationships, or at least greater acknowledgement of same-sex partnerships, and there has been a marked shift in the acknowledgement of family diversity. A smaller proportion of the population is living as the

heterosexual nuclear family of the idealized mid-20th century form. There are fewer people who are choosing or who are able to construct their relationships according to the traditional. In 2003, only 22 percent of households in the United Kingdom were made up of a heterosexual couple with dependent children.

COMMUNITY

Within the LGBT community in the United Kingdom, political actions are widespread, from grassroots activism, attending vigils, demonstrations and local, national, and international forums, to highly publicized legal cases, from naming and shaming health provision and psychiatric gatekeepers to transsexual surgery, helping to fundraise and raise awareness about various issues, and so on. The Internet has provided a valuable community tool, which enables LGBT people worldwide to discuss global and local politics in the United Kingdom.

Positive cultural representations are high on the political agenda within the community.

Homosexuality and transgender had only rarely been represented in popular culture up until the 1990s. When it *was* a focus of television, film, or plays, it was represented as something to fear, something to laugh at, or something to pity. For example, the British Carry On films and comedy series, such as *Are You Being Served?* poked fun at homosexuality, with actors portraying homosexual men with stereotypical, overt campiness. Transgender people have fared no better with representations that are decidedly psychotic in nature. Transgender characters are normally portrayed as assassins, murderers, or sexual deviants. For example, in *Thunderball*, *Cruising*, and *Silence of the Lambs*, transgender people are represented as something to be feared, if not from violence then from disease. Lesbian and bisexual people were rarely represented at all. Present day television series, including gay-, lesbian-, bisexual-, and transgender-themed material on primetime TV, discuss sex and sexuality-related issues in a more balanced way. There are many shows that have begun to feature homosexual characters alongside heterosexual characters as part of the social milieu. In the past few years, there have been a number of television shows that concentrate predominantly on LGBT people and represent their lifestyles rather than representing them as a deviant member of society. These shows have been much more matter-of-fact in their representation of homosexual lifestyles. Many have included contentious issues, such as gay family adoption, artificial insemination, civil partnerships, coming out, safe sex, HIV-positive status, and so on. Series such as *Queer as Folk* feature explicit sex scenes and reflect upon previously taboo aspects of gay lives in an explicit and forthright way. Lesbians have had much less exposure; however, this imbalance has just started to be rectified, with miniseries such as *Tipping the Velvet*. Another show, *The L-Word*, has also been screened in the United Kingdom. Furthermore, in the Liverpool-based soap opera, *Brookside*, actress Anna Friel, who played Beth, became a household name when her character had an affair with nanny Margaret Clemence, played by Nicola Stephenson. The soap screened the first lesbian kiss to be shown on primetime British TV in 1993. However, Beth and Margaret's kiss was edited from the teatime omnibus edition, highlighting the ongoing uneasiness that producers felt when engaging with issues of LGBT representation.

In the United Kingdom, LGBT History Month is held annually in February. The month provides an exceptional chance to bring to light the lives and histories

of LGBT people, their families, and their friends. It is a month when representations are offered about all aspects of the lives LGBT people lead. It is also a month when LGBT people celebrate their diversity through increased visibility.

HEALTH

Gay men and men who have sex with men (MSM) remain the group at greatest risk of becoming infected with HIV in the United Kingdom. Throughout the 1990s, there was a fall in the number of new HIV diagnoses among this group. This was due in part to the work of the NGOs that have campaigned and provided safe sex information about sexual conduct through outreach work on the gay scene and cruising areas. Since 1999, however, the figures have consistently risen. This trend is mainly due to an increase in HIV testing. The Terrence Higgins Trust is campaigning to raise money to provide tests for the estimated 33 percent of people living with HIV in the United Kingdom today who do not know they have contracted the virus. Another contributory factor may be a rise in high-risk sexual behavior, which is indicated by the rise of some STDs such as gonorrhea and syphilis. As of the end of June 2007, almost 40,000 MSM have been diagnosed with HIV in the United Kingdom. This figure includes those who have died from AIDS-related illnesses. The number of heterosexually acquired HIV infections diagnosed in the United Kingdom has risen sharply over the last 15 years. For the first time, the rate of heterosexually acquired HIV diagnoses overtook the rate of diagnoses in MSM. According to one report, in 2006, "there were 3,430 reports of heterosexually acquired HIV, and a total of 36,603 had been reported by the end of June 2007."⁹

There is very little known about the sexual health of lesbians and bisexual women. The political group Stonewall in the United Kingdom has commissioned a survey that will attempt to find out about the health care needs and experiences of these groups. Stonewall hopes that these issues will be better understood, rather than ignored in the future. This is the first survey of its kind in the United Kingdom.

POLITICS AND LAW

In December 1953, the government set up a Royal Commission to investigate the Offenses against the Person Act of 1861 relating to homosexual offenses. The committee was convened because of the publicity about homosexuality as a result of high-profile prosecutions. In 1952, there had been 5,443 prosecutions in England for sodomy, attempted sodomy or indecent assault, and gross indecency.¹⁰ Many homosexual men were the targets of blackmail, and cases at that time were widespread. The committee comprised 3 women and 14 men, of which 13 served for all three years of the committee's considerations. The committee was chaired by John Wolfenden, a former headmaster of boarding schools for boys. In 1957, he was the vice chancellor of Reading University. Wolfenden's son was a gay man. The Wolfenden report, formally known as the *Report of the Departmental Committee on Homosexual Offences and Prostitution*,¹¹ was published on September 3, 1957, over three years after the committee was set up. The report recommended that homosexual acts should no longer be a criminal offense between adults in private. It took 10 years for the report to influence the passage of the Sexual Offences Act of 1967, which replaced the Offenses against the Person Act of 1861. The 1861 act had criminalized homosexual behavior and homosexual sexual acts.

In 1967, Lord Arran and Leo Abse MP (member of parliament) introduced identical Sexual Offenses Bills to the House of Lords and the House of Commons, respectively. The House of Commons passed the law with a majority of 244 votes to 100 on July 27, 1967. This was after the third reading. The Sexual Offenses Act decriminalized homosexual activity in England and Wales. There were still inequalities within the act in relation to heterosexual activity, because the age of consent was 21 years of age for two consenting men as opposed to 16 years of age for heterosexuals. Also, the notion of *private* was not the same for heterosexual and homosexuals; for example, a hotel room was still understood as a public space for homosexuals, and if two men were found having sex in one, there could still be a prosecution. Even though Lord Arran had presented the bill in the House of Lords, he was not totally comfortable with the legal gains and suggested that homosexuals should accept these legal changes as progressive and not ask for more. At the end of the speech that introduced the bill, Lord Arran said: "Homosexuals must continue to remember that, while there may be nothing bad in being a homosexual, there is certainly nothing good."¹² This decriminalization act did not affect Scotland and Northern Ireland. It took until 1980 to decriminalize homosexuality in Scotland and until 1982 in Northern Ireland. Northern Ireland did, however, attempt to decriminalize homosexuality in 1977, but the Loyalist politician Ian Paisley formed a campaign called Save Ulster from Sodomy, which gained much support and stopped the decriminalization process. It took Jeff Dudgeon's case in the European Court of Human Rights (ECtHR) to sway Northern Ireland to equate their law with England, Wales, and Scotland.

LGBT issues have, in the past few years, been taken up by Tony Blair's Labor government. The repeal of section 28, equal ages of consent for homosexuals and heterosexuals, gender recognition for transsexual people, civil partnerships for lesbian and gay couples, and LGBT people in the armed forces have all been debated and assented in law. These legislative moves in the United Kingdom have usually occurred following rulings from the ECtHR. Many LGBT community groups, such as Stonewall, Press for Change, Liberty, and the Equality Network have all worked closely with the government in the consultation processes during the implementation of new LGBT citizenship rights.

There are an estimated 5,000 transsexuals in the United Kingdom. The United Kingdom was one of four countries in Europe, alongside Andorra, Albania, and Eire, that did not recognize the acquired gender and civil rights of transsexuals prior to 2004. For the previous 34 years transsexuals, were legally considered to be the sex they were at birth. The case that set the legal precedent for what constituted a man and a woman was the infamous *Corbett versus Corbett* case, when transsexual April Ashley and Arthur Corbett, who was the third Baron Rowallan, wanted to divorce. The United Kingdom at that time did not recognize the mutual consent agreement between the two parties as a reason enough to grant a divorce. Lord Judge Ormrod ruled that, because of this, the case's primary issue had to be the actual validity of the marriage between April Ashley, who was known to be a transsexual, and Arthur Corbett. The divorce was dependent on the *true* sex of the respondent April Ashley, because if, through a medical test, she was determined to be male, then the marriage would have been void in the first place. Determining the true sex of the person was based on four factors: chromosomal factors, gonadal factors (i.e., the presence of testes or ovaries), genital factors (which includes internal sexual organs), and psychological factors.

The Gender Recognition Act of 2004 (GRA 2004) became law in June 2004. It enables transsexuals to apply for gender recognition in their acquired gender. The Gender Recognition Panel (GRP) began work on April 1, 2005, deciding who can or cannot gain recognition. Those transsexuals who wish to have all their personal documentation changed to their acquired gender may do so as long as the GRP is satisfied with the evidence the transsexual supplies. At first, this only applied to people who had been living in their new gender for more than six years. This was reduced to two years in April 2007.

The precedents set in the GRA 2004 are regarded as progressive by many political activists and advocates of gender recognition. This is due to the changing legal ideas of what actually constitutes a transgender man versus a transgender woman. The law describes two main paths by which the transsexual obtain acceptance by the GRP: having been diagnosed with gender dysphoria, or planning to have surgery that changes sexual characteristics. The information submitted by a doctor is judged by at least one medical expert in the field of gender dysphoria and a legal expert. The surgical option requires the transsexual to show confirmation of surgical treatment for the purpose of modifying sexual characteristics, for example, genital modification or sex reassignment surgery (vaginoplasty, orchiectomy, etc.). This is by far the easiest way to apply, because a general practitioner should be able to certify this by looking at the notes and correspondence in the individual's medical record. For diagnosis of gender dysphoria, the evidence needs to be given by a qualified practitioner from a gender identity clinic. This option allows someone who has not undergone genital surgery to obtain recognition. Transsexuals who are married prior to applying for gender recognition must divorce first, because same-sex marriage is not allowed.

The Civil Partnership Act of 2004 came into operation on December 5, 2005, and enables same-sex couples to register as civil partners. The civil partnership does not apply to heterosexual couples or unions between family members, such as siblings, as can be attained through similar legislation in some European countries such as Portugal. It is a legal requirement to give notice of intention to register a civil partnership and, once given, notices are publicized by the registration authority for a period of 15 days. A civil partnership notice states each person's name, date of birth, occupation, nationality, and the place of formation of the union. Once the notice is given it is valid for 12 months. The minimum age for registering a civil partnership is 16 years old, but as with marriages in England and Wales, written consent from a guardian or parents is necessary up until the age of 18.

The local Government Act of 1988, section 28, prohibited local authorities in England, Wales, and Scotland from promoting homosexuality. Margaret Thatcher's Conservative government, who were the drafters of this legislation, also labeled gay family relationships as "pretended family relationships." The existence of section 28 caused much confusion as to what could be said in relation to LGBT issues. Section 28 also created confusion as to the services that could be offered to lesbian, gay, and bisexual members of the community.

Section 28 is often remembered as the legislation that stopped the teaching of gay, lesbian, and bisexual issues in schools. It did not apply to schools directly. It did, however, apply to the local authorities that were responsible for schools. Nonetheless, the media added to these misleading interpretations and stymied the debate about LGBT issues in schools, especially in sex education. Since 2000,

section 28 had been a superfluous law due to the implementation of the Learning and Skills Act of 2000, which detached any responsibility from local authorities in offering sex education. However, in 2000, the Department for Education and Employment (DfEE) (now called the Department for Children, Schools, and Families) sent out a circular to schools, which said that it was the responsibility of the schools to make sure that the needs of all pupils are met in their schooling programs, regardless of the student's developing sexuality. The DfEE further suggested that there was still a need, regardless of sexuality, for any student to feel that sex and relationship education is relevant to them and sensitive to their needs. The secretary of state was unambiguous about the fact that teachers should be able to deal sensitively and honestly with issues surrounding sexual orientation. This included the answering of suitable questions, along with providing support about sex and relationship education. However, ambiguity arises when teachers interpret what the protocols mean. Furthermore, there should be no direct promotion of sexual orientation, either homosexual or heterosexual.¹³

The repeal of section 28 had been supported by various organizations, which included local authorities, trade unions, health experts, lesbian and gay groups, and teachers and school governors. In 2000, Scotland's equivalent to section 28, the Section 2a clause, was removed from the statute books. On July 10, 2003, the House of Lords voted overwhelmingly to repeal section 28 of the Local Government Act in England and Wales. This followed the House of Commons vote in March 2003 in favor of a repeal of the statute. The Local Government Bill received Royal Assent on September 18, 2003, and section 28 was removed from the statute books to the relief and jubilation of many LGBT organizations that had campaigned to put this issue back on the agenda.

LGBT people were denied the right to serve in the armed services prior to 1999, based on the findings of the Homosexual Policy Assessment Team (HPAT) report, commissioned in September 1995. The debate took into account an internal assessment of attitudes within the armed services toward homosexuality. The issue of homosexuality in the armed forces was debated in parliament on May 9, 1996. When the Blair government came to power in 1997, they made it clear that the policy would be reviewed during the tenure of their parliament. The ECtHR ruled in 1999 that the Ministry of Defense (MoD) was breaking European law in relation to the right to a private life, freedom of expression, and freedom from discrimination. The ruling followed the case of four service personnel who were discharged after revealing their homosexuality. The armed forces were forced to lift the longstanding ban on homosexuality in the services. Later, the MoD confirmed that a new inclusion policy would also apply to transgender and transsexual people. The ban on homosexuals, transgender people, and transsexuals in the armed forces was not legally sustainable due to Britain's involvement with European law. The new MoD policy recognized sexual orientation and gender expression as a private matter and was formulated with full consultation of the three Service Chiefs. The policy is underpinned by a Code of Social Conduct that applies to everybody's sexual orientation and gender expression, including bisexuals and heterosexuals. The Royal Air Force (RAF) has been at the forefront of recognizing this policy and promoting diversity in its ranks. The RAF marched in Manchester's Gay Pride and a similar event in Brighton. In addition to the armed forces, the police, fire brigade, and ambulance services have also shown support and joined LGBT pride events.

RELIGION AND SPIRITUALITY

The UK population is more culturally diverse than ever before, and people are free to practice their faiths. White Christians remain the biggest single religious group. Christianity is the largest religious group overall, and the majority of black people and those from mixed ethnic backgrounds also identify as Christian. Among the other faiths, the largest groups are Muslims, Hindus, Sikhs, and Jews. In the 2001 census, 15 percent of the UK population reported having no religion. There are mixed views about LGBT issues in the many different faith groups in the United Kingdom. The conservative Christians and Muslims have been the most outspoken on issues of gay marriage, adoption of children by gay and lesbian couples, and transgender rights. There has been a call for nondiscrimination of, and support for, LGBT people from some faith groups; however, this support has come with reservations about homosexual sexual acts and the marriage of transsexuals in places of worship.

Recently, there has been a split within the Anglican Church around the ordination of priests who are practicing homosexuals. While there are no institutional proclamations surrounding this debate, the archbishop of Canterbury, Rowan Williams, advocates for noncelibate priests and bishops to be ordained. At the Anglican synod, there have been mass boycotts of the annual meeting by traditionalists, whose position states that this inclusion goes against the Bible's teachings.

The secularization of Britain has reduced the influence of the various churches in civil life. Islamic and Christian groups are the most vocal defenders of a traditionalist reading of their respective scriptures. Most religions in the United Kingdom comment on legal or societal moves towards tolerance and equality of LGBT people. However, the liberal religious groups who identify as Islamic, Christian, Judaic, and so on, have adapted to the wide tolerance of LGBT people and their concerns. Occasionally there is an outcry by religious leaders on specific issues that arise, such as the teaching of LGBT issues to children.

VIOLENCE

The definition of hate crime in the United Kingdom is "any incident, which constitutes a criminal offense, and which is perceived by the victim or any other person as being motivated by prejudice or hate."¹⁴ The range of hate crimes covers everything from verbal abuse to murder. The British crime survey (BCS) in 2006, which was based on interviews with a wide sample of people and which can expose crimes that are not always reported to the police, indicates that the number of hate crimes offenses could be as great as 260,000. The Metropolitan Police in London reported 11,799 incidents of racist and religious hate crimes and 1,359 incidents of homophobic hate crimes. The police estimate that 90 percent of homophobic crime goes unreported.¹⁵ This underreporting is believed to be because victims are too frightened or embarrassed to let someone know that they have been a victim of homophobic crimes and think that little can be done about the incidents. The police also believe that the typical homophobic hate offender is a young white male. Most homophobic offenders are between 16 and 20 years old. The perpetrator usually lives near the victim, and many hate crimes happen near the victims' homes while they are going about their daily business. This suggests that the gay, lesbian, bisexual, and transgender individual and community are still viewed as someone or something to be regulated through violence and exclusion.

OUTLOOK FOR THE 21ST CENTURY

In the United Kingdom, the global politics that influence how LGBT people are viewed, protected, or unprotected rests very much on the notion of human rights. Nonetheless, in the past few years the government has introduced legislation that partially protects the rights of LGBT people. Huge gains have been made by the numerous grassroots organizations and activists that have been at the forefront of awareness campaigns, attending vigils, demonstrations, and pride marches, as well as local, national, and global forums. These political groups, and other members of the LGBT community, have been concerned with assimilation into social arenas that were previously closed to LGBT people. The gains in most are equal; however, civil partnerships, as opposed to marriage, the continuation of violent homophobic and transphobic attacks in the streets, and bullying in schools continue to be at the forefront for LGBT people. An attempt to break down institutionalized prejudice in public places is another important focus, along with achieving positive and non-justificatory representations in popular culture, medicine, and politics.

RESOURCE GUIDE

Suggested Reading

- Sara Ahmed, *Orientations: Toward a Queer Phenomenology*. *GLQ: A Journal of Lesbian and Gay Studies* 12 (2006): 543–74.
- Richard Ekins and Dave King, *Blending Genders: Social Aspects of Cross-Dressing and Sex-Changing* (Routledge, London, 1996).
- Tracy Hargreaves, *Androgyny in Modern Literature* (Basingstoke, UK: Palgrave Macmillan, 2005).
- Joan Nestle et al., eds., *Genderqueer: Voices Beyond the Sexual Binary* (Los Angeles: Alyson Books, 2002).
- Ken Plummer, *Telling Sexual Stories: Power, Change and Social World* (London: Routledge, 1995).
- Diane Richardson and Steven Seidman, eds., *Handbook of Lesbian and Gay Studies* (London: Sage, 2002).
- Brian Tully, *Accounting for Transsexualism and Transhomosexuality* (London: Whiting and Birch, 1992).
- Jeffrey Weeks, *Invented Moralities: Sexual Values in the Age of Uncertainty* (Cambridge: Polity Press, 1995).
- Jeffrey Weeks, *Making Sexual History* (Cambridge: Polity Press, 2000).

Video/Film

- The Crying Game* (112 min.; 1992). Directed by Neil Jordan. British Screen Productions. Psychological thriller set against the backdrop of tensions between the IRA and British army. Following the kidnapping of a British soldier (Jody) by an IRA member (Fergus), a friendship between the captor and the captive flourishes. The film then moves to London where the IRA member searches for the partner (Dil) of the soldier to fulfill his promise to him. When the IRA member eventually finds her they begin a love affair. Dil is transgendered. The film explores sexuality, race, and nationality.
- Breakfast on Pluto* (135 min.; 2006). Directed by Neil Jordan. Pathe Pictures International. This comedy is a lighthearted look at the life of Kitten, who is a transwoman. Kitten leaves home and meets a sugar daddy who is a singer in a glam rock band and has links to the IRA. Kitten then moves to London where she becomes a prostitute. She is also trying to find her biological mother.

My Beautiful Laundrette (97 min.; 1985). Directed by Stephen Frears. Channel Four Films.

This is the unlikely story of a meeting between two old school friends in Thatcher's Britain. Johnny, who is white and is involved with a neo-Nazi group, starts to work for his Asian friend in a laundrette. Despite the political divisions, the two friends become lovers.

Web Sites

FtM Network, <http://www.ftm.org.uk/>.

International Lesbian and Gay Association-Europe (ILGA-Europe), <http://www.ilga-europe.org/>.

OutRage, <http://www.OutRage.org.uk>.

Press for Change, <http://www.pfc.org.uk>.

Stonewall, <http://www.stonewall.org.uk/>.

Yorkshire MESMAC, <http://www.mesmac.co.uk/>.

NOTES

1. The final report of the Equalities Review was published on February 28, 2007, and was named *Fairness and Freedom: The Final Report of the Equalities Review*, http://archive.cabinetoffice.gov.uk/equalitiesreview/upload/assets/www.theequalitiesreview.org.uk/equality_review.pdf.

2. "Out Now," *Diva and Gay Times* readers survey, 2005.

3. The report "The Experiences of Young Gay People at School" can be found at http://www.stonewall.org.uk/documents/school_report.pdf.

4. Stonewall's Education for All is a call to action to eliminate homophobic bullying from schools. This campaign is also aimed at homophobic language being used, such as "that's so gay" and "you're so gay," which are commonplace slurs in the United Kingdom.

5. See Stonewall's 2007 report "Sexual Orientation Research" review at <http://archive.cabinetoffice.gov.uk/equalitiesreview/upload/assets/www.theequalitiesreview.org.uk/sexor.pdf>.

6. See The Equalities Review's report "Engendered Penalties: Transgender and Transsexual People's Experiences of Inequality and Discrimination" at <http://archive.cabinetoffice.gov.uk/equalitiesreview/upload/assets/www.theequalitiesreview.org.uk/transgender.pdf>.

7. See <http://www.cipd.co.uk/subjects/dvsequal/sexdisc/sexdiscrimination.htm>.

8. See <http://www.independent.co.uk/news/uk/home-news/rector-condemned-for-sodomy-remarks-953134.html>.

9. See <http://www.avert.org/uksummary.htm>.

10. GLBT inc. provides an extensive encyclopedia of gay, lesbian, bisexual, transgender, and queer culture. For more information on the Wolfenden report see http://www.glbtc.com/social-sciences/wolfenden_report.html.

11. Sir John Wolfenden, *Report of the Committee on Homosexual Offences and Prostitution* (London: Her Majesty's Stationery Office, 1957).

12. Andy Stuart, ed., "Ourstory," *PCS Proud Magazine*, 2005.

13. Department for Education and Employment (DfEE), *Sex and Relationship Education Guidance* (London: DfEE, 2000).

14. The government Web site provides extensive information about hate crimes, which suggests that they take this seriously, <http://homeoffice.gov.uk/crime-victims/reducing-crime/hate-crime/>.

15. The UK Home Office provides extensive information and policy documents, which can be found at <http://homeoffice.gov.uk/crime-victims/reducing-crime/hate-crime/>.

VOLUME INDEX

- Abecedary* (Trubar), 373
Abortion: in Andorra, 18; in Belgium, 61; in Ireland, 238; in Italy, 257; in Norway, 315; in Poland, 324; in Portugal, 336; in Russia, 362; in Slovenia, 385
Abse, Leo, 447
Achilles, 206
Adenauer, Konrad, 192
Adoption, 6; in Andorra, 16; in Austria with artificial insemination, 28–29; in Belarus, 41; in Belgium, 50; in Bulgaria, 70; in Croatia, 86; in Czech Republic, 102; in Denmark, 114–15; in EU, 124; in Europe, 7–8; in Finland, 149, 153; in France, 167; in Georgia, 186; in Germany, 196; in Greece, 210; in Hungary, 224; in Italy, 258; in Moldova, 279–80; the Netherlands and, 291; in Norway, 309; in Poland, 328; in Portugal, 341; in Romania, 351; in Russia, 363; Slovenia, 380; in Spain, 399; in Switzerland, 420; in UK, 443
Adventists, 405
AIDS/HIV. *See* HIV/AIDS
Aleksandar (king), 80
Alexandre, Vicente, 396
Alexander II, 359
Alexander the Great, 206
Alexeyev, Nicholas, 369
Almodóvar, Pedro, 402
Amenábar, Alejandro, 402
Amnesty International, 40, 45, 285, 377
Anacreon, 207
Andersen, Bibi, 402
Andorra: abortion in, 18; absence of antisodomy laws in, 19; adoption in, 16; Catholic Church's influence in, 18–19, 20; civil unions/partnerships in, 7; community in, 16–17; education in, 14; employment and economics in, 14–15; family in, 15–16; 1419 Council of Land and, 13; Green Party of, 16; health in, 17; lack of membership in EU and, 14; LGBT issues in, 13–21; map of, 13; outlook for 21st century in, 19–20; overview, 13–14; politics and law in, 17–18; population and ethnic makeup of, 13; religion and spirituality in, 18–19; sexual practices in, 15; Stable Union of Couples Act and, 15; violence in, 19
Angelo, Bob, 291
Anglicanism, 59
Antidiscrimination statutes: in Austria, 27; in Bulgaria, 74–75; in EU, 5, 131–32; in Europe, 6–7; in Hungary, 226–27; in Italy, 258–59; in Norway, 313; in Russia, 362, 367. *See also* Laws
Antigay culture: in Belarus, 9; in Croatia, 9; in Russia, 9
Antisodomy laws, 366; Andorra's absence of, 19; Finland's absence of, 149; women's exclusion from, 5. *See also* Sodomy
Archilochos, 207
Are You Being Served?, 445
Aristogeiton, 207
Arran (lord), 447
Artificial insemination, 445; in Austria with adoption, 28–29; in Bulgaria, 69; in Finland, 152–53; in Germany, 196; in Greece, 210; in Hungary, 224; lesbians excluded from, 29; in Slovenia, 380
Ashley, April, 447
Association: in Hungary with speech, 228; in Norway with speech, 314; in Russia, 368–69; in Russia with speech, 368–69
Asylum, 16, 124, 291; in Italy, 260–61; law in Austria, 29; seekers, 36, 284, 306
Austria: adoption and artificial insemination in, 28–29; antidiscrimination legislation in, 27; asylum law in, 29; Catholic Church's influence in, 24, 25; community in, 25–26; divorce in, 25; economics in, 25; education in, 24–25; employment in, 25; as EU member, 23, 27, 116; family in, 25; Gay Pride festivals/parades in, 26; GDP of, 25; Green Party of, 30; health in, 26; HIV/AIDS in, 26; LGBT issues in, 23–34; map of, 23; Nazi influence on, 24, 26; outlook for 21st century in, 30–32; overview, 23–24; parenting in, 28–29; partnership legislation in, 27–28; politics and law in, 26–29; population and ethnic makeup of, 23; religion and spirituality in, 29; social/

- government programs in, 25;
violence in, 29–30
- Azis, 69
- Banac, Ivo, 92
- Baptists, 262
- Bar-4*, 181
- Barebacking, 166, 300
- Bathhouses, 182, 220, 363, 398, 430
- Belarus:** adoption in, 41; antigay culture in, 9; community in, 40–41; divorce in, 39; education in, 37–38; employment and economics in, 38; family in, 39–40; gay clubs in, 41; Gay Pride festivals/parades in, 40; gays in military in, 41; health in, 41–42; HIV/AIDS in, 38–39, 40, 41–42; LGBT issues in, 35–48; map of, 35; military in, 36; outlook for 21st century in, 45–46; overview, 35–37; politics and law in, 42–44; population of, 35; rape in, 42; religion and spirituality in, 45; sexual practices in, 38–39; social and government programs in, 38; social orphans in, 39; societal homophobia in, 37; STDs in, 41–42; violence in, 45
- Belgium:** abortion in, 61; adoption in, 50; closeted teachers in, 50; community in, 55–56; education in, 50–51; employment and economics in, 51–52; as EU member, 116; family in, 53–55; Gay Pride festivals/parades in, 56; GDP of, 51; hate crimes in, 60; health in, 56; HIV/AIDS in, 52, 56–57; languages spoken in, 49; LGBT issues in, 49–64; map of, 49; mental health in, 56–57; outlook for 21st century in, 61; overview, 49–50; politics and law in, 57–59; religion and spirituality in, 59–60; same-sex marriage in, 7, 8, 32; sexual practices in, 52–53; social and government programs in, 52; suicide and youth in, 57; violence in, 60–61
- Bellefleur, Dolly, 298
- BelQueer, 40
- Benavente, Jacinto, 396
- Benkert, Karl Maria. *See* Kertbeny, Károly
- Berlusconi, Silvio, 256
- Bestiality, 5, 323
- BGO Gemini. *See* Bulgarian Gay Organization Gemini
- Big Brother*, 402
- Bilitis Lesbian and Bi-Woman Resource Center, 67, 70
- Bisexuals: in Denmark, 118;
in Italy, 261; in Kyrgyzstan, 271
- Blair, Tony, 440, 449
- Blažič, Mitja, 385, 386
- Blidon, Marianne, 163
- Blood donations, 9, 14, 16, 17
- Bochow, Michael, 198
- Bonaparte, Napoleon, 3, 258, 289, 322, 359, 374
- Bonini-Baraldi, Matteo, 123
- Bortnik, Viachaslau, 35
- Bouraoui, Nina, 165
- Boutin, Christine, 171
- Bowie, David, 193
- Bregula, Korařina, 325
- Brewer, Elena, 282
- Brink, Joe, 292
- Brookside*, 445
- Buddhists, 29, 59, 164, 315
- Bulgaria:** adoption in, 70;
antidiscrimination statutes in, 74–75; artificial insemination in, 69; attitudes toward homosexuals, 66; community in, 70–72; drag queens in, 71; drug use in, 73; education in, 67–68; employment and economics in, 68–69; as EU member, 66, 116; family in, 69–70; Gay clubs in, 71; Gay Pride festivals/parades in, 70–71; GDP of, 66, 68; health in, 72–74; HIV/AIDS in, 73–74; lesbians in, 69; LGBT issues in, 65–78; map of, 65; military in, 76; Orthodox Church's influence in, 75; outlook for 21st century in, 76–77; overview, 65–67; politics and law in, 74–75; population and ethnic makeup of, 65; religion and spirituality in, 75–76; social and government programs in, 69; STDs in, 73; transvestites in, 66; violence in, 76
- Bulgarian Gay Organization Gemini (BGO Gemini), 66–67, 68, 70, 72, 74, 76
- Bullying, 83–84, 150
- Byzantine Empire, 65, 79, 203, 358
- C. and L.M. v. the United Kingdom*, 129
- Cârstocea, Sinziana, 347
- Casey, Eamonn (bishop), 244
- Catechism* (Trubar), 373
- Catherine (the Great) II, 358, 366
- Catholic Church, 59, 79, 198, 290; in Andorra, 18–19, 20; in Austria, 24, 25, 29; in Croatia, 84, 95; in Germany, 9–10; in Ireland, 236–38, 239–40, 243–44; in Italy, 252–54, 264; in Poland, 322, 332–33; in Portugal, 342; in Slovenia, 385–86; in Spain, 395–96, 399–400, 404–5; in Switzerland, 421–22; tax exemption status of, 17. *See also* Religions
- Çavaria, 55
- CCB. *See* Centre Culturel Belge
- Ceausescu, Nicolae, 348
- Centre Culturel Belge (CCB), 55
- Charter of Fundamental Rights and Freedoms, 6
- Chernobyl, 36
- Children: foster, 240; as social orphans, 39; violence against, 40. *See also* Adoption; Family
- China, 4, 123, 269, 310, 399
- Chirac, Jacques, 15
- Christian Orthodox Church, 282
- Christodoulos of Athens (archbishop), 213
- Church of Norway. *See* Protestant Church of Norway
- Čikeš, Lucija, 93
- Civil unions/partnerships, 7. *See also* Marriage
- Clubs. *See* Gay clubs
- Cocteau, Jean, 164
- CoE. *See* Council of Europe
- Colette, 164
- Coming Out*, 193
- Community: in Andorra, 16–17; in Austria, 25–26; in Belarus, 40–41; in Belgium, 55–56; in Bulgaria, 70–72; in Croatia, 87–88; in Czech Republic, 104–5; in Denmark, 115–16; in EU, 138; in Finland, 154; in France, 167–68; in Georgia, 182–84; in Germany, 197; in Greece, 210–12; in Hungary, 224; in Ireland, 241; in Italy, 257–58; in Kyrgyzstan, 272–73; in Moldova, 280; in the Netherlands, 296–99; in Norway, 310–11; in Poland, 329; in Portugal, 340; in Romania, 351–52; in Russia, 363; in Slovenia, 380–81; in Spain, 401–2; in Switzerland, 418–19; in Turkey, 430–31; in United Kingdom, 445–46

- Compass—Education of Human Rights in Working with the Youth* (Council of Europe), 324
- Condoms, 15, 39, 53, 73, 85, 223, 237, 256, 270, 300, 327, 339, 351, 417, 432
- Corbett, Arthur, 447
- Corbett v. Corbett*, 447
- Council of Europe (CoE), 128–30, 324
- Criminalization, 226
- Croatia**, 8; adoption in, 86; antigay culture in, 9; Catholic Church's influence in, 84, 95; civil unions/partnerships in, 7; community in, 87–88; divorce in, 87; education in, 82–84; employment and economics in, 84; family in, 86–87; Gay Pride festivals/parades in, 87, 98; genocide and ethnic cleansing in, 80; health in, 88–90; HIV/AIDS in, 86, 88–89, 92; LGBT issues in, 80–100; map of, 80; military in, 79; overview, 80–82; political history of, 79–80; politics and law in, 90–95; as potential EU member, 81; religion and spirituality in, 95–97; sexual practices in, 85–86; social and government programs in, 84–85; violence in, 97–98
- Cruising*, 445
- Czech Republic**, 8; adoption in, 102; civil unions/partnerships in, 7; community in, 104–5; education in, 102; employment and economics in, 102–3; as EU member, 101, 116; family in, 103–4; foster care in, 104; hate crimes in, 107; health in, 105–6; HIV/AIDS in, 103, 105; LGBT issues in, 101–10; map of, 101; outlook for 21st century in, 107–8; overview, 101–2; parenting in, 104; politics and law in, 106; population and ethnic makeup of, 101; religion and spirituality in, 106–7; sexual practices in, 103; social and government programs in, 103; violence in, 107
- D and Sweden v. Council*, 133, 136
- Dalí, Salvador, 394
- Danero Iglesias, Julien, 277
- Daniel, Suzan, 55
- Daoust, Jean-Paul, 375
- Davy, Zowie, 439
- Deaths: HIV/AIDS, 41, 184, 212; persecution of homosexuals resulting in, 19, 36, 237, 244, 342; by poisoning, 179; schools and shooting, 150; teen pregnancy resulting in, 238; World War I, 359; World War II, 359. *See also* Violence
- Dedovshchina* (rule of the grandfathers), 362
- Delanoé, Bertrand, 164
- Demir, Demet, 432
- Denmark**: adoption in, 114–15; bisexuals in, 118; civil unions/partnerships in, 7; community in, 115–16; education in, 112; employment and economics in, 112–13; as EU member, 111, 116; family in, 114–15; GDP of, 113; health in, 116–17; HIV/AIDS in, 112, 113–14, 116; LGBT issues in, 111–22; map of, 111; marriage in, 117; outlook for 21st century in, 119; overview, 111–12; politics and law in, 117–18; population and ethnic makeup of, 111; religion and spirituality in, 118–19; sexual practices in, 113–14; social and government programs in, 113; sodomy in, 117; STDs in, 114; transsexuals in, 117–18; violence in, 119
- Depression, 56, 242, 273
- Dewaele, Alexis, 49
- Discrimination: blood donations and homosexual, 9, 14, 16, 17; in Finland, 157; HIV/AIDS, 14–15; against LGBT students, 68; in Romania, 353
- Divorce: in Austria, 25; in Belarus, 39; in Croatia, 87
- Dochterman, James, 357
- Dolenc, Anton, 382
- Domestic violence, 214
- Drag queens: in Bulgaria, 71; in the Netherlands, 298
- Drugs: in Bulgaria, 73; in Ireland, 237; sex and, 53
- Dudgeon, Jeffrey, 242, 447
- Duquesnoy, Hieronymus, 57
- Dustan, Guillaume, 165
- Easter Rebellion, 236
- Eastern Orthodox Christians, 29, 65
- EC. *See* European Community
- ECHR. *See* European Convention on Human Rights
- Economics: in Andorra, 14–15; in Austria, 25; in Belarus, 38; in Belgium, 51–52; in Bulgaria, 68–69; in Croatia, 84; in Czech Republic, 102–3; in Denmark, 112–13; in EU, 130–33; in Finland, 150–51; in France, 165–66; in Georgia, 180–81; in Germany, 195; in Greece, 206–7; in Ireland, 239; in Italy, 255–56; in Kyrgyzstan, 271; in Moldova, 279; in the Netherlands, 293; in Norway, 308; in Poland, 324–25; in Portugal, 338–39; in Romania, 350; in Russia, 362; in Slovenia, 377–78; in Spain, 396–97; in Switzerland, 416–17; in Turkey, 429; in United Kingdom, 442–43
- Education: in Andorra, 14; in Austria, 24–25; in Belarus, 37–38; in Belgium, 50–51; in Bulgaria, 67–68; in Croatia, 82–84; in Czech Republic, 102; in Denmark, 112; in EU, 139–40; in Europe, 8; in Finland, 149–50; in France, 164–65; in Georgia, 180; in Germany, 194–95; in Greece, 205–6; in Hungary, 221–22; in Ireland, 238; in Italy, 255; in Kyrgyzstan, 270–71; in Moldova, 278–79; in the Netherlands, 292; in Norway, 307–8; in Poland, 323–24; in Portugal, 338; in Romania, 348–49; in Russia, 361–62; in Slovenia, 376–77; in Spain, 395–96; in Switzerland, 415; in Turkey, 428–29; in United Kingdom, 442
- EEC. *See* European Economic Community
- Ellen*, 376
- Employment: in Andorra, 14–15; in Belarus, 38; in Belgium, 51–52; in Bulgaria, 68–69; in Croatia, 84; in Czech Republic, 102–3; in Denmark, 112–13; in EU, 130–33; in Finland, 150–51; in France, 165–66; in Georgia, 180–81; in Germany, 195; in Greece, 206–7; in Ireland, 239; in Italy, 255–56; in Kyrgyzstan, 271; in Moldova, 279; in the Netherlands, 293; in Norway, 308; in Poland, 324–25; in Portugal, 338–39; in Romania, 350; in Russia, 362; in Slovenia, 377–78; in Spain, 396–97; in Switzerland, 416–17; in Turkey, 429; in United Kingdom, 442–43
- Employment Framework Directive, 4–5

- Enric Vives, Joan, 16, 18
 Ephorus of Kyme, 207
Erastes (lover), 206
Eromenos (beloved), 206
 Ethnic cleansing, 80
 EU. *See* European Union
 Eurogames 2008, 17
 Europe: antidiscrimination statutes and violence in, 6–7; education in, 8; HIV/AIDS in, 9; intersexed people in, 11; introduction, 1–11; marriage and child adoption in, 7–8; outlook for 21st century in, 11; overview, 3–5; overview of LGBT issues in, 5–11; religion and spirituality in, 9–10; sodomy in, 5–6; transgender people in, 10
 European Community (EC), 117; EU and case law of court of justice in, 132–33
 European Convention on Human Rights (ECHR), in EU with CoE, 128–30
 European Court of Human Rights (ECtHR), 27–28, 31
 European Economic Community (EEC), 4
European Union (EU): adoption in, 124; Andorra and lack of membership in, 14; antidiscrimination legislative framework in, 5, 131–32; Austria as member of, 23, 27; Bulgaria as member of, 66; CoE and ECHR in, 128–30; community in, 138; Croatia as potential member of, 81; Czech Republic as member of, 101; Denmark as member of, 111; EC and case law of the court of justice in, 132–33; education in, 139–40; employment and economics in, 130–33; family in, 135–38; formation of, 4; France as member of, 163; free movement in, 130–31; Fundamental Rights Agency, 11; GDP of, 4, 116; Greece as member of, 116, 203; health in, 138–39; HIV/AIDS in, 139; Hungary as member of, 220; institutions in, 125–26; Ireland as member of, 235; judgments in matrimonial matters and parental responsibility in, 136–38; LGBT issues in, 123–45; member countries, 116; outlook for 21st century in, 141; overview, 123–26; policies and programs in, 133; politics and law in, 126–30; population of, 116; Romania as member of, 116, 348; social and government programs in, 133–35; violence in, 140–41
 Evangelicals, 164, 405
 Fabeni, Stefano, 255
 “Faggot,” 52, 263, 294, 394
 Family: in Andorra, 15–16; in Austria, 25; in Belarus, 39–40; in Belgium, 53–55; in Bulgaria, 69–70; in Croatia, 86–87; in Czech Republic, 103–4; in Denmark, 114–15; in EU, 135–38; in Finland, 151–53; in France, 166–67; in Georgia, 182; in Germany, 195–97; in Greece, 209–10; in Hungary, 223–24; in Ireland, 240–41; in Italy, 257; in Kyrgyzstan, 271–72; in the Netherlands, 294–96; in Norway, 309–10; in Poland, 328; in Portugal, 340; in Romania, 351; in Russia, 363; in Slovenia, 379–80; in Spain, 399–400; in Switzerland, 417–18; in Turkey, 430; in United Kingdom, 444–45
 Fassbinder, Rainer, 193
 Fathers, 153
 Federal Nazi Victims Compensation Act, 24
 Fernández, Juli, 16
 Ferrer, Rosa, 15
 Filat, Vasile, 282, 284
 Filloy, Víctor, 17
 Filmmakers, 402
 Films, 193, 211, 237, 375, 381, 445
Finland: absence of antisodomy laws in, 149; adoption and foster care in, 153; adoption in, 149; civil unions/partnerships in, 7; community in, 154; discrimination in, 157; education in, 149–50; employment and economics in, 150–51; as EU member, 116; family in, 151–53; fathers in, 153; GDP of, 150; hate crimes in, 149; health in, 154–55; HIV/AIDS in, 149, 154–55, 159; insemination in, 152–53; languages/dialects spoke in, 148; LGBT issues in, 147–62; map of, 147; marriage in, 156; outlook for 21st century in, 158–59; parenting in, 151–52; politics and law in, 155–57; population of, 147; religion and spirituality in, 157–58; social and government programs in, 151; sodomy in, 155–56; violence in, 158; World War II and, 147–48
 Fisher, Diane (bishop), 354
 Flynn, Declan, 237, 244
 Foster care, 7; in Czech Republic, 104; in Finland, 153; in Norway, 309; in Slovenia, 380
 Foster children, 240
 Foster parents, 28
 Foucault, Michel, 165
 Fourier, Charles, 303
 Foy, Lydia, 243
France, 5; adoption in, 167; civil unions/partnerships in, 7; community in, 167–68; education in, 164–65; employment and economics in, 165–66; as EU member, 116, 163; family in, 166–67; health in, 169; HIV/AIDS in, 166, 168, 169; languages and dialects spoken in, 163; LGBT issues in, 163–76; map of, 163; outlook for 21st century in, 172–73; overview, 163–64; parenting in, 164; politics and law in, 169–71; population of, 163; religion and spirituality in, 171–72; same-sex marriage and 14th century, 7; sexual practices in, 166; social and government programs in, 166; violence in, 172
 Free movement, 130–31
 French National Constituent Assembly, 3
 French Revolution, 5
 Friel, Anna, 445
 Friele, Karen-Christine, 314
 García Lorca, Federico, 394, 396
 Garibaldi, Giuseppe, 251
 Gay civil rights movement, 10
 Gay clubs, 19, 41, 67, 71, 104, 168, 194, 254, 274, 280, 291, 329, 340, 418
 Gay Pride festivals/parades: in Austria, 26; in Belarus, 40; in Belgium, 56; in Bulgaria, 70–71; in Croatia, 87, 98; in Greece, 210, 211; in Hungary, 228–29; in Moldova, 284; in Slovenia, 374, 386; in Switzerland, 418; in Turkey, 431; in UK, 449
 Gay Sports Club Tangra, 67
 GDP. *See* Gross Domestic Product
 “Gender fuck,” 298
 Gender transformation art, 298

- GenderDoc-M, 278–79, 280, 281, 282–83, 284
- Genet, Jean, 164, 394
- Geneva Refugee Convention, 29, 43
- Genocide, 80
- Georgia:** adoption in, 186; community in, 182–84; education in, 180; employment and economics in, 180–81; family in, 182; GDP of, 178; health in, 184–85; HIV/AIDS in, 182, 184; LGBT issues in, 177–89; map of, 177; Orthodox Church's influence in, 186; outlook for 21st century in, 187; overview, 177–80; political history of, 177–78; politics and law in, 185–86; population and ethnic makeup of, 178; religion and spirituality in, 186; sexual practices in, 181–82; social and government programs in, 181; violence in, 186–87
- Germany:** adoption in, 196; artificial insemination in, 196; Catholic Church's influence in, 9–10; civil unions/partnerships in, 7; community in, 197; criminal code of, 3; education in, 194–95; employment and economics in, 195; as EU member, 116; family in, 195–97; GDP of, 194; health in, 197; HIV/AIDS in, 195, 197; homosexuality in East, 193–94; homosexuality in West, 192–93; LGBT issues in, 191–201; map of, 191; outlook for 21st century in, 199; overview, 191–92; politics and law in, 198; population of, 191; religion and spirituality in, 198; sexual practices in, 195; social and governmental programs in, 195; violence in, 198–99
- Gerodetti, Natalia, 413
- Gide, André, 164
- Giertych, Roman, 324
- Giovanardi, Carlo, 256
- Gisberta, 342
- Glasnost* (openness), 359, 363
- Goodbye to Berlin* (Isherwood), 192
- Gorbachev, Mikhail, 359
- Gorky, Maxim, 361
- Government programs: in Austria, 25; in Belarus, 38; in Belgium, 52; in Bulgaria, 69; in Croatia, 84–85; in Czech Republic, 103; in Denmark, 113; in EU, 133–35; in Finland, 151; in France, 166; in Georgia, 181; in Germany, 195; in Greece, 207; in Hungary, 223; in Ireland, 239; in Italy, 256; in Kyrgyzstan, 271; in Moldova, 279; in the Netherlands, 293; in Poland, 325–26; in Portugal, 339; in Romania, 350; in Russia, 362; in Slovenia, 378; in Spain, 397–98; in Switzerland, 417; in Turkey, 429; in United Kingdom, 443–44
- Grant v. South West Trains Ltd.*, 132
- Grđan, Kristijan, 80
- Greece:** adoption and artificial insemination in, 210; community in, 210–12; domestic violence in, 214; education in, 205–6; employment and economics in, 206–7; as EU member, 116, 203; family in, 209–10; Gay Pride festivals/parades in, 210, 211; GDP of, 206; Greek Orthodox Church's influence in, 205, 209, 213, 215; hate crimes in, 215; health in, 212; HIV/AIDS in, 205, 212; LGBT issues in, 203–18; literacy rate in, 205; local communities in, 210–12; map of, 203; media in, 210; military in, 207; no sex education in, 8; outlook for 21st century in, 215; overview, 203–5; politics and law in, 213; population of, 117; religion and spirituality in, 213–14; same-sex couples in, 209–10; sexual practices in, 207–9; social and government programs in, 207; violence in, 214–15
- Greek Orthodox Church, 205, 209, 213, 215
- Green Party, 14, 16, 26, 30
- Grigolo, Michele, 251
- Grillini, Franco, 263
- Grizzly Bear Award, 40
- Gross Domestic Product (GDP): Austria's, 25; Belgium's, 51; Bulgaria's, 66, 68; Denmark's, 113; EU's, 4, 116; Finland's, 150; Georgia's, 178; Germany's, 194; Greece's, 206; Hungary's, 222; Moldova's, 279; Romania's, 350
- Gruden, Vladimir, 82, 96
- Guibert, Hervé, 165
- Haakon (prince), 305
- Habsburgs, 80, 373
- Haider, Jörg, 27, 31
- Harald V (king), 305
- Harmodius, 207
- Hate: feelings of, 6, 325, 405; groups, 70; slogans, 354; speech, 29–30, 180, 338, 375; speech legislation, 338. *See also* Hate crimes
- Hate Crime Survey* (Human Rights First), 140
- Hate crimes, 36, 76, 92, 119, 301, 428, 441; in Belgium, 60; in Czech Republic, 107; in Finland, 149; in Greece, 215; in Italy, 258; laws, 245, 338; in Norway, 313
- Havel, Václav, 101
- HCtHR. *See* European Court of Human Rights
- Health: in Andorra, 17; in Austria, 26; in Belarus, 41–42; in Belgium, 56, 56–57; in Bulgaria, 72–74; in Croatia, 88–90; in Czech Republic, 105–6; in Denmark, 116–17; in East Germany, 197; in EU, 138–39; in Finland, 154–55; in France, 169; in Georgia, 184–85; in Greece, 212; in Hungary, 224–26; in Ireland, 241–42; in Italy, 258; in Kyrgyzstan, 273; in Moldova, 280–81; in the Netherlands, 300; in Norway, 311–12; in Poland, 330; in Portugal, 341; in Russia, 363; Russia's forced medical treatment of lesbians and, 365; in Slovenia, 381–83; in Spain, 402–3; in Switzerland, 419–20; in Turkey, 431–32; in United Kingdom, 446
- Hekma, Gert, 289
- Hellesund, Tone, 305
- Hephaiston, 206
- Hettinger, Hans, 133
- Hinduism, 164, 450
- Hirschfeld, Magnus, 192, 375, 418
- Hitler, Adolf, 192. *See also* Nazis
- HIV/AIDS, 8; in Austria, 26; in Belarus, 38–39, 40, 41–42; in Belgium, 52, 56–57; in Bulgaria, 73–74; in Croatia, 86, 88–89, 92; in Czech Republic, 103, 105; deaths, 41, 184, 212; in Denmark, 112, 113–14, 116; discrimination, 14–15; in EU, 139; in Europe, 9; in Finland, 149, 154–55, 159; in France, 166, 168, 169; in Georgia, 182, 184; in Germany, 195, 197; in Greece, 205, 212; in Hungary, 225; in Ireland,

- 237, 239, 240, 241–42; in Italy, 256; in Kyrgyzstan, 271, 273; in Moldova, 280–81; the Netherlands and, 291, 295, 300; in Poland, 327; in Portugal, 339, 341; in Romania, 350, 352; in Russia and STDs, 361, 362, 364–65; in Slovenia, 378, 381–83; in Spain, 402–3; in Switzerland, 417, 419–20; in Turkey, 431–32; in UK, 441, 446. *See also* Health
- Hocquenghem, Guy, 165
- Holocaust, 192, 214
- Homophile, 306
- Homophobia, in Belarus, 37.
See also Violence
- Homosexual Movies Panorama, 211
- Homosexuality: decriminalization of, 5; in East Germany, 193–94; media's treatment of, 24; as pathology, 3–4, 8; in West Germany, 192–93
- Homosexuals: blood donations and discrimination against, 9, 14, 16, 17; Bulgaria's attitude toward, 66; death by persecution, 19, 36, 237, 244, 342
- Homosexuelle Initiative Wien (HOSI Wien), 25, 26, 27
- Hungary:** adoption in, 224; antidiscrimination statues in, 226–27; artificial insemination in, 224; civil unions/partnerships in, 7; community in, 224; criminalization in, 226; education in, 221–22; as EU member, 116, 220; family in, 223–24; Gay Pride festivals/parades in, 228–29; GDP of, 222; health in, 224–26; HIV/AIDS in, 225; LGBT issues in, 219–33; map of, 219; marriage in, 227–28; outlook for 21st century in, 229; overview, 219–21; politics and law in, 226–28; population of, 219–20; religion and spirituality in, 228; sexual practices in, 223; social and government programs in, 223; speech and association in, 228; transsexuals in, 228; violence in, 228–29
- Ibycos, 207
- Implementing Equality for Lesbians, Gays and Bisexuals*, 239
- Incest, 5, 82, 323, 339, 376
- Insemination. *See* Artificial insemination
- Institutions, 125–26
- Internet: censorship, 44; as main source of information on LGBT life, 40–41
- Intersexed people: in Europe, 11; in Italy, 262; marriage problems with, 7–8
- Ireland,** 447; abortion in, 238; Catholic Church's influence in, 236–38, 239–40, 243–44; community in, 241; drugs in, 237; education in, 238; employment and economics in, 239; as EU member, 116, 235; family in, 240–41; health in, 241–42; HIV/AIDS in, 237, 239, 240, 241–42; LGBT issues in, 235–49; map of, 235; marriage in, 242–43; outlook for 21st century in, 245; overview, 235–38; politics and law in, 242–43; religion and spirituality in, 243–44; sexual practices in, 239–41; social and government programs in, 239; sodomy in, 242; transsexuals in, 243; violence in, 244–45
- Isherwood, Christopher, 192
- Islam, 10, 59, 60, 164
- It is Not the Homosexual Who is Perverted, but the Situation in Which He Lives*, 193
- Italy,** 9; abortion in, 257; adoption in, 258; antidiscrimination legislation in, 258–59; asylum in, 260–61; bisexuals in, 261; Catholic Church's influence in, 252–54, 264; community in, 257–58; education in, 255; employment and economics in, 255–56; as EU member, 116; family in, 257; hate crimes in, 258; health in, 258; HIV/AIDS in, 256; intersexed people in, 262; LGBT issues in, 251–67; map of, 251; outlook for 21st century in, 264; overview, 251–54; politics and law in, 258–62; population of, 251; religion and spirituality in, 262; same-sex relations in, 259–60; sexual practices in, 256–57; social and government programs in, 256; sodomy in, 258; suicide in, 263; transsexuals and transgender people in, 261; violence in, 262–63; World War II and, 251–52
- Ivan (the Great) III, 358
- Ivan (the Terrible) IV, 358
- Ivan X (pope), 79
- Ivanov, Andrei, 284
- Izaguirre, Boris, 402
- Izdebski, Zbigniew, 326
- Jaruga-Nowacka, Izabela, 325
- Jehovah's Witnesses, 321, 342
- Jenny Lives with Eric and Martin*, 237
- Jürgens, Frédéric, 191, 251
- Joseph II (king), 226
- Jouhandeau, Marcel, 164
- Judaism, 29, 59, 164, 171, 450
- Juras, Sanja, 80
- Kaczynski, Jaroslaw, 324
- Kaczynski, Lech, 324, 332
- Kaklamanis, Nikitas, 210
- Kapera, Kazimierz, 325
- Karamanlis, Kostas, 206, 209
- Karner v. Austria*, 27
- Karttunen, Krister, 147
- Kern, Viki, 385
- Kertbeny, Károly, 220, 221
- Kirey, Anna, 269
- Klaus, Hanna (sister), 96
- Klavs, Irena, 378
- Kluzik-Rostkowska, Joanna, 326
- Kohl, Helmut, 193
- Köhn, Rosemarie, 315
- Koloman (king), 80
- König, Ralf, 193
- Koşar, Baki, 434
- Kramberg, Franc, 385
- Kreisky, Bruno, 30
- Kresal, Katarina, 386
- Krickler, Kurt, 23
- Kuchynski, Viktor, 37
- Kuhar, Roman, 373
- Kuzanov, Iva, 184
- Kuzmin, Mikhail, 363
- Kyrgyzstan:** bisexuals in, 271; community in, 272–73; education in, 270–71; employment and economics in, 271; family in, 271–72; health in, 273; HIV/AIDS in, 271, 273; LGBT issues in, 269–75; map of, 269; outlook for 21st century in, 274; overview, 269–70; politics and law in, 273; population and ethnic makeup of, 269; religion and spirituality in, 273–74; sexual practices in, 271; social and government programs in, 271; violence in, 274
- Laïcité*, 59, 60
- The Land of Spices* (O'Brien), 237

- Languages/dialects: Belgium's, 49; Finland's, 148; France's, 163; Moldova's, 278
- Lassen, Ann Kristin, 111
- Latvia, 35, 123
- Laws: in Andorra, 17–18; in Austria, 26–29; in Belarus, 42–44; in Belgium, 57–59; in Croatia, 90–95; in Czech Republic, 106; in Denmark, 117–18; in EU, 126–30; in Finland, 155–57; in France, 169–71; in Georgia, 185–86; in Germany, 198; in Greece, 213; hate speech, 338; in Hungary, 226–28; in Ireland, 242–43; in Italy, 258–62; in Kyrgyzstan, 273; in Moldova, 281–82; in the Netherlands, 300–301; in Norway, 312–14; Nuremberg, 80; outlook for Bulgaria in, 74–75; in Poland, 330–32; in Portugal, 341–42; in Romania, 352–53; in Russia, 366–69; in Slovenia, 383–85; in Spain, 403–4; in Switzerland, 420–21; in Turkey, 432–33; in United Kingdom, 446–49; women excluded from antisodomy, 5
- de Lecuw, Paul, 292
- Lenin, Vladimir Ilyich, 359
- Lesbians: in Bulgaria, 69; excluded from artificial insemination, 29; overlooked health needs of, 9; Russia's forced medical treatment of, 365; violence against, 405
- Lesbos, 207, 211
- Levensrecht* (the right to live), 291
- Lovett, Anne, 238
- The L-Word*, 445
- Lućin, Šime, 92
- Lukashenka, Alyaksandr, 35, 36, 37
- Lupu, Marian, 282
- Lutherans, 157, 198, 321
- Luxembourg, 123, 163, 189; civil unions/partnerships in, 7; as EU member, 19
- Luxuria, Vladimir, 256, 262, 263
- Luzhkov, Yuri, 369
- MacAulay, Colin, 284
- Madame Arthur, 298
- Madden, Ed, 235
- Malta, 19, 123, 213
- Maps: Andorra, 13; Austria, 23; Belarus, 35; Belgium, 49; Bulgaria, 65; Croatia, 80; Czech Republic, 101; Denmark, 111; Finland, 147; France, 163; Georgia, 177; Germany, 191; Greece, 203; Hungary, 219; Ireland, 235; Italy, 251; Kyrgyzstan, 269; Moldova, 277; the Netherlands, 289; Norway, 305; Poland, 321; Portugal, 337; Romania, 347; Russia, 357; Slovenia, 373; Spain, 393; Switzerland, 413; Turkey, 427; United Kingdom, 440
- Maria Theresa (empress), 373
- Marriage: in Denmark, 117; in EU, 136–38; in Europe, 7–8; in Finland, 156; in Hungary, 227–28; in Ireland, 242–43; in Norway, 313–14; problems with transgendered and intersexed people, 7–8; in Russia, 368
- Martí Alanis, Joan, 17
- Maruko, Tadao, 133
- Marx, Karl, 221, 359
- Mások*, 224
- Me Magazine*, 179
- Media: in Greece, 210; treatment of homosexuality, 24
- Medvedev, Dmitry A., 360
- Memra, 76
- Men who have sex with men. *See* MSM
- Mental health, 297; in Belgium, 56–57; Netherlands and, 155. *See also* Depression
- Methodists, 262, 315
- Mette-Marit (princess), 305
- Mieszko I, 3, 321
- Military: in Belarus, 36, 41; in Bulgaria, 76; in Croatia, 79; in Greece, 207; in Norway, 308; in Russia, 362; in Switzerland, 414–15
- Minos (king), 207
- Mitterrand, François, 17
- Mizielinska, Joanna, 321
- Moldova**, 6; adoption in, 279–80; Christian Orthodox Church's influence in, 282; community in, 280; education in, 278–79; employment and economics in, 279; Gay Pride festivals/parades in, 284; GDP of, 279; health in, 280–81; HIV/AIDS in, 280–81; languages and dialects spoken in, 278; LGBT issues in, 277–87; map of, 277; outlook for 21st century in, 285–86; overview, 277–78; politics and law in, 281–82; population of, 277; religion and spirituality in, 282; sexual practices in, 279–80; social and government programs in, 279; violence in, 282–85
- Monsen, Nina Karin, 314
- de Montherlant, Henry, 164
- Morrissens, Elian, 50
- Mouta, Joao, 341
- Mouta v. Portugal*, 341
- Mozetič, Brane, 375
- MSM (Men who have sex with men), 9, 40, 52, 72, 89, 113, 182, 273, 326, 351, 378, 398, 446
- Muslims, 6, 10, 29, 60, 65, 79, 164, 171, 178, 198, 214, 273, 290, 405, 450
- Mussolini, Benito, 251, 252
- My Sister Zahra*, 60
- Nazis, 24, 27, 147–48, 321
- Nedbálková, Kateřina, 101
- Nero, 7
- the Netherlands**: adoption in, 291; community in, 296–99; doing “normal” in, 294; drag queens, transsexuals and transgender people in, 298; education in, 292; employment and economics in, 293; as EU member, 116; family in, 294–96; health in, 300; HIV/AIDS in, 291, 295, 300; LGBT issues in, 289–304; map of, 289; mental health in, 155; outlook for 21st century in, 302–3; overview, 289–92; politics and law in, 300–301; population of, 289; public sex in, 293–94; religion and spirituality in, 301; same-sex marriage in, 7, 8, 32; sexual practices in, 293–94; social and government programs in, 293; spaces in, 297–98; violence in, 302; visibility of gays in public in, 299; young queers in, 299
- das Neves, Cesar, 342
- Nicholas II, 359
- Nicolosi, Joseph, 76
- 9/11. *See* September 11, 2001
- “Normal,” 294
- Norris, David, 237, 242
- Norway**: abortion in, 315; adoption in, 309; antidiscrimination statutes in, 313; community in, 310–11; education in, 307–8; employment and economics in, 308; family in, 309–10; foster care in, 309; hate crimes in, 313; health in, 311–12; LGBT issues in, 305–20; map of, 305; marriage in, 313–14; military in,

- 308; outlook for 21st century in, 315–16; overview, 305–7; politics and law in, 312–14; population of, 305; prostitution in, 308–9; Protestant Church of Norway's influence in, 306, 307; religion and spirituality in, 314–15; same-sex marriage in, 7, 8; sexual practices in, 308–9; speech and association in, 314; suicide by youths in, 150; transsexuals in, 314; violence in, 315
- Nuremberg Laws, 80
- O'Brien, Kate, 237
- October Revolution, 359
- OECD. *See* Organization for Economic Cooperation and Development
- Olea, Paloma, 16
- Oliveira, Nuno Miguel, 19
- de Oliveira Salazar, António, 337
- Organization for Economic Cooperation and Development (OECD), 14
- Organizations, for LGBTs. *See* Community
- Ormod (lord), 447
- Orthodox Church, 45, 59, 157; in Bulgaria, 75; in Georgia, 186; in Romania, 353–54. *See also* Religions
- Orzechowski, Mirosław, 8, 324
- Ottoman Empire, 65, 203, 277
- Outlawed*, 45
- Özen, Emrehan, 427
- Paidierastia* (homosexual love), 206, 207
- Paisley, Ian, 447
- Papandreou, George Andreas, 209
- Paradis, Evelyne, 123
- Parajanov, Sergei, 179
- Parental responsibility, 39, 135–38
- Parenting, 53; in Austria, 28–29; in Czech Republic, 104; in Finland, 151–52; foster, 28; in France, 164
- A Parent's Guide to Preventing Homosexuality* (Nicolosi), 76
- Partnership legislation, 27–28. *See also* Laws
- Paternotte, David, 49
- Patroclus, 206
- Pavelič, Ante, 80
- Pederasty, 7, 428
- Pedophilia, 8, 41, 53, 75, 102, 206, 299, 323
- Penal codes: of 1810, 3, 5; age of consent and, 252, 388. *See also* Laws
- Perestroika* (restructuring), 359, 363
- Pérez, Nicolás, 16
- Pestalozzi, Johann, 414
- Peter (the Great) I, 358, 366
- Phidias, 207
- Pichardo Galán, José Ignacio, 393
- Pilar Riba, Maria, 17
- Pindar, 207
- Pink Pound, 441
- Pink Saturday, 298
- Pink Triangle concentration camp survivor, 24, 388, 431
- Pintat, Albert, 15, 17, 18
- Pisankaneva, Monika, 65
- Poland**, 8; abortion in, 324; adoption in, 328; Catholic Church's influence in, 322, 332–33; community in, 329; education in, 323–24; employment and economics in, 324–25; as EU member, 116; family in, 328; health in, 330; HIV/AIDS in, 327, 330; LGBT issues in, 321–36; map of, 321; outlook for 21st century in, 334; overview, 321–23; politics and law in, 330–32; religion and spirituality in, 332–33; sexual practices in, 326–28; social and government programs in, 325–26; sociopolitical forces and history of, 3–4; violence in, 333–34
- Poláškova, Eva, 101
- Police brutality, 284, 354
- Policies, in EU, 133
- Politics: in Andorra, 17–18; in Austria, 26–29; in Belarus, 42–44; in Belgium, 57–59; in Croatia, 90–95; in Czech Republic, 106; in Denmark, 117–18; in EU, 126–30; in Finland, 155–57; in France, 169–71; in Georgia, 185–86; in Germany, 198; in Greece, 213; in Hungary, 226–28; in Ireland, 242–43; in Italy, 258–62; in Kyrgyzstan, 273; in Moldova, 281–82; in the Netherlands, 300–301; in Norway, 312–14; outlook for Bulgaria in, 74–75; in Poland, 330–32; in Portugal, 341–42; in Romania, 352–53; in Russia, 366–69; in Slovenia, 383–85; in Spain, 403–4; in Switzerland, 420–21; in Turkey, 432–33; in United Kingdom, 446–49. *See* Laws
- Pons, Marc, 16
- Population: Andorra's, 13; Austria's, 23; Belarus's, 35; Bulgaria's, 65; Czech Republic's, 101; Denmark's, 111; EU's, 116; Finland's, 147; France's, 163; Georgia's, 178; Germany's, 191; Greece's, 117; Hungary's, 219–20; Italy's, 251; Kyrgyzstan's, 269; Moldova's, 277; the Netherlands', 289; Norway's, 305; Portugal's, 337; Romania's, 347; Russia's, 357; Slovenia's, 373; Spain's, 393; Switzerland's, 413; Turkey's, 427; UK's, 439
- Portugal**: abortion in, 336; adoption in, 341; Catholic Church's influence in, 342; civil unions/partnerships in, 7; community in, 340; education in, 338; employment and economics in, 338–39; as EU member, 116; family in, 340; health in, 341; HIV/AIDS in, 339, 341; LGBT issues in, 337–46; map of, 337; outlook for 21st century in, 343; overview, 337–38; politics and law in, 341–42; population of, 337; religion and spirituality in, 342; social and government programs in, 339; violence in, 342–43
- Poveda, Toni, 396
- Pregnancy, 311; teen, 238, 292, 341
- Prodi, Romano, 254
- Programs, in EU, 133
- Prostitution: male-to-male, 27; in Norway, 308–9; in Slovenia, 379
- Protestant Church of Norway, 306, 307
- Protestants, 4, 29, 45, 59, 106, 148, 164, 194, 246, 289, 290, 306, 373, 414
- Proust, Marcel, 164
- Psychopatia Sexualis* (von Krafft-Ebing), 221
- Putin, Vladimir, 360
- Queer*, 105
- Queer as Folk*, 376, 445
- Queer Bulgaria Foundation, 67
- Queers, 375; festival of, 375; homophobia and fear of, 37; the Netherlands and young, 294, 299; violence and, 244

- Rape, 60, 86, 263, 342; in Belarus, 42; male-on-male, 367
- Ratzinger, Joseph (pope), 196
- Rebić, Niko, 92
- Religions: in Andorra, 18–19; in Austria, 29; in Belarus, 45; in Belgium, 59–60; in Croatia, 95–97; in Czech Republic, 106–7; in Denmark, 118–19; in Europe, 9–10; in Finland, 157–58; in France, 171–72; in Georgia, 186; in Germany, 198; in Greece, 213–14; in Hungary, 228; in Ireland, 243–44; in Italy, 262; in Kyrgyzstan, 273–74; in Moldova, 282; in the Netherlands, 301; in Norway, 314–15; in Poland, 332–33; in Portugal, 342; in Romania, 353–54; in Slovenia, 385–86; in Spain, 404–5; in Switzerland, 421–22; in Turkey, 433; in United Kingdom, 450.
See also specific religions
- Rembrandt, 289
- Report of the Departmental Committee on Homosexual Offences and Prostitution*, 446
- Reproductive Medicine Act of 1992, 29
- Revenin, Régis, 163
- Ribas, Óscar, 14
- RISK*, 363
- Robinson, Mary, 237
- Rocha, Anabela, 342
- Rode, Franc (archbishop), 386
- Rojas, Belén, 16
- Romania**: adoption in, 351; community in, 351–52; discrimination in, 353; education in, 348–49; employment and economics in, 350; as EU member, 116, 348; family in, 351; GDP of, 350; HIV/AIDS in, 350, 352; LGBT issues in, 347–56; map of, 347; as most homophobic country in Europe, 5, 348; Orthodox Church's influence in, 353–54; outlook for 21st century in, 355; overview, 347–48; politics and law in, 352–53; population and ethnic makeup of, 347; religion and spirituality in, 353–54; sexual practices in, 350–51; social and government programs in, 350; transsexuals in, 353; violence in, 354
- Romanov, Michael (tsar), 358
- Romeva, Raül, 14
- Roth report, 6
- Rousseau, Jean-Jacques, 414
- Rowallan (baron), 447
- Russia**, 3, 6; abortion in, 362; adoption in, 363; antidiscrimination statutes in, 362, 367; antigay culture in, 9; community in, 363; education in, 361–62; employment and economics in, 362; family in, 363; forced medical treatment of lesbians in, 365; health in, 363; HIV/AIDS and STDs in, 361, 362, 364–65; LGBT issues in, 357–72; map of, 357; marriage in, 368; military in, 362; outlook for 21st century in, 369–70; overview, 357–61; political history of, 358–60; politics and law in, 366–69; population of, 357; sexual practices in, 362; social and government programs in, 362; speech and association in, 368–69; violence in, 369
- Saavedra, Jerónimo, 404
- Sabelashvili, Paata, 176
- Saint Mark's Square, 94–95
- Same-sex marriage: Belgium and, 7, 8, 32; historical acceptance of, 7; legal contracts in 14th century France and, 7; the Netherlands and, 7, 8, 32; Norway and, 7, 8; political support for, 19–20; Spain and, 7, 8, 32. *See also Marriage*
- Same-sex relations: in Greece, 209–10; in Italy, 259–60
- Samper Marbà, Joel, 13
- Sánchez Silva (lieutenant colonel), 397
- Santos, Ana Cristina, 337
- Sappho, 207
- Sarkozy, Nicolas, 172
- Schools: bullying in, 83–84, 150; shooting deaths in, 150; violence in, 149–50. *See also Textbooks*
- Schorer, Jacob Anton, 291
- Schröder, Gerhard, 194
- Schüssel, Wolfgang, 31
- September 11, 2001, 4, 95
- Severinets, Pavel, 37
- Sex: crimes, 75; drugs and, 53; in Netherlands and public, 293–94
- Sex education. *See Education*
- Sex reassignment surgery, 18, 42
- Sexual practices: in Andorra, 15; in Belarus, 38–39; in Belgium, 52–53; in Croatia, 85–86; in Czech Republic, 103; in Denmark, 113–14; in France, 166; in Georgia, 181–82; in Germany, 195; in Greece, 207–9; in Hungary, 223; in Ireland, 239–41; in Italy, 256–57; in Kyrgyzstan, 271; in Moldova, 279–80; in the Netherlands, 293–94; in Norway, 308–9; in Poland, 326–28; in Romania, 350–51; in Russia, 362; in Slovenia, 378–79; in Spain, 398–99; in Switzerland, 417; in Turkey, 430; in United Kingdom, 444
- Sexuality. *See Sexual practices*
- Sexually Transmitted Diseases (STDs): in Belarus, 41–42; in Bulgaria, 73; in Denmark, 114; in Russia and HIV/AIDS, 361, 364–65
- Shakespeare, William, 291
- Shudo, 7
- Sielatycki, Miroslaw, 324
- Sikhs, 450
- Silence of the Lambs*, 445
- de Simone, Titti, 263
- Šinkovec, Janez, 383
- Slovakia, 116
- Slovenia**: abortion in, 385; adoption in, 380; artificial insemination in, 380; Catholic Church's influence in, 385–86; civil unions/partnerships in, 7; community in, 380–81; education in, 376–77; employment and economics in, 377–78; as EU member, 116; family in, 379–80; foster care in, 380; Gay Pride festivals/parades in, 374, 386; health in, 381–83; HIV/AIDS in, 378, 381–83; LGBT issues in, 373–91; map of, 373; outlook for 21st century in, 387; overview, 373–76; politics and law in, 383–85; population of, 373; prostitution in, 379; religion and spirituality in, 385–86; sexual practices in, 378–79; social and government programs in, 378; suicide rate in, 386; violence in, 386–87
- Social orphans, 39
- Social programs. *See Government programs*
- Sodomy, 269; decriminalization of, 3; in Denmark, 117; in Europe, 5–6; in Finland, 155–56; in Ireland, 242; in Italy, 258; laws against, 19
- Som Com Som (We Are Like We Are), 16, 17

- Sophocles, 207
Sotiria (becoming whole), 213
 Soviet Union, 3–4, 8
 Spaces, 297–98
Spain: adoption in, 399; Catholic Church's influence in, 395–96, 399–400, 404–5; community in, 401–2; education in, 395–96; employment and economics in, 396–97; as EU member, 116; family in, 399–400; health in, 402–3; HIV/AIDS in, 402–3; LGBT issues in, 393–411; map of, 393; outlook for 21st century in, 406; overview, 393–95; politics and law in, 403–4; population of, 393; religion and spirituality in, 404–5; same-sex marriage in, 7, 8, 32; sexual practices in, 398–99; social and government programs in, 397–98; violence in, 405
 Speech: hate, 29–30, 180, 338, 375; in Hungary with association, 228; legislation for hate, 338; in Norway with association, 314; in Russia with association, 368–69
 Spirituality: in Andorra, 18–19; in Austria, 29; in Belarus, 45; in Belgium, 59–60; in Bulgaria, 75–76; in Croatia, 95–97; in Czech Republic, 106–7; in Denmark, 118–19; in Europe, 9–10; in Finland, 157–58; in France, 171–72; in Georgia, 186; in Germany, 198; in Greece, 213–14; in Hungary, 228; in Ireland, 243–44; in Italy, 262; in Kyrgyzstan, 273–74; in Moldova, 282; in the Netherlands, 301; in Norway, 314–15; in Poland, 332–33; in Portugal, 342; in Romania, 353–54; in Slovenia, 385–86; in Spain, 404–5; in Switzerland, 421–22; in Turkey, 433; in United Kingdom, 450
 Stable Union of Couples Act, 15
 Stalin, Joseph, 179, 359, 361, 366
 STDs. *See* Sexually Transmitted Diseases
 Stonewall Riots of 1969, 10, 237, 418, 447
 Students: antigay messages fostered against, 8; discrimination against, 68
 Suicide, 225, 239, 296, 328, 414; Belgium's youth and, 57; in Italy, 263; Norway's youth and, 150; prevention, 51; in Slovenia, 386
Sutherland v. the United Kingdom, 31
 Sweden: civil unions/partnerships in, 7; as EU member, 116
Switzerland: adoption in, 420; Catholic Church in, 421–22; civil unions/partnerships in, 7; community in, 418–19; education in, 415; employment and economics in, 416–17; family in, 417–18; Gay Pride festivals/parades in, 418; health in, 419–20; HIV/AIDS in, 417, 419–20; LGBT issues in, 413–25; map of, 413; military in, 414–15; outlook for 21st century in, 422; overview, 413–15; politics and law in, 420–21; population of, 413; religion and spirituality in, 421–22; sexual practices in, 417; social and government programs in, 417; violence in, 422
Taboo, 40
 Takács, Judit, 219
 Tell, William, 413
Tema, 363
 Terrorist attacks, 4
 Textbooks: gender stereotypes in, 82; omission of LGBT people/concerns in, 67, 307–8
 Thatcher, Margaret, 448
 Theban Sacred Band, 207
Thirty-three Monsters (Zinov'eva-Annibal), 363
Thunderball, 445
Tipping the Velvet, 445
 Tito, Josip Broz, 80
 Tito, Marshal, 375
 Tomislav (duke), 79
 Torture, 36, 285, 342
 Transgender people: in Europe, 10; in Italy, 261; marriage problems with, 7–8; in the Netherlands, 298
 Transsexuals, 402, 404; in Denmark, 117–18; in Hungary, 228; in Ireland, 243; in Italy, 261; in the Netherlands, 298; in Norway, 314; in Romania, 353; sex reassignment surgery for, 44
 Transvestites, 10, 66, 116, 211, 431
 Trasovares, Manuela, 404
 Trubar, Primož, 373
 Tuđman, Franjo, 80–81
Turkey: community in, 430–31; education in, 428–29; employment and economics in, 429; family in, 430; Gay Pride festivals/parades in, 431; health in, 431–32; HIV/AIDS in, 431–32; LGBT issues in, 427–37; map of, 427; outlook for 21st century in, 434; overview, 427–28; politics and law in, 432–33; population of, 427; religion and spirituality in, 433; sexual practices in, 430; social and government programs in, 429; violence in, 433–34
 21st century: Andorra's outlook for, 19–20; Austria's outlook for, 30–32; Belarus' outlook for, 45–46; Belgium's outlook for, 61, 61; Bulgaria's outlook for, 76–77; Czech Republic's outlook for, 107–8; Denmark's outlook for, 119; Europe's outlook for, 11; EU's outlook for, 141; Finland's outlook for, 158–59; France's outlook for, 172–73; Georgia's outlook for, 187; Germany's outlook for, 199; Greece's outlook on, 215; Hungary's outlook for, 229; Ireland's outlook in, 245; Italy's outlook for, 264; Kyrgyzstan's outlook for, 274; Moldova's outlook for, 285–86; the Netherlands' outlook for, 302–3; Norway's outlook for, 315–16; Poland's outlook for, 334; Portugal's outlook for, 343; Romania's outlook for, 355; Russia's outlook for, 369–70; Slovenia's outlook for, 387; Spain's outlook for, 406; Switzerland's outlook for, 422; Turkey's outlook for, 434; United Kingdom's outlook for, 451
 UK. *See* United Kingdom
 Ulrichs, Karl Heinrich, 220
 UN. *See* United Nations
United Kingdom (UK): adoption in, 443; civil unions/partnerships in, 7; community in, 445–46; education in, 442; employment and economics in, 442–43; family in, 444–45; Gay Pride festivals/parades in, 449; health in, 446; HIV/AIDS in, 441, 446; LGBT issues in, 439–52; map of, 440; outlook for 21st century in, 451; overview, 439–42; politics and law in, 446–49; population of, 439; religion and spirituality in, 450; sexual practices in, 444;

- social and government programs
in, 443–44; violence in, 450
United Nations (UN), 14, 38
- van Duin, André, 292
Vanneste, Christian, 170
Vatican, 18–19, 253, 257. *See also*
Catholic Church
Vázquez, Jesús, 398, 402
Vendola, Nichi, 253–54
Vermeer, 289
Violence: in Andorra, 19; in
Austria, 29–30; in Belarus, 45; in
Belgium, 60–61; against children,
40; in Croatia, 97–98; in Czech
Republic, 107; in Denmark, 119;
domestic, 214; in EU, 140–41; in
Europe, 6–7; in Finland, 158; in
France, 172; in Georgia, 186–87;
in Germany, 198–99; in Greece,
214–15; in Hungary, 228–29;
in Ireland, 244–45; in Italy,
262–63; in Kyrgyzstan, 274;
against lesbians, 405; in Moldova,
282–85; in the Netherlands,
302; in Norway, 315; in Poland,
333–34; police brutality and,
284, 354; in Portugal, 342–43;
in Romania, 354; in Russia,
369; in schools, 149–50; in
Slovenia, 386–87; in Spain, 405;
in Switzerland, 422; in Turkey,
433–34; in United Kingdom, 450
Višeslav (duke), 79
Vitamine O, 211
Vjesniki, 87
Volunteers without Borders, 40
von Bismarck, Otto, 194
von Krafft-Ebing, Richard,
221
von Praunheim, Rosa, 193
von Sinnen, Hella, 193
Vstrecha (Meeting) magazine, 40
Waldensian Church, 262
WHO. *See* World Health
Organization
Will, Anne, 198
Will and Grace, 376
Wings (Kuzmin), 363
Witchcraft, 5
Wittig, Monique, 165
*W.J. and D.P. v. the United
Kingdom*, 129
Wolfenden, John, 446
Women, antisodomy laws and
exclusion of, 5
*World Economic Situation and
Prospects 2006* (UN), 38
World Health Organization (WHO),
17
World War I, 3, 4, 66, 80, 277, 359
World War II, 4, 24, 55, 66, 101,
147–48, 192, 251–52, 277,
321, 359
Wowercit, Klaus, 198
X, Y, Z v. the United Kingdom, 128
Yeltsin, Boris, 360, 367
Zapatero, Rodríguez, 403
Zaremba, Aleksandr, 363
Zerolo, Pedro, 404
Zhirinovskiy, Vladimir, 369
Zhuk, Olga, 368
Zhvania, Zurab, 179, 180
Zinov'eva-Annibal, Lidiia, 363

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THE GREENWOOD ENCYCLOPEDIA OF
LGBT Issues
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THE GREENWOOD ENCYCLOPEDIA OF
LGBT Issues
WORLDWIDE

VOLUME 3

Edited by
Chuck Stewart

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CONTENTS

<i>Set Preface</i>	xi
<i>Acknowledgments</i>	xiii
<i>Advisory Board</i>	xv
<i>Editor and Contributors</i>	xvii

VOLUME 1

The Americas and the Caribbean

Introduction	3
Belize	13
Bolivia	25
Brazil	37
Canada	49
Chile	73
Colombia	89
Ecuador	107
El Salvador	115
Guatemala	125
Haiti	135
Honduras	141

Jamaica	151
Mexico	199
Nicaragua	213
Panama	241
Paraguay	249
Trinidad and Tobago	257
United States	263
Uruguay	289
Venezuela	299

Asia and Oceania

Introduction	307
Australia	317
Bangladesh	333
Cambodia	347
China	355
Hong Kong	375
India	391
Indonesia	403
Japan	419
Malaysia	439
Mongolia	447
New Zealand	459
Singapore	475
Taiwan	487
Thailand	505

Vietnam	523
Volume Index	537

VOLUME 2*Europe*

Introduction	3
Andorra	13
Austria	23
Belarus	35
Belgium	49
Bulgaria	65
Croatia	79
Czech Republic	101
Denmark	111
European Union	123
Finland	147
France	163
Georgia	177
Germany	191
Greece	203
Hungary	219
Ireland	235
Italy	251
Kyrgyzstan	269
Moldova	277
The Netherlands	289

Norway	305
Poland	321
Portugal	337
Romania	347
Russia	357
Slovenia	373
Spain	393
Switzerland	413
Turkey	427
United Kingdom	439
Volume Index	453

VOLUME 3*Africa and the Middle East*

Introduction	1
AFRICA	
Botswana	11
Cameroon	23
Egypt	29
Ethiopia	41
Ghana	47
Kenya	55
Liberia	69
Morocco	75
Namibia	87
Nigeria	97

South Africa	113
Tanzania	123
Tunisia	129
Uganda	135
Zimbabwe	147
THE MIDDLE EAST	
Iran	163
Lebanon	175
Saudi Arabia	193
<i>Volume Index</i>	225
<i>Selected Bibliography</i>	233
<i>Set Index</i>	241

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SET PREFACE

The Greenwood Encyclopedia of LGBT Issues Worldwide is a multivolume set presenting comprehensive, authoritative, and current data related to the cultural, social, personal, and political experiences of lesbian, gay, bisexual, and transgendered (LGBT) people. The set encompasses more than 80 countries with each volume covering major populated world regions: Africa and the Middle East, Asia and Oceania, the Americas and the Caribbean, and Europe. Volumes are organized regionally and then alphabetically by country (including Hong Kong and the European Union, the latter because of its importance to European laws) with chapters that reflect LGBT geopolitical and historical context and follow a broad outline of topics—Overview of the country, Overview of LGBT Issues, Education, Employment and Economics, Social/Government Programs, Sexuality/Sexual Practices, Family, Community, Health, Politics and Law, Religion and Spirituality, Violence, and Outlook for the 21st Century. Under these topics, contributors explore a range of contemporary issues including sodomy, antidiscrimination legislation (in employment, child adoption, housing, immigration), marriage and domestic partnerships, speech and association, transsexualism, intersexualism, AIDS, safe-sex educational efforts, and more. As such, the set provides an unparalleled global perspective on LGBT issues and helps facilitate cross-national comparisons.

The term *LGBT* was chosen for this encyclopedia as a shorthand, yet inclusive, notation for the class of people who experience marginalization and discrimination perpetrated by heterosexual norms. In the late 19th century, the word *heterosexual* was invented to denote abnormal sexual behaviors between persons of the opposite sex. Ten years later, the word *homosexual* was invented for the same purpose of medicalizing same-sex behaviors and psychology. Many people found it offensive to categorize their lifestyle as pathology. They also thought that the emphasis on sex restrictive in describing their experiences and, instead, created and used the term *homophile* or *Uranian*. By the mid-20th century, the word *gay* came into common usage. As the gay political movement took roots in the 1950s and 1960s, it became apparent that, in the eyes of the public, gay women were invisible. In response to that phenomenon, many gay organizations changed their names to include women, as in—“lesbian and gay” or “gay and lesbian.” Still, bisexuals, the transgendered (which includes transsexuals, transvestites, and intersexed people), and those questioning their sexual orientation believed that “lesbian and gay” was not inclusive enough to describe their experiences and challenged the status quo.

By the 1980s and 1990s, more gay organizations modified their names to include their moniker. However, a backlash occurred with many groups because the names became un-wielding. At the same time, radical street organizations, such as Queer Nation and ACT UP, appropriated the epithet *queer* and embraced its shocking value. This is a common practice by people who are marginalized and discriminated against to defuse the power of hateful words. Further, academia appropriated the word *queer* since it was a concise term denoting all persons outside heteronormative power structures. Still, many community organizations resisted the attempts to include *queer* in their names but rather stuck to some version of lesbian, gay, bisexual, and transgendered (LGBT). In the chapters, readers will encounter many variations of *LGBT*. Sometimes this will be written as “gay community,” “lesbian and gay,” LGBT, queer, or other terminology. The word usage reveals much about the community’s level of understanding concerning LGBT issues.

Contributors were chosen based on their expertise in LGBT issues and knowledge of their country. Every effort was made to find contributors who live, or have lived, in the country in question. This was important, as gay people are often a hidden minority not easily quantified. Some contributors are from countries where gay people are routinely rounded up and killed. Contributors from these countries have taken great personal risk to participate in this encyclopedia and we commend their courage. Each contributor provides an authoritative resource guide that strives to include helpful suggested readings, Web sites, organizations, and film/video sources. The chapters and resources are designed for students, academics, and engaged citizens to study contemporary LGBT issues in depth for specific countries and from a global perspective.

CHUCK STEWART

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This project took more than two years to complete. Locating experts on LGBT issues, especially for the smaller countries or in countries where it is dangerous to be gay, was a monumental task. In working with the contributors, I was struck by their dedication to making the world safe for all people. They are much more than just writers; they are people interested in changing the world to make it a better place. They understood that the first step toward reducing heterosexism and homophobia is to educate the public on LGBT culture and issues. To that end, they were eager to participate—even if they faced language difficulties or possible persecution from their governments. I commend each writer for the courage to be part of the solution toward overcoming sexual orientation bias. I hope this encyclopedia will further their vision.

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INTRODUCTION

AFRICA AND THE MIDDLE EAST

Most African and Middle Eastern countries are extremely dangerous for lesbian, gay, bisexual, and transgendered people. On a daily basis, LGBT people face discrimination and violence because of their sexual orientation. South Africa is the shining exception to this state of affairs. South Africa is the only nation in the world where equality based on sexual orientation is written into its constitution. Still, long-standing antigay cultural norms affect the personal experiences of LGBT people in South Africa through subtle discrimination at home, work, and in the community at large.

Africa and the Middle East have endured invasions for thousands of years by different cultural, ethnic, and religious groups. Along the Mediterranean Sea, the earliest societies including the Sumerians, Babylonians, and Egyptians continually fought one another before being conquered by the Greeks, Romans, the Ottoman Empire, Christian Crusaders, and European colonialists. Each wave of conquerors brought their own set of beliefs and attitudes. Often times, the cultural beliefs of the indigenous people were obliterated, Balkanized, or mingled with the cultural beliefs of conquering armies. Thus, attitudes toward homosexual behavior or homosexual relationships in a particular geographical area changed with time and due to outside influences.

This process of changing cultural norms is still ongoing. A particular country may be somewhat gay friendly, and then change with the next election or war. Namibia is a modern example where, in just two generations, the country went from generally accepting homosexuality to banning homosexual behaviors with stiff jail sentences and fathers engaging in honor killings of their homosexual sons.

Lebanon is a prime example of a country with a complex history in regard to accepting diversity in sexual orientation. While under the 400-year control of the Ottoman Empire, Lebanon was not particularly antihomosexual. Yet once the Anglo-French forces took control in 1918, their legal system made homosexuality illegal. Civil war shook Lebanon to its foundation in the 1930s and the following period saw an influx of Palestinian and Iraqi refugees that in turn made governing ever more difficult. The small Jewish community also vanished after the Lebanese-Israeli War of 1978. The 1990s brought relative peace to Lebanon and changes in attitudes toward homosexuality. The Internet provided a forum for lesbian and gay people to organize with the first Yahoo Group for gay Arabs founded in Lebanon

in the late 1990s. By 2006, *Out Travel* magazine rated Lebanon the “Arab world’s most gay-friendly city.” However, this does not mean that Lebanon became a paradise for the LGBT community. Rather, gay rights have never been brought up by Lebanese politicians or political parties, same-sex couples have no political rights, sex toys are considered pornographic and illegal, interfaith marriages are prohibited, passports and other legal identification papers must list religious affiliation, and all religious groups in Lebanon view homosexuality as an abomination and encourage LGBT people to seek medical treatment. Therefore, a discussion of a country’s attitudes toward LGBT people must be considered through its long history of cultural clashes and forces.

In the context of LGBT issues, it is impossible to present one common view of Africa as a whole, or of the Middle East. The countries bordering the Mediterranean Sea have experienced vastly different histories and cultural impacts than central or southern Africa. Morocco, Algeria, Tunisia, Libya, Egypt, Israel, Lebanon, Syria, Iraq, and Jordan were exposed to thousands of years of European militaries and the impacts of international commerce. Conquest and the flow of goods and ideas have marked the Mediterranean experience. Religious ideas swept from one country to the next, only to be replaced by different religions originating from far away places. Most of the Arab states eventually became Islamic. Israel was founded as a Jewish state. Christianity has also had an influence in the region through the projection of force by the United States and European countries. The proximity of three competing religious systems has created great political tension in the region.

For central and southern Africa, belief systems changed very slowly until the European colonization period of the 15th and 16th centuries. Although Christianity and later Islam migrated into Africa along the commerce routes of the Red Sea, it was the Europeans who brought Christianity to most of Africa through enforced indoctrination and the enslavement of indigenous people. Today, many of the countries in central and southern Africa have a mixture of indigenous, Christian, and Islamic religions. Typically the indigenous religions were not antihomosexual. It was the colonization by European Christians and the imposition of their legal systems that codified antihomosexual statutes.

The question as to whether indigenous African cultures were heterosexist and homophobic, or if they were accepting of gay people, has become an important issue for many burgeoning LGBT organizations in Africa. A number of African presidents have publicly stated their negative opinions about homosexuality. For example, President Robert Mugabe of Zimbabwe claimed that homosexuality was unnatural and a phenomenon alien to Africa; that it was imported from the imperialist West, that homosexuals were lower than dogs and pigs, and encouraged arresting and imprisoning them. However, history shows that antigay beliefs are, themselves, an import and that indigenous Africans were mostly indifferent to homosexuality. President Mugabe and other African leaders often claim to be redefining Africa for Africans in response to centuries of colonialization. Yet, they are imposing beliefs—mostly Christian and Islamic—that are themselves imported from conquering forces.

SEXUAL AND RELATIONSHIP ARRANGEMENTS

The terms *gay*, *lesbian*, *bisexual*, *transgender*, and *homosexual* are 20th-century Western concepts. They do not apply to most of the cultures in Africa and the

Middle East. The best way to describe the difference is that *sexuality* is something that is done in Arab and African cultures, whereas *sexuality* has become an identity in Western cultures.

In Africa and the Middle East, cultural forces structure the traditional family as a marriage between a man and a woman who will then produce children. It is not uncommon for multiple generations of the same family to live together in the same household. When a son marries, he often brings his bride to live with him and his parents. The traditional family structure is reinforced through religious teachings and political forces. Within this structure, it is accepted that the man has outside sexual relationships. The wife is restricted to the home, and must remain faithful to the husband and act as a caregiver to the children.

For LGBT persons, there are few avenues for personal fulfillment. Most LGBT persons will marry and produce children, keeping outside same-sex relationships secret. Of course, being in the closet takes its toll psychologically and strains the family. Being open about same-sex attraction in African or Arab countries is dangerous. Iran and Egypt have reported an increase in cases of fathers killing their homosexual sons as a form of honor killings. Similarly, lesbians face a difficult task when coming out. As sex roles relegate women to the household, few have the skills appropriate for outside employment. Sex roles have given men higher-paying jobs than what are available to women. Further, if a woman is discovered to be a lesbian, she will face overt job discrimination and experience constant sexual advances from male strangers and male co-workers. If a woman comes out as a lesbian to her family, she may be forced to marry, raped to try and change her sexual orientation, and/or forced to leave the family. With job prospects slim, she often has to resort to prostitution to support herself. Prostitution is dangerous in Islamic countries since it is punishable by death through stoning.

Humans have always engaged in same-sex sexual behaviors. Only recently have these behaviors become a source of identity. Gender and sexual politics of 20th century Western countries have evolved to include homosexual identities including gay, lesbian, bisexual, and transgendered identities. For most Arabs, and people living in Africa and the Middle East, these identities do not exist. For example, many men have sex with other men, but as long as this occurs occasionally, is not a primary relationship, and the man performs in the active position, the man does not identify as homosexual. This is so prevalent that sex researchers have created a category of men-who-have-sex-with-men (MSM). Engaging in the *active* (also known as *top*) position keeps the man in his proscribed sexual role, that being as the dominant sexual figure over the woman, who is expected to be passive (also known as *bottom*). Men in these cultures are confused by other men who take on the passive role. In their mind, why would any man give up the privileges afforded being a man to take on the woman's role? Sexual roles involve significant power differentials with men expected to remain dominant over women.

Sex roles are so ingrained from early childhood training and cultural forces that when LGBT persons try to form same-sex relationships, there is often significant miscommunication. Not only are same-sex couples faced with ostracism and overt discrimination in African countries and the Middle East, they are also not prepared to communicate effectively with their partners. Sex-roles distort how people communicate. Most men from these cultures do not know how to be involved with other men in romantic sexual relationships. Women face the same forces and often times have difficulty forming same-sex relationships.

OVERVIEW OF LGBT ISSUES

Sodomy

Sodomy is defined differently within different legal systems. Typically, antisodomy statutes vaguely define sodomy as sex that is “unnatural,” “perverted,” or “against God.” Since these terms are not defined, they are interpreted through cultural norms. For Christian- and Islamic-dominated countries, these terms have typically been applied to mean homosexual. In other legal systems, specific sexual behaviors between specific categories of people may be used to define sodomy. For example, it may state that anal sex between persons of the same sex is classified as sodomy. Sometimes it also includes the age and consent of the persons involved.

Sodomy statutes are important to LGBT rights because they deem homosexual behavior illegal and, by extension, homosexuality illegal. As seen in many of the African and Middle East countries, sodomy statutes make it virtually impossible for LGBT persons to organize, educate, or promote civil rights. Organizing is an important first step toward obtaining safety. Further, because of sodomy statutes, countries such as Iran, Botswana, Cameroon, Ghana, Ethiopia, Namibia, Nigeria, and Zimbabwe are extremely dangerous for LGBT people. In these countries, the simple act of asking for equal rights is forbidden. Many LGBT people are arrested each year and some are executed.

Most of the countries in Africa and the Middle East have sodomy statutes in place, but other cultural forces mitigate the severity of enforcement. Countries such as Egypt, Kenya, Tanzania, Uganda, and Morocco have sodomy statutes but they are rarely enforced. Diversity in religion and histories of tolerance have reduced the impact of their sodomy statutes such that they are rarely enforced and, if enforced, they are primarily used to make a political statement. For example, Egypt has been very tolerant of same-sex sexual behaviors for centuries. Sodomy statutes were not implemented until occupation by the British. Even still, they were rarely enforced. However, in 2001, 52 men were arrested at The Queen Boat Disco and charged with debauchery (since homosexuality is technically not illegal in Egypt). Twenty-three of the men were sentenced to between one and five years in prison. This has begun a period of harassing and arresting of gay men in Egypt. Some political analysts believe this change was prompted by attempts by the government to divert attention away from economic scandals.

Antidiscrimination Statutes and Violence

No countries in Africa or the Middle East have enacted antidiscrimination statutes based on sexual orientation, with the exception of South Africa. This is understandable since the first step in organizing for equal rights in regard to the LGBT community is to overturn sodomy statutes—which most countries have not achieved.

South Africa is the exception. It was controlled by a white minority descended from European colonists until 1994. A system of apartheid was used to segregate blacks from whites, giving whites control over the economy, law, and politics. It was a brutal system that segregated and killed untold numbers of black citizens in defense of white privilege. After decades of international sanctions and internal civil disobedience, apartheid and the controlling white government were overthrown. A new constitution was written that gave constitutional protection for many classes

of citizens. Years of oppression made the populace sensitive to the need to take a strong stance against all forms of discrimination. As such, the constitution included sexual orientation as a protected class.

As sexual orientation was included in South Africa's constitution, there would appear to be no need for additional legislation to ensure the rights of LGBT people. The reality has proven to be very different. Cultural norms among the mostly Christian population have not been very accepting of LGBT rights. LGBT groups have organized and been responsible for bringing forth issues of inequality in housing, employment, and marriage to the attention of the media, government, and the general population. Slowly, LGBT people are securing equal rights in South Africa.

Marriage and Child Adoption

There are no countries in Africa or the Middle East that sanction same-sex marriages. South Africa has a civil union statute, but that is being challenged by LGBT organizations. They claim that a civil union is not the same as marriage and the constitution requires equality based on sexual orientation. Although Israel does not conduct same-sex marriages, it does recognize same-sex marriages performed in other countries. The city of Tel Aviv recognizes unmarried couples, including same-sex couples for purposes of family law. Similarly, only South Africa and Israel allow homosexuals or same-sex couples to adopt children.

Education

With the exception of South Africa, no country in Africa or the Middle East provides education on LGBT issues. Not only are most of the countries in Africa and the Middle East antigay, but they are classified as third-world economies. The lack of money directly affects the educational opportunities available to children and young adults. Most school systems are struggling and there is no thought of allocating precious resources to sexual issues; particularly to ones that are considered immoral and illegal.

South African LGBT organizations have been successful at implementing educational programs on LGBT issues. Although the constitution includes sexual orientation as a protected class, centuries of antigay religious teachings must be overcome. The Bill of Rights requires South African schools to not discriminate against LGBT students and staff. For larger school systems, this policy has been well implemented. For poorer school systems, this has not been the case and there continues to be reports of harassment and violence toward LGBT students. Colleges and universities have been, and continue to be, at the forefront of liberalism and advocates for full equality for LGBT students, faculty, and staff.

AIDS

AIDS has ravaged much of Africa. Tens of millions have died and tens of millions are currently infected. Entire towns and villages have been decimated and there is a crisis in the swelling number of orphans of parents who have died from AIDS. Considering that many of the countries in Africa are classified as third-world economies, there is a lack of health resources to combat the epidemic. AIDS medications are out of reach for many Africans due to cost factors. Likewise, condoms are too expensive for people who live on less than \$100 a year.

The two major ways AIDS is transmitted is through the sharing of hypodermic needles between infected drug users, and through the exchange of bodily fluids during sex. Educating the public about the causes of AIDS is problematic throughout much of Africa and the Middle East. Users of illegal drugs are stigmatized and marginalized in these countries. Allocating resources for needle-exchange or educational programs is the lowest priority for most health agencies, and the general public tends to dismiss the health needs of drug users. Further, discussion of sex and sexually related issues are restricted in religious fundamentalist societies. Creating safer-sex educational programs is virtually impossible in Islamic countries. A few Islamic countries, like Egypt, have created AIDS educational programs but refuse to include information about same-sex sexual behaviors or the use of condoms.

Prisons are one location where AIDS spreads rapidly. Although it is recognized that the use of condoms would reduce the spread of AIDS, most African countries refuse to provide condoms to prisoners. As the Chief Prison Officer for Zimbabwe clarified, homosexuality is considered to be an offence and providing condoms would be tantamount to legalizing homosexual acts in prison. Instead, he suggested the money be used to find ways to stop inmates from engaging in those illicit behaviors.

Religion

There are four major religious influences on Africa and the Middle East. These include indigenous religions, Christianity, Islam, and Judaism. Indigenous religions have absorbed many of the beliefs of Islam, Christianity, and Judaism, but still reflect a purer form of original local religions.

Currently, a great chasm has formed in the Anglican Church over the issue of homosexuality. Bishops from the Anglican Church in Nigeria and Kenya have spearheaded an attempt to split the more conservative African churches from the main church. They complain that homosexuality is *un-African* and that the Bible does not condone the ordination of gay priests. This came to a head when the American branch of the Anglican Church ordained openly gay bishop, Gene Robinson, in 2003. Splitting the African churches away from the main body of the Anglican Church is problematic since the African churches receive almost three-quarters of their funding from the United States and Europe.

Transgender

Being transgendered is dangerous in Islamic Africa and the Middle East. For women who live as or become men, being discovered almost always leads to violence and perhaps death. Women are relegated to second-class status under the dominion of men. In many Islamic countries, women are not allowed outside the household without being accompanied by a male relative; they are also not allowed to work or drive cars. For a woman to dress and act as a man is considered a violation of religious codes and an act of usurping male power. A transgendered woman trying to pass as a man is inconceivable in the minds of most Africans and may result in violent subjugation.

For men who live as or become women, they too face violence and perhaps death if they are discovered. A man dressed as a woman would be considered to have defiled his manhood and violated religious codes. In any Islamic country, a

man discovered in this condition would face immediate imprisonment and perhaps death.

Surprisingly, Iran, which is a fundamentalist Islamic country, views transgenderism differently. Instead of seeing it as a violation of religious codes, they consider transgenderism as a mental disorder that can be corrected through medical surgery and intervention. The state provides thousands of dollars to those desiring transsexual medical procedures. Tens of thousands of Iranians have had gender reassignment surgery and Iran ranks second to Thailand with respect to the number of gender reassignment surgeries conducted. This push to correct transgenderism has encouraged many homosexuals to obtain gender reassignment surgery. They view this option as the only outlet for their homosexuality, which would otherwise be condemned.

Even in those few African and Middle Eastern countries that are not as violent against transgendered people, daily discrimination in employment and housing make it difficult to live. Many male-to-female transgendered women have no choice but to engage in prostitution, an occupation that, in itself, is very dangerous.

Intersexed

None of the countries of Africa or the Middle East even acknowledge the existence of intersexed people.

OUTLOOK FOR THE 21ST CENTURY

The outlook for gay rights in Africa and the Middle East for the 21st century is complex. Israel has made great progress in recognizing same-sex couples, fully integrating gays in the military, allowing adoption rights for homosexuals, and hosting an annual gay pride parade and festival. Still, there is terrible religious backlash to these advances. It is expected that gay marriage will eventually be approved alongside the sodomy statutes being removed.

South Africa will likely continue building and enforcing the constitutional guarantee of equal rights for LGBT people. Greater educational programs will help modify and mediate antigay religious sentiments. There should be a general improvement in the acceptance of LGBT people in South African society at all levels.

North African countries are continually exposed to commerce from Europe and elsewhere. The flow of materials and ideas should lead to greater acceptance of sexual diversity. However, much of this process will be influenced by the continued struggle in the Middle East between Arab states and both Israel and the United States. If political tensions increase, then the Northern African states may become more conservative and less accepting of sexual diversity.

There are many factors that will influence the acceptance of LGBT people in Central Africa and southern Africa. Political turmoil, wars, commerce, and religious conflicts impact these countries with conflicting beliefs and goals concerning homosexuality and gay rights. The Anglican Church may even split over the issue of homosexuality. AIDS is also having a major impact on the acceptance of the LGBT community. It is changing the dynamics of the cultures and forcing educational systems to speak about sexual issues, including homosexual conduct and homosexual identity. As seen in Zimbabwe and Uganda, a country can change from being accepting or indifferent about homosexuality at one time, to becoming extremely antigay due to a coupe or change in government.

The Internet is also playing a major role in the acceptance of homosexuality and the organizing of gay-rights groups. The Internet facilitates the dissemination of information and allows gay-rights groups to organize in even the most repressive country. Although poverty in Africa and the Middle East prevents many people from having access to the Internet, the Internet is still playing an important role in liberalizing these societies. This process is expected to continue and grow.

As of 2009, world economies have entered into a recessionary period. This is creating tremendous strain on many governments and local economies. It has been observed by anthropologists that when a culture comes under stressors such as economic depression, war, famine, and disease, they typically become more politically conservative and human rights generally suffer as a result. The impact of this recession on Africa and the Middle East could be severe for LGBT people. Some believe civil war may break out in some of the oil-producing states. In these conditions, LGBT people may be treated as scapegoats and persecuted mercilessly. Gender and sexual roles will be harshly enforced, thereby marginalizing LGBT people.

AFRICA

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BOTSWANA

Nancy Nteere

OVERVIEW

Botswana is located in the southern part of Africa; it shares borders with Namibia to both the north and west, South Africa to the east and south, Zimbabwe to the northeast, and Zambia to the north. Botswana is landlocked. The various regions of Botswana experience different weather patterns depending on their proximity to the Kalahari Desert. The desert dominates the western and southern parts of Botswana, and the southwest is greatly affected by desert-like weather conditions. The Kalahari Desert occupies 77 percent of Botswana's landmass, leaving the country with limited natural resources such as agricultural land, fresh water, and rain.¹ Rain is scarce in Botswana, and sometimes there is none for close to one year; this may have influenced the naming of the country's currency, the *Pula*, which means "rain" in Setswana, the national language. The Kalahari is mainly inhabited by the San-bushmen and wildlife.

The eastern areas of Botswana have enough rainfall and suitable weather conditions to sustain farming. Due to the fertile land and suitable weather conditions, an estimated 75 percent of Botswana's population lives in the eastern areas of the country, and 25 percent live in small settlements in the western part of the country. Of the total population, 20 percent live in the four urban areas of Gaborone, Francistown, Lobatse, and Selebi-Phikwe.²

Botswana occupies an area of 224,607 square miles (581,730 sq km), with a population of 1.8 million.³ The life expectancy for women



is 40 years, and 39 years for men. The fertility rate is 3.6 children per woman.⁴ Two languages are predominantly spoken in Botswana. English is the official language, and Setswana is the national language. The country has never carried out an ethnic census, but the ethnic distribution is estimated as follows: Tswana comprise 79 percent of the population, Kalanga 11 percent, Basarwa 3 percent, and the remaining 7 percent consist of other groups, including Kgalagadi and the white minority.⁵ The population is dominated by the Tswana; however, the earliest inhabitants were the San, followed by the Tswana. Each ethnic group has its own language, some have different dialects, and some have different customs and traditions. *Botswana* means the “place of Tswana,” and the citizens are referred to as *Batswana*, or “the Tswana people.”

A British protectorate was established in Botswana in 1885 by the financier and statesman Cecil Rhodes. The British had intended to establish their protectorate in South Africa but lost it to the British South Africa Company. Three Tswana kings influenced the transition as they opted to be ruled by the British instead of British South Africa, and as a result the British administration awarded more powers to the Tswana kings, hence the evident dominance of Tswana laws and customs in the 20th century. Known earlier as British Bechuanaland, Botswana followed South Africa’s political, economic, and military methods. However, the new protectorate in South Africa had little infrastructure to support the new office, so they opted for the country to be governed from Mafeking, an area adjacent to the Bechuanaland Crown Colony. This colony was later integrated by South Africa in 1910. Botswana gained independence in 1966 after South Africa ended its practice of fully incorporating the colony due to the commencing of apartheid in 1948.⁶

Since independence, Botswana has been a multi-party democracy; it is Africa’s oldest democratic nation. The Botswana Democratic Party (BDP) has managed to win freely and fairly all of the eight presidential elections since gaining independence. This has been influenced by the division and ultimate weakness of the opposition party. On March 31, 2008, President Festus Mogae stepped down before his second term was over, allowing Vice President Seretse Ian Khama to run as an incumbent in the 2009 general elections.

OVERVIEW OF LGBT ISSUES

Homosexuality is illegal in Botswana and is punishable as a criminal offense with up to seven years in prison. Although it is criminalized, prosecution rarely occurs. Similar to most African countries, gay and lesbians are ostracized and deemed to be deviants in society. This has been evident in press conferences and dialogs that have attempted to address LGBT issues, but end up condemning the acts. Although the larger population votes for inclusion of the population in all social programs, it has become impossible for gay organizations to be included in programs, as it would be impossible for them to have an office and therefore benefit fully from the government programs which are in place.

There is a high rate of HIV/AIDS infection in the country; by the end of 2005, 270,000 adults and children were living with HIV, with a recorded 18,000 AIDS deaths in the same year.⁷

In comparison with other past and present presidents in Africa, former president Festus Mogae, through the *Botswana Human Development Report 2000*, urged

Batswana to be considerate of people who were infected with HIV, whether they were prisoners or homosexuals; he did not make derogatory statements against homosexuality.

President Seretse Khama Ian Khama has made derogatory remarks in regard to the LGBT community in Botswana and the human rights organizations who support them.

Human rights organizations, especially the Botswana Network on Ethics, Law, and HIV/AIDS (BONELA) have been at the forefront of securing rights for the LGBT community. LEGABIBO, which stands for the lesbians, gays, and bisexuals of Botswana, is the only organization that fronts for LGBT rights in Botswana, in funding and organizing conferences, preparing reports to change government policy, and representing court cases which deal with LGBT concerns since 2004.

EDUCATION

Education is paramount to society in Botswana. Among the male youth between the ages of 15 and 24, the literacy level is 92 percent, and for females it is 96 percent. Overall, Botswana has an estimated 94 percent literacy rate (2006). Although there is a high enrollment rate during the first nine years of schooling, there has been a noticeable drop in the number of female students in higher education institutions. More male students graduate from universities and other tertiary institutions. The government of Botswana is keen on the education system, and this is evident in the high turnout in primary school enrollment. The formal education system caters to preschool, part of the primary schools which is estimated to have an enrollment of above 90 percent.⁸

The government does not have a policy for sex education in the school curricula; however, in one of the chapters of *Reproductive Health in the National Population Policy*, the authors write freely on sexuality. In the schools, students learn about sexuality from guidance and counseling teachers, and in subjects such as family life education or science. The curriculum is designed in a way to offer more detailed information to the students in higher classes, such as in secondary as opposed to primary levels. Therefore, in order for young adults to get access to information on LGBT issues, they would have to find it in the mass media or through locally available print media.

EMPLOYMENT AND ECONOMICS

Botswana depends chiefly on the European Union for trade, and also on the Southern Africa Customs Union (SACU), of which Botswana is a member. (The other member countries are South Africa, Namibia, Swaziland, and Lesotho.) The gross domestic product of Botswana is estimated to be \$11.2 billion (2006 estimate), the GDP growth is estimated at 4.7 percent (2006 estimate), while the inflation rate in 2006 stood at 11.5 percent.⁹

Botswana is rich in metals and animal rearing. Their major industries are copper, nickel, tourism, and diamonds. Apart from beef, which they export to other countries, they rely heavily on imports of basic consumer goods and food, mainly from South Africa. Botswana is the largest producer of diamonds in the world; diamonds provide close to between 70-80 percent of the country's export income,¹⁰ and total 30 percent of the county's GDP.¹¹

In the 1970s and 1980s, the three largest diamond mines in the world were opened in Botswana. Consequently, in the last three decades Botswana's economy has risen steadily. Despite facing a budget deficit in 1999 due to a decline in the international diamond market, the economy has risen steadily, and this may be attributed to the fact that, among other African countries, Botswana is ranked as the least corrupt. In 2006, according to Transparency International, Botswana was ranked 25th among the least corrupt countries in the world.

The unemployment rate in Botswana was estimated to be 40 percent in 2001.¹² The employment acts in Botswana dictate that it is illegal for women to be employed as underground miners or soldiers in the army.

Unemployment cuts across both the rural and urban centers, and the LGBT community is no exception. There have not been any reported cases of discrimination at the workplaces due to sexual orientation, but this can be associated with the fact that most are still in the closet.

SOCIAL/GOVERNMENT PROGRAMS

Various programs have been initiated by the government in regard to human rights; however, women still remain marginalized by society and are not able to participate fully in arenas of development. Nongovernmental organizations (NGOs) have recently begun working alongside the government to implement environmental, job skills, and agricultural projects.

However, with limited funding, they are not able to reach all the minorities and women they target. The NGOs have set up policies and acted as umbrella bodies for the LGBT organizations in order to address their issues and concerns in front of the government.

The *Batswana* believe in community-based programs. They frequently join associations which assist them economically and financially, such as associations which offer rotating credit. The members operate as a team, and on a specified month they fundraise for one member, give the member the finances they have raised, and the routine is repeated until all the members obtain credit.

In recent years, due to the high rate of HIV/AIDS infections, international donors have distributed both financial and in-kind resources to curb the spread of HIV. However, funding to LEGABIBO has been stifled, despite their having programs which would assist in fighting the epidemic.

LEGABIBO is not registered as an NGO and is regarded as an illegal organization by the government. Due to the lack of legal documents, the government officials who are homophobic ensure that LEGABIBO does not participate in any government programs or events. However, they work under the umbrella of BONELA, and although they have programs for youth empowerment, they are restricted to work only in areas which deal with HIV/AIDS in order to merge their programs with BONELA's.

SEXUALITY/SEXUAL PRACTICES

As in most African countries, children rarely discuss sexuality with their parents. They opt to talk about sex with their peers or the older generations. This can be

attributed to the fact that there is limited information concerning sexuality, or to the view that sexuality is a secretive topic and upholds a level of morality and should not be talked about between children and parents.

Homosexuality is taboo in Botswana. As in all African countries there have been statements describing homosexuality as un-African and a Western phenomenon that is not welcome in the community. LEGABIBO has fought a losing battle by trying to register their organization in order to benefit from those government programs which would help its members, but they have often been met with resistance. The stigma and discrimination is evident in meetings that normally are organized to address homosexuals' concerns. The openly gay community is still in its early stages and has faced several setbacks, including marginalization and homophobic statements made by presidents and influential leaders in the neighboring countries of Zimbabwe and Namibia.¹³

The main obstacles for the LGBT movement are the lack of committed activists who would volunteer for lobbying at a higher level, such as in the government or in churches. Also, the LGBT community consists of mainly young people who are not firmly committed to the cause and still comprise only a small community.

A smaller community consists of transgender people and transvestites. Apart from the few rumors that there are groups of transvestites who meet in bars in the towns, there has been no evidence of any transgender person outing himself.

LEGABIBO occasionally holds meetings in the capital city of Gaborone, but with much precaution, as the members who attend the meeting fear being seen in the conference or meeting rooms by family members or friends, which could result in ostracism or physical violence. While they cannot be arrested for holding meetings, as the law does not prohibit that, they are very careful about talking to others about their sexual orientation. They also pay a local newspaper to run a weekly column that addresses issues on sexuality.

Apart from the high rate of HIV/AIDS, there is a notably high rate of teenage pregnancies in Botswana. One in every three girls drop out of school due to unwanted pregnancies; this indicates a high number of teens who have sex without protection, which also puts them at risk of contracting HIV/AIDS. In most African countries, sex is chiefly dominated by men, whereby the men dictate the position, safety, and frequency of sexual intercourse. Women have little input on the various aspects of sex. In fact, research has shown that women relate sex to procreation rather than enjoyment or pleasure.

There are also few recreation facilities in Botswana, which has been held accountable for the rapid spread of HIV, as the unemployment rate is quite high and the laws which restrict the sale of alcohol to minors is lenient. Young people are liable to engage in risky sexual behavior as a result of overindulgence in alcohol and a lack of resources to direct their energy.

Although the government is fighting to minimize the prevalence of HIV, there has been slow progress in changing behaviors, especially prostitution and the growing number of young women who engage in risky sexual relationships with older men for economic benefits. There has also been an increase in the number of prostitutes who target long-distance drivers. The government has, however, begun distributing HIV information and conducting HIV spot checks in hospitals, a process which is more effective than the widely known voluntary counseling and testing conducted on all the citizens in the country.¹⁴

FAMILY

Family structures are very important in both rural and urban Botswana. There are laws that have been set for families to maintain high morality and standards. There is no law to protect a woman against domestic violence or spousal rape. However, a rapist is stipulated by the law to receive 10 years imprisonment, depending on his HIV status, 15 years with corporal punishment if the offender has infected his victim, and 20 years with corporal punishment if he knew earlier about his HIV status.

The size of the family of an urban *Batswana* homestead varies from two to four children, while in the rural settings it ranges from four to seven children. The *Batswana* have a traditional way of life and are strict with moral ethics; they are very friendly and welcoming to visitors as well. Almost half of the households in Botswana are headed by women, as there has been a steady increase in single motherhood and cohabitation homesteads.

The most preferred family planning method in Botswana among the rural women is postpartum abstinence and breastfeeding, but their urban counterparts choose various modern methods such as condoms, pills, intrauterine devices, or female sterilization. Condom use and sexual knowledge among urban adolescents and teenagers has been reported to be 100 percent, but there are a few obstacles to purchasing condoms due to embarrassment and stigma associated with sexuality. Abortion is illegal in Botswana, but some women who are wealthy go to South Africa to undergo the procedure. There have been cases reported of illegal abortions with dire consequences.

Rural-to-urban migration has led to erosion in family values, as young people leave their rural homes and are exposed to a more cosmopolitan way of life. There has been a steady rise in the visibility of gays and lesbians in the existing population as a result. Yet this increase is not only attributed to the migration to urban areas, but also to campaign strategies which have been enacted by LEGABIBO.

Each culture in Botswana has gender-specific initiation rites to prepare adolescents for marriage. The initiation rites may include circumcision, seclusion, teachings on tribal laws and customs, and counseling. These rites are prerequisites for entering into marriage. In order for a marriage to be regarded as legitimate, there must be an exchange of dowry from the man to the woman he intends to marry. Marriages are negotiated by family members, who set the bride-price to be paid. This is an age-old tradition and bears significance in both the urban and rural settings. The marriage ceremonies vary from civil ceremonies, customary marriage, or church weddings.

Due to the exchange of money, valuables, or cattle during the dowry negotiations, the woman ultimately loses her power of negotiation in the marriage, and therefore some of her rights are undermined, such as consensual sex in marriage. There have been reported cases of abuse in marriages as the man regards his wife as his property, as though he bought her.

Through the government and the Botswana police force, women who are abused by their husbands are sent to shelters that are funded by the government. In the shelters, the women are counseled and go through the laws that can protect them and their children.

It is illegal in Botswana to divorce for any reason before two years are over, and therefore most couples are forced to stay in abusive marriages.

COMMUNITY

African countries depend significantly on the closeness of a community to its people in the equal distribution of resources and opportunities. The *Batswana* maintain a close-knit family unit irrespective of where they work. They move from rural to urban areas frequently to maintain their ties. Some men opt to support two women; they might have a wife in the rural home and live with a girlfriend in the urban area, a common practice in most sub-Saharan African countries, which aggravates the spread of HIV. In Botswana, women hold insignificant roles in leadership, and the men hold key ministerial positions. Women are regarded as the homemakers, and men as the decision-makers in the community. This is evident in the fact that there are very few women in parliament or government ministries. Due to the closeness of family it is regarded as an abomination for a family member to declare he does not want to start a family, and therefore the gay community operates in secrecy, away from close family members who might react strongly to their choice of partner.

Cattle hold a very high significance in a *Batswana* homestead. Cattle play a big role culturally, socially, and economically. Bride price constitutes a number of cattle in the rural settings, but due to urbanization, as in most African customs, the bride price tradition is slowly fading away as more women choose to stay single. The number of cattle owned by a man can determine his prestige in a community. Despite rural-to-urban migration, most men prefer to maintain a village house in their community of origin and expect to be buried in their home villages.

Chiefs and headmen hold a lot of authority in certain tribes. If there is strife between two people in the tribe, the case is brought before the traditional court and a ruling is passed by the chief with the assistance of his advisors, councils, and hierarchical leaders. The cases that are handled by the chiefs are mainly minor cases such as theft, indecent exposure, or use of insulting language in the community. Most of the punishments passed are mainly applicable to male adolescents and adults.

The successor of the chief is always his first son. Marriage laws changed from being monogamous to polygamous. A man was allowed to substitute his wife for her sister in case his wife was barren or deceased, and a widow was inherited by her husband's brother. Due to the shift of the marriage structures, inheritance of the chiefship became a political battle.

Another hurdle came during the mid-20th century with the emergence of Christianity. The powers of the chiefs are slowly being dissolved, as most tribes have stopped believing in rituals and supernatural powers and instead seek religious interventions. The powers of the chiefs were further diluted when the first president, Sir Seretse Khama, in the pursuit to creating a unified nation, included the chiefs in democratic institutions in order to reduce the *Batswana's* identity as tribal and instead portray a more national allegiance.

However, some chiefs still have powers in certain tribes and oversee intertribal, civil, and domestic cases. They also serve in the National House of Chiefs, which acts as a consultation body to the parliament.

HEALTH

Government and NGOs have sidelined sustainable projects in order to help curb the spread of HIV/AIDS. Although still disputed, in 2006 it was estimated that over 30 percent of the population was infected with HIV. As of 2006,

70 to 85 percent of HIV-infected *Batswana* were on antiretroviral therapy. An estimated 256,000 of HIV-infected *Batswana* are between the ages of 15 and 19 years old.¹⁵

Currently, Botswana has one of the highest HIV rates in the world, but it is one of the only countries in Africa which has progressive programs, information, and knowledge of dealing with the disease. The government has been at the frontline of trying to fight the spread of HIV and sponsors close to 80 percent of HIV/AIDS-related programs.¹⁶

HIV/AIDS was declared a national emergency by the Ministry of Health in Botswana. The HIV rate has risen subsequently due to cultural practices and poverty.

Due to the fact that homosexuality is illegal in Botswana, the homosexual community has no access to safe-sex education and condoms. Consequently, prison inmates are not given condoms, as they are supposedly not allowed to have relationships or intercourse with one another. However, cases of homosexuality in prison have been reported. An HIV-positive prisoner is granted access to antiretroviral drugs as long as he is a citizen.

POLITICS AND LAW

Botswana has incorporated two legal systems that work simultaneously: the cultural laws which originated from the customs and traditions of different ethnic communities, and the general law that was set during the colonial period by the Romans and the Dutch. Botswana is one of the few countries that still upholds the death penalty. Since independence, 38 people have been executed.

The general law in Botswana clearly stipulates that homosexuality is a criminal offense. According to Chapter 8.01, Sections 164 to 167 of the legal code, homosexuality is an “unnatural tendency” and is punishable with up to seven years imprisonment.¹⁷ In 1998, the penal code went a step further by including lesbian relations as a criminal offense punishable with seven years in prison. The criminalization of sexual acts between women was regarded as a way of gender-mainstreaming and minimizing gender-discriminatory terms from Botswana’s legislation.

The inclusion of the clause regarding sex between women came about after a case was brought forward in 1995 in which two men were suspected of being involved in a gay relationship. Their case was heard in 2003 before the high court, and the judgment was issued at the court of appeal. The judgment stipulated that the penal code they had been charged under had not in any way violated the constitution. The court case, however, brought new views on the inclusion of women in the legal code.

As a result of the legal code, there is no recognition of same-sex couples. Consequently, reliable organizations have formed which can offer protection to an individual or a couple. In 2004, a task force was appointed by the government of Botswana, aimed at urging citizens to enjoy safety, security, freedom of expression, and tolerance. The result of these efforts was Vision 2016, a national manifesto for the country. However, due to the stigma and discrimination faced by the LGBT community in terms of registration, gay-friendly organizations cannot openly defend their rights using the manifesto.

In December 1994, two men were arrested on the grounds of engaging in “unnatural acts” and “indecent practices.” Through the intervention of DITSH-WANELO, The Botswana Centre for Human Rights, the case received fair representation in court. The two men, one a Botswana citizen and the other a Briton,

were both sentenced in the high court, with the Briton being deported back to his country and the *Batswana* facing the high court with the charges.

According to a local newspaper, in 1997, a customary court in Mahalapye ruled in a case between two prison inmates. According to the case, the two were married while in prison and one of the partners was unfaithful, so the other partner attacked him. The Mahalapye customary court chose to ignore the issue of spousal abuse and instead considered the legalities of engaging in homosexual acts. One of the prisoners received four lashes and an additional four months on his custodial term, and the other received an additional one and a half years on his term.¹⁸

RELIGION AND SPIRITUALITY

Religion is paramount in *Batswana* culture; Christianity and indigenous religions have a vast following. Indigenous churches have integrated Christianity and traditional beliefs and have coined their own Christian dogma. Some of the indigenous churches practice certain traditions that are deemed illegal by law, such as polygamy. The indigenous churches are popular in rural Botswana. Eighty-five percent of the population follows indigenous religions, while Christians are a minority at 15 percent.

The Evangelical Fellowship of Botswana, a coalition of evangelical churches, launched a petition among its congregation to reject any pleas from the LGBT community for support. The fellowship clearly stated that homosexuality was a foreign ideology that was slowly causing a moral decay in their society, and therefore should not be condoned.

There has, however, been a recent change brought about by the Anglican leader Walter Makhulu, Archbishop of Central and Southern Africa. When asked about his views on gays and lesbians, he retorted by citing that the *Batswana* appreciated development and community enhancement from groups of people without questioning their sexual orientation, so it should not be a concern that the LGBT community will bring more harm than good. In reference to the Bible and its stand against homosexuality, he urged people to realize that the Bible was contextual, written in a different era.

In another exchange of words between the Bishop of Harare, Nolbert Kunonga, and Bishop Trevor Mwamba of the Church of the Province of Central Africa, Kunonga accused Bishop Mwamba of being pro-gay and a homosexual. These sentiments evoked mixed reactions between the two bishops, as the main tussle was between rifts that had been created by the dioceses. Church leaders in Botswana who are seen as pro-gay may be excommunicated from church activities according to the church laws.

The Anglican Church of Botswana joined their counterparts in 2004 in denouncing the consecration of Reverend Gene Robinson as a bishop. In that same year, Bishop Robinson went on to become the first openly gay bishop in the diocese of New Hampshire in the United States.

VIOLENCE

There is no law in Botswana's legal system that condemns sexual harassment. Rather, institutions have taken it upon themselves to come up with clauses that address these issues. One such institution is the University of Botswana.

Domestic violence-related death is one of the concerns of the Botswana legal system. Defilement, rape, and incest are ranked highest in reported crimes; this can be attributed to the fact that women are still regarded as inferior to men, and some customs and cultures still inspire detrimental practices in relationships. There have been reported cases of passion killings in which men kill their wives or girlfriends out of jealousy.

Certain influential leaders have made statements to the public condemning homosexuality and insisting that the LGBT community has ignored their culture and religion, and should seek counseling to help them lead normal lives. Although the LGBT community is gaining visibility in both rural and urban areas, the LGBT community faces threats of physical violence, blackmail, verbal abuse, and denial of health care due to discrimination and stigmatization, mainly from friends, family, or society.

There have been reported cases of verbal attacks and discrimination based on gender identity. Although the cases sometimes go unmentioned in the media, the offenders are rarely prosecuted as there is no law which recognizes discrimination based on sexual orientation or gender identity. If an incident receives media coverage, the story is usually biased and condemns the act of homosexuality, focusing less on the individual or perpetrator of the crime and more on the deviance of homosexuality.

OUTLOOK FOR THE 21ST CENTURY

There have been debates on whether to legalize homosexuality in Botswana. One of the debates led to the inclusion of same-sex relations between women in the penal code. The Botswana government has been at the forefront in trying to fight the prevalence of HIV, and in the process has supported programs and initiatives started by the government and NGOs. One such program was designed for the distribution of antiretroviral drugs in prisons and to promote distributing condoms in the same institutions. There have been reports of inmates who are jailed while HIV negative and released HIV positive. The government has been alerted of these increasing cases and is working with the prison authorities on improving the health concerns of prisoners.¹⁹

During press conferences conducted by human rights organizations, there has been minimal participation from the religious community and government authorities. In the coming years, many in the LGBT community hope that their voices will be heard and that they will be publically supported in their quest for rights, respect, and human dignity.

RESOURCE GUIDE

Suggested Reading

William Beinart, *Twentieth Century South Africa* (Oxford: Oxford University Press, 2001).
Botswana Police Service, *Report of a Study on Rape in Botswana* (Gaborone: Government Printer, 1999).

Martha Cornog, Robert T. Francoeur, and Raymond J. Noonan, *The Continuum Complete International Encyclopedia of Sexuality* (New York: CCIES, 2004).

- M. Guether, *The Nharo Bushmen of Botswana: Tradition and Change* (Hamburg: Helmut Buske Verlag, 1986).
- Alan Cary Johnson, *Off the Map: How HIV/AIDS Programming is Failing Same-Sex Practicing People in Africa* (New York: International Gay and Lesbian Human Rights Commission, 2007).
- Scott Long, A. Widney Brown, and Gail Cooper, *More Than a Name: State-Sponsored Homophobia and its Consequences in Southern Africa* (New York: Human Rights Watch, 2003).
- Robert Morrell, *Changing Men in Southern Africa* (London: University of Natal Press and Zed Books Limited, 2001).
- M. Schoofs, "AIDS: The Agony of Africa," *The Village Voice*, January 2000, <http://www.villagevoice.com/specials/africa/>.
- Women and Law in Southern Africa Trust, ed., *Botswana Families and Women's Rights in a Changing Environment* (Gaborone: Lightbooks Publishers, 1997).

Web Sites

- Behind The Mask, www.mask.org.za.
Behind the Mask is an organization that reports on issues affecting the LGBT community in Africa by featuring an interactive website, magazine, and online debates on pertinent issues surrounding homosexuality.
- Botswana Council of Non-Governmental Organisations, www.bocongo.org.bw.
Nationally recognized umbrella organization for all non-governmental organizations in Botswana.
- Coalition of African Lesbians, www.cal.org.za.
CAL is an organization formed by members from different countries in Africa. Their mission is to promote equality for African lesbians and ensure organizational and personal growth to its members.
- International Gay and Lesbian Human Rights Commission, www.iglhrc.org.
IGLHRC works on human rights concerns among the LGBT community worldwide. They research and fight for the recognition of LGBT persons, irrespective of their HIV status, gender identity or sexual orientation.
- Pride Network, <http://www.pridenet.com>.
The Pride Network is an advertising website that hosts information in regard to LGBT organizations and events in different countries.
- United Nations in Botswana, www.unbotswana.org.bw.
The UN in Botswana is an umbrella body for all the United Nations programs such as UNDP, UNICEF, UNHCR, WHO, UNAIDS, UNFPA, FAO, and UNV.

Organizations

- Botswana Centre for Human Rights (DITSHWANELO). www.ditshwanelo.org.bw/.
DITSHWANELO fights for basic human rights and has been in the front line of fighting for LGBT rights in Botswana. They lobby for the decriminalization of same sex relations by providing literature to law makers, students, and members of the public, and by holding conferences with the media.
- Botswana Network on Ethics, Law and HIV/AIDS (BONELA). www.bonela.org.
BONELA aims at ensuring that ethics, the law, and human rights are granted to people who are infected and affected by HIV/AIDS. Their objectives are met by fighting HIV-related stigma and discrimination.
- Childline Botswana, <http://www.childline.org.bw/>.
Childline Botswana is a non-profit, non-governmental organisation that focuses on children's rights. It primarily addresses issues dealing with child abuse.

Lesbian Gay and Bisexuals of Botswana (LEGABIBO), www.legabibo.org.bw.

LEGABIBO is the only LGBT organization in Botswana and is housed by BONELA due to the legalities of registering as a non-governmental organization.

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Youth Health Organization of Botswana (YOHO). www.yoho.or.bw.

YOHO is an organization whose objective is to offer sexual health information to the youth of Botswana, primarily between the ages of 14–29. Their main concern is minimizing the prevalence of HIV/AIDS and STDs.

NOTES

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3. “2006 Estimates—Country Profile: Botswana,” British Foreign and Commonwealth Office, <http://www.fco.gov.uk> (accessed April 7, 2008).

4. “Country Information: Botswana,” UNICEF, http://www.unicef.org/infobycountry/botswana_statistics.html (accessed April 10, 2008).

5. “Partnership to Fight HIV/AIDS in Botswana,” the United State’s President’s Emergency Plan for AIDS Relief, <http://www.pepfar.gov> (accessed April 10, 2008).

6. Godisang Mookodi, Oleosi Ntshebe, and Ian Taylor, “Botswana,” CCIES, <http://www.kinseyinstitute.org/ccies/bw.php> (accessed April 14, 2008).

7. “Sub-Saharan Africa—Botswana,” British Foreign and Commonwealth Office, <http://www.fco.gov.uk> (accessed April 7, 2008).

8. “Country Information-Botswana-Statistics,” UNICEF, http://www.unicef.org/infobycountry/botswana_statistics.html (accessed April 10, 2008).

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13. “More Than a Name: State-Sponsored Homophobia and Its Consequences in Southern Africa,” Human Rights Watch, <http://www.hrw.org/reports/2003/safrica/> (accessed June 8, 2008).

14. “Some Positive Results,” *Aidsmap: Information on HIV & AIDS*, <http://www.aidsmap.com> (accessed April 12, 2008).

15. “Sub-Saharan Africa—Botswana—Development,” Foreign and Commonwealth Office, <http://www.fco.gov.uk/> (accessed April 7, 2008).

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17. “The HIV Epidemic in Botswana,” *Aidsmap: Information on HIV & AIDS*, <http://www.aidsmap.com> (accessed April 12, 2008).

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CAMEROON

Charles Gueboguo

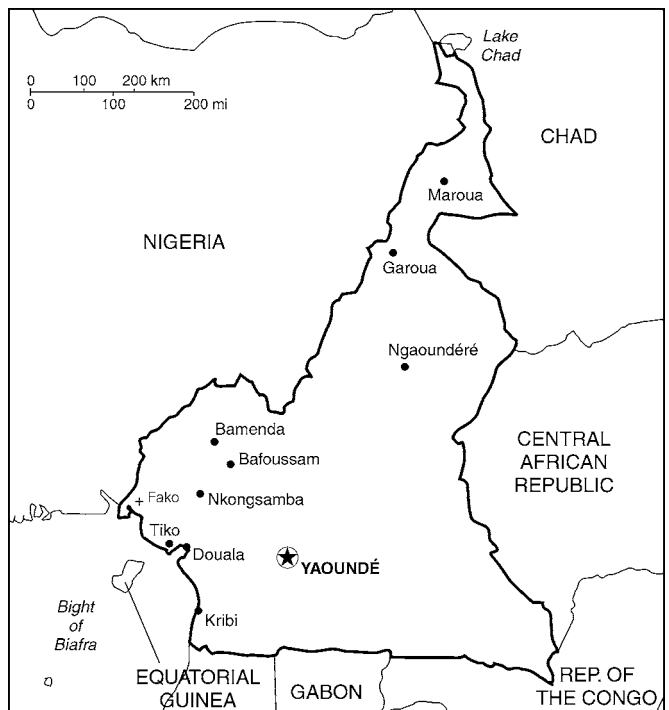
OVERVIEW

Cameroon is a central African country with approximately 17 million inhabitants. It contains 183,568 square miles of land bordered by the Central African Republic to the east, Nigeria to the west, Chad to the northeast, and a small coastline along the Atlantic Ocean. Cameroon's natural features include mountains, beaches, savannas, deserts, and rainforests.

Cameroon was subjected to German, British, and French colonization before gaining independence from the French on January 1, 1960 and from the British on October 1, 1961. On May 20, 1962 both Cameroons (the Francophone and the Anglophone Cameroon) were united. This latter date was chosen to be the country's national holiday. It is this peculiar context that makes Cameroon a bilingual country—in which the official languages are French and English, with French being the dominant language of the two. The political capital is Yaoundé, still known under the name of the “City of Seven Hills,” whereas the economic capital is Douala. These two cities alone represent a mosaic of populations from different parts of Cameroon as well as from the surrounding countries.

OVERVIEW OF LGBT ISSUES

Since 2006, there has been a sharp rise of antihomosexual feelings in Cameroon. The rise of homophobic feelings in Cameroon is linked to myth- and fear-based representations of homosexuality. Many people believe homosexuality is associated with



pedophilia on the one hand, and with an opportunistic means of acceding to higher classes in society on the other. This imbroglio of how people commonly view the essence of what homosexuality means, along with the recent rise of homophobia, were accentuated further by the words of Catholic Archbishop of Yaoundé on December 25, 2005. His two hours of antigay rhetoric were followed by the Imam of Douala and finally taken up by the local press, who published a list of the top 50 homosexuals within the country's elite.

EDUCATION

The level of education among Cameroon's citizens is rising, primarily due to compulsory schooling at the primary school level. Generally, LGBT people in Cameroon have an average level of education:¹ 65 percent have stopped going to school at the secondary level, 30 percent are at university and among them, 60 percent have at least a GCE A level plus two years of university, and 29 percent are still attending school. Among those who have stopped going to school, 80 percent have at least a high-school level education, while only six percent stopped at the primary level.

Women constitute the least educated population among LGBT persons. Eighty-eight percent of them have only a secondary school level of education. Among them, 89 percent no longer attend school.

EMPLOYMENT AND ECONOMICS

Unemployment is very high in Cameroon, exceeding 20 percent, especially in the two major cities of Douala and Yaoundé. LGBT people in Cameroon generally fall into the categories of students (29%), employees (24%), and traders (13%). Given the low education level of women, the number of jobless individuals is the highest among lesbian women (16%).

SOCIAL/GOVERNMENT PROGRAMS

The Cameroonian government does not provide social programs or support for LGBT issues. Addressing the needs of the LGBT community, primarily in terms of health care services or in the context of AIDS, is not a priority for the government. However, there are local associations in the cities of Douala and Yaoundé that try to address the needs of the LGBT community, specifically in regard to AIDS and STDs.

SEXUALITY/SEXUAL PRACTICES

Homosexuality in Cameroon, as in many African societies, is placed under the umbrella of bisexuality because of the negative social context placed on homosexuality and on LGBT people. Many consider themselves bisexual because they also have partners of the opposite sex in order to remain accepted in their social environment.

No data are available on sexual practices, but current research is being conducted to better understand the practices and the needs of the LGBT community in Cameroon.

FAMILY

The idea of family in Cameroon is considered to include a large nuclear family as well as extended family, or relatives. LGBT people are not considered to be part of the family. Marriage between persons of the same sex or gender is not recognized by law. However, the percentage of LGBT couples is not negligible (22%). Compared to women, men more often engage in a coupled life (22%). Women mostly live without their partners (55%). This is justified by the fact that they are declared to be parents living with their children.

COMMUNITY

Since 2005, there has been a significant rise of homophobic sentiment in Cameroon, approved by the state authorities and by the rigid societal structures. In Cameroon, being gay or speaking about homosexuality is a big problem with a huge stigma is attached to it. Yet, there is also a growing portion of society engaging in clandestine associations in response to the social prejudice they face.

Most human rights organizations in Cameroon are not actively addressing the devastating situation facing homosexuals in Cameroon. The pretext to this is that homosexuality is not recognized as an African phenomenon. As such, social norms dictate that those who lend themselves to homosexual acts and are persecuted are receiving a fair punishment.

In the face of this injustice, a young association has been created called, *Alternatives-Cameroun*. The association is active at all levels, national and international, to denounce arrests and all the false judgments that are pronounced in Cameroon relating to homosexuality. It also provides homosexuals in Cameroon with legal, medical, and financial help when they are rejected by their families or imprisoned in Yaoundé. The association is one of the very few that helps educate the public about homosexuality and strives to be heard beyond the homophobic backlash. *Alternatives-Cameroun* represents a positive note for change that could still occur in the years to come.

HEALTH

The priorities of the LGBT community include free access to health services. Certain local associations try to address this need of the LGBT community in Cameroon. Health care workers in Cameroon need to be well-trained on the issues of stigmatization and discrimination of health access on the basis of sexual orientation. While there are no official data on the prevalence of AIDS among LGBT persons, a locally based LGBT association in Douala has reported an average of 18 percent of HIV prevalence among the community. The national average of HIV prevalence is 5.4 percent.

POLITICS AND LAW

In Cameroon, homosexual acts are prohibited by law. According to Article 347 of the Penal Code, any person who engages in sexual activity with a person of the same sex is liable to face imprisonment of two months to five years, as well as a fine ranging from 20,000 FCFA (about US\$50) to 200,000 FCFA (about US\$500). The immediate consequence of this is that homosexuality in Cameroon has the peculiar trait of being bi-sexualized meaning that bisexuality is more common than

exclusive homosexuality. This is due to a rigid societal context as well as to the ambiguous legal context that prohibits homosexual practices. The law prohibiting homosexual acts is the result of Decree 72/16 signed September 28, 1972. The decree is a piece of executive law-making, rather than a statute voted on by Parliament. However, paragraph four of Law 96-06 of January 18, 1996, which modifies the Constitution of Cameroon dating from June 2, 1972 and relates to the relationship between the executive and the legislative powers, requires that the law be voted on by Parliament. Thus, Article 347b of the Penal Code of Cameroon violates both the Constitution of Cameroon and primary legislation.

RELIGION AND SPIRITUALITY

Christianity is the primary religion in Cameroon. A small percentage of people define themselves as Animist or Muslim. Many gays and lesbians in Cameroon are Catholics. For those lesbians or gays who claim to have a religion, it has minor influence on their sexual expression.

VIOLENCE

Violence against LGBT people in Cameroon is rampant. In the course of 2007, a great number of violations of persons' integrity on the basis sexual orientation were registered, as shown in the report of the first half of 2007 conducted by the Association Camerounaise de Défense des Droits de l'Homme Alternatives-Cameroun.² This is the only organization in the country that looks into the issues facing the LGBT community in Cameroon. Their report reveals several cases of aggressions and unlawful arrests of LGBT people.

1. The case of the "three"
P. Y., N. N. and A. D. were detained, without judgment in the case of the latter, and convicted to one year in prison. They were finally released at the end of April 2007. P. Y. affirmed that he was subjected to verbal abuse during his prison sentence. When he got out of prison, he was rejected by his family who demanded that he either get married or that he should commit suicide—which he refused to do.
2. The case of F. A.
F. A. was one of 11 prisoners arbitrarily detained for alleged homosexuality and was finally released in June 2006. In January 2007 he was again held in interrogatory detention in the 10th Arrondissement of Yaoundé, having been accused of pedophilia by his former employer who claimed he had sexually abused his mentally handicapped 10-year-old son. After investigation, the inspector recognized that the accusations were inconsistent and F. A. was released after six days in detention. According to F. A.'s account, his employer promptly reemployed him after the release, thereby avoiding paying seven months of salary that had been in arrears. The case shows the confusion between homosexuality and child abuse.
3. The arrest of M. M., A. K. and two employees of the bar/restaurant Fusion Plus
On June 10, 2007 at 12:45 a.m. M. M., a 26-year-old living in Yaoundé, was just about to join friends at another bar in the city when he was arrested by the police close to the bar/restaurant Fusion Plus. The two men who conducted the arrest were in civilian clothing, even though they claimed to be police. M. M. was then forcefully taken to the police station of the 10th Arrondissement of Yaoundé together with A. K., co-owner of Fusion Plus, along with two employees who had come for help. The reason they were given for the arrests was that they were owners of a "bar for homosexuals" and that they should negotiate a payment for their

immediate release. Following their refusal to do so, their valuables and money were confiscated before being thrown into a cell. The employees were subjected to physical abuse with the aim that they should admit unlawful actions—which, however, they did not. At the police station, all four were undressed, mistreated, beaten, and insulted. They were not allowed to make a telephone call. Thanks to the intervention of one of the men's family, they were all released a few days later.

4. The attack on G. K.

G. K. was attacked on July 20, 2007 at about 9 p.m. by someone who had asked him for help. This person pretended to have been thrown out of his home after his family had found out about his homosexual orientation. Intending to help the man, G. K. left his house at 8.30 p.m. to go to another neighborhood in Douala, after having asked his brother to lend him 10,000 FCFA (about US\$25). When he arrived at the meeting place, G. K. noticed that he had fallen into a trap. Two other men dressed in military clothing stopped him, gagged him and dragged him into a dark corner, where they robbed him of all his belongings (money, mobile phone, and shoes), threatening to take him to the closest police station and report his homosexuality. Considering their loot insufficient, they forced him to call someone who could bring more money. G. K. escaped while the aggressors were arguing with one another and grabbed a motorcycle. G. K. recovered from the beatings he received during the attack.

5. The aggressions and thefts at the Celebrity Night Club

The Celebrity Club is the only night club in Douala that is catalogued as a gay club. It is frequented by lesbian women and gay men who come from Yaoundé and other cities. Aggression and thefts are often reported by patrons of this club. The modus operandi is the clients are picked up by a motorbike taxi driver, who changes the itinerary of the agreed-upon journey and, instead, takes the client to a trap. The client is subsequently robbed of all his money and valuables. The victim is often threatened, insulted with homophobic remarks, and is sometimes physically attacked by these drivers.

Before this report, in June 2005, a group of 11 young men was arrested in a neighborhood of Yaoundé, all being accused of homosexuality. One of those men, a 25-year-old gay man, clarified that they were simply drinking and there was no touching or kissing. Apparently these young men offended the public just through the way they looked. On the legal level, Cameroon's Penal Code, in article 347b, ordinance 72/16, does not actually prohibit homosexuality, but instead condemns "any person who has sexual intercourse with a person of the same sex." In other words, it is homosexual practices, wrongly confounded with homosexuality, which are being repressed. Homosexuality, instead, is not generally understood and defined in terms of sexual acts, but instead in terms of a sexual identity. Homosexual identity indeed represents the self-recognition of an individual concerning his or her specificity as a man or woman who has a preference for persons of the same sex.

In 2008 another 11 detentions for reasons of male homosexuality in Douala and Yaoundé were reported. Often, arrests occur without proof. This leads to the suspicion that in Cameroon, on the simple presumption of homosexuality, one risks illegal detention at any time. Alleged homosexuality is used as a pretext to strip individuals of their basic rights as a person, both by the police and society. The homosexual or allegedly homosexual person is immediately convicted without judgment by a court. This procedure seems to be based on a social consensus, so even if the case is brought to court, the judges are often swayed by homophobia rather than the law. This situation led Alice Nkom, an internationally renowned Cameroon lawyer, to say in an internationally broadcasted radio show

that Cameroon's justice minister was an "avowed homophobe." Often judges decide to convict those accused of homosexuality despite lack of proof. Also, those who suffer from homophobic aggressions do not have a chance to resort to legal remedies. Mostly, the aggressors threaten their victims to reveal their homosexuality once the police arrive. The silence that accompanies those aggressions seems to be the rule. Concerning extortion and blackmail of LGBT people in Cameroon, a study commandeered by IGLHRC was completed in 2008.

OUTLOOK FOR THE 21ST CENTURY

Currently it is important in Cameroon to remain silent about one's sexual orientation. There is no foreseeable change in that situation. LGBT people fear having their sexual orientation disclosed in public. To do so results in losing one's freedom. Worse, many LGBT people are forced into marrying or having a partner of the opposite sex. Thus, homosexuality in Cameroon is bi-sexualized. It is a presumed bisexuality, lived under constraint, which, subsequently, can lead to psychological strains for the individuals involved.

RESOURCE GUIDE

Suggested Reading

- Charles Gueboguo, *La Question Homosexuelle en Afrique, le cas du Cameroun* (Paris: l'Harmattan, 2006).
- Charles Gueboguo, "La problématique de l'homosexualité en Afrique: L'expérience Camerounaise," *L'Arbre à Palabre. Culture et Développement* 19 (2006): 18–59.
- Charles Gueboguo, "L'homosexualité en Afrique: variations et sens d'hier à nos jours," *Socio-Logos* 1 (2006): <http://sociologos.revues.org/document37.html>.
- Charles Gueboguo, "Pour une lecture revue et corrigée de l'homosexualité dans la pensée doxique africaine: Impacts, dérapages et risques," *L'arbre à Palabre. Culture et Développement* 20 (2007): 14–51.
- Terroirs, *Revue Africaine de Sciences Sociales et de Philosophie*. Dossier: *L'homosexualité est bonne à penser*. n° 1/2, Academia Africana.

Organizations

Alternatives-Cameroun
 Association Camerounaise pour la Défense des Droits de l'Homme
 BP: 12 767 Douala, Cameroun
alternatives.cameroun@gmail.com

NOTES

1. All the data come from a preliminary report of a forthcoming survey among the LGBT community in Cameroon, funded by IGLHRC (C. Gueboguo, 2008, "La problématique de l'extorsion et du chantage sur la base de l'orientation sexuelle au Cameroun: sociologie de l'expérience des bisexuel/les, gays, lesbiennes et transgenres"). Quantitative inquiry was conducted from February to May 2008 in the two main cities of Cameroon, Douala and Yaoundé. The convenience sample used (depending on unities encountered during the survey) was made up of 214 respondents: 113 for the city of Douala and 101 for Yaoundé, among which 171 were men, and 43 were women. Disparity among women was great, as they were more heavily represented in Douala (25) than in Yaoundé (18).
2. "Rapport à mi-parcours Juin 2007," *Alternatives-Cameroun*, 2007.

EGYPT

Jen Westmoreland Bouchard

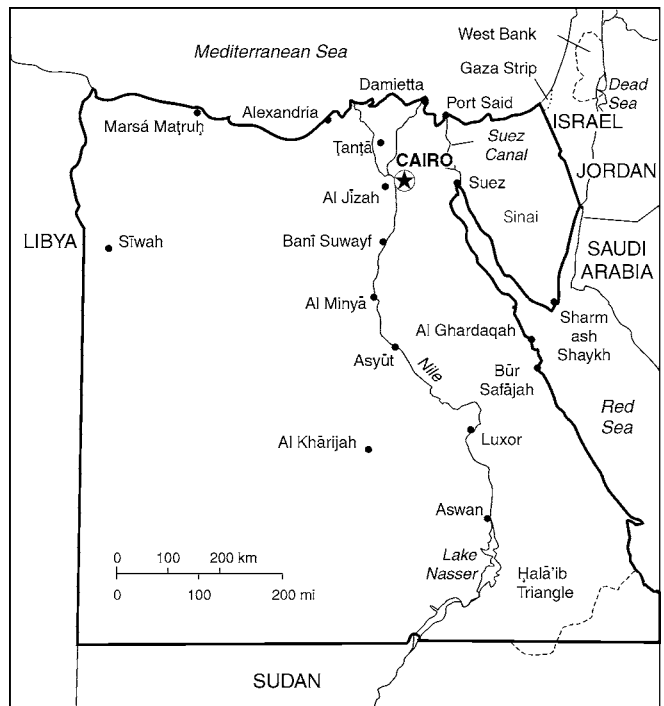
OVERVIEW

Egypt is located on the northeast corner of Africa on the Mediterranean Sea. Libya is located to the west, the Sudan to the south, and the Red Sea and Israel to the east. The northward-flowing Nile River begins 100 miles south of the Mediterranean and continues to the ocean at a port between the cities of Alexandria and Port Said. The Nile divides Egypt into two distinct regions.¹

The Arab Republic of Egypt is governed by President Hosni Mubarak. Egypt's population is estimated at 80,264,543 (2007) with a birthrate of 22.6/1000, and an infant mortality rate of 30/1000. The average life expectancy is 72 years. Egypt's capital and largest city is Cairo, with a population of 7,629,866. Other large cities in Egypt are Alexandria (population 3,891,000), Giza (population 2,597,600), Shubra el Khema (population 1,018,000), and El Mahalla el Kubra (population 462,300). The official currency is the Egyptian pound. The official language of Egypt is Arabic, but both English and French are used by the educated classes. Ninety percent of the Egyptian population is Muslim (mostly Sunni), nine percent are Coptic, one percent is Christian, and six percent subscribe to other belief systems.²

OVERVIEW OF LGBT ISSUES

Though Islam vehemently disapproves of sexual relations between members of the same sex, Muslim societies have historically been quite tolerant. This is especially true if and when such relationships are conducted



behind closed doors. Many of the celebrated Egyptian poets of classical Arabic literature indulged in homoerotic activities, yet they were viewed as no less great than their heterosexual counterparts. The relatively liberal attitudes concerning homosexuality in Egypt (and other parts of the Arab world) both offended and fascinated protestant European travelers of the 18th and 19th centuries.

In fact, the first law against homosexuality was created in Egypt during the British colonial period. Over the last few decades, these ideological positions on homosexuality have been reversed.³ During the past 20 years, Europe and North America have become more liberal toward homosexuality. Conversely, many Arab countries have become increasingly conservative.⁴ For example, in 2001, 52 Egyptian gays were arrested in a gay nightclub, The Queen Boat Disco, an event that signified the regression into extreme Egyptian conservatism (sexual and other). After the “Queen Boat Affair,” many Egyptian newspapers and magazines discussed homosexuality as a Western perversion that had invaded Egypt. However, many historians view the phenomenon of homosexuality in the Middle East much differently. Egypt turned a blind eye to homosexuals until European scholars began accusing Egyptians of oppressing women, yet allowing immoral sexual acts between men. According to certain scholars, Egyptians retaliated by oppressing homosexual men to rebuild their moral image in the West. Today, homosexual women are often doubly oppressed within social and religious systems that simultaneously protect and inhibit them from living openly homosexual lives.

Terminology, or the ways in which gays identify themselves (or are identified by others) linguistically, plays an important role in community formation. In Arab societies, the use of the word “gay” is loaded with certain Western connotations. The term “homosexual” carries with it images of a certain lifestyle that only Western gays assume (and that Arab gays may try to simulate). The Arabic language has no accepted equivalent to the word “gay.” The term for homosexuality is *al-mithliyya al-jinsiyya* meaning literally “sexual sameness.” This term is used mostly in academic and literary circles. The shortened version of the term, *mithli* is beginning to be used as a more commonplace word for gays. Both of these terms are relatively neutral and many Arab gays accept them. Religious conservatives and popular media publications often use the term *shaaadh* (which translates as “queer,” “pervert,” or “deviant”), a heavily loaded and pejorative term. The conventional term for lesbian is *subaaqiyya*. There are many lesbians who argue this term has inaccurate connotations; therefore, they prefer *mithliyya* (the feminine version of *mithli*).⁵

There exist no positively connoted terms in Arabic that express the complex interactions of sentimental and physical relations between two people of the same sex. The term *shouzouz jinsi* means “abnormal” sexuality and *loowat* is a negative way of expressing a homosexual act among men. This term refers to the Biblical fable of Lot, or Lut, in the Koran. The word *sibaq* expresses a homosexual act among women. The term bisexuality has no positive translation in Arabic. The lesbian publication, *Bint el Nas* uses the expression *mozdawijat el moyool el jinsiya* to express female bisexuality and *mozdawij el moyool el jinsiya* to express male bisexuality. The working term for hermaphrodite or intersexed, or a person who has both male and female reproductive organs, is *izdiwaji el jins*.

In regard to transsexual or transgender individuals, Arabic provides two terms. The negative term is *khanis*. A more positive option is *moghayir el jins*. An individual who is born with male reproductive organs but identifies as female is termed

a *moghayirat el jins* (male-to-female transgender). This term helps when referring to a person with feminine adjectives out of respect for the way in which she identifies herself, whether she has undergone a gender transformative surgical procedure or not. An individual who is born with female reproductive organs but identifies as a male is called *moghayir el jins* (female-to-male transgender).⁶

EDUCATION

The Egyptian education system does not recognize at any level of schooling the problems and discrimination faced by LGBT students based on their sexual orientation. There are no programs that explicitly address LGBT issues. There are no antibullying policies and the very existence of LGBT students is denied. Attempts to develop generalized sex-education curriculum have been severely attacked by Muslim scholars. In 2005 Sheik Mohammed Sayed Tantawi, head of Al-Azhar⁷ (one of the oldest and most prominent scholarly Muslim institutions), rejected the attempts to bring sex education to Egyptian schools, let alone “safe-sex” messages. According to Tantawi, Islam recognizes only one form of family and that is marriage between a man and a woman. This precludes issues of contraception, premarital sex, abortion, and sexual deviancy (e.g., masturbation, bestiality, and homosexuality).

It is dangerous for LGBT students to try and meet through the Internet. In 2004 a 17-year-old student at a private university posted a personal profile on a gay Arab dating site. The student was discovered, arrested outside the American University in Midan Al Tahrir (Liberation Plaza) in Cairo, accused of “offences” to the honor of society, and sentenced by the Jahah court to 17 years in prison with two years of hard labor.⁸ Similarly, two male college students (ages 19 and 22) were arrested in 2002 for making a date via a college chat room; they were sentenced to multiyear suspended sentences.⁹

EMPLOYMENT AND ECONOMICS

There are no antidiscrimination statutes to protect LGBT employees from discrimination based on sexual orientation or HIV status. Although AIDS is primarily a disease found in heterosexuals in Egypt (estimated by UNICEF¹⁰ to be about 90% of those infected by HIV), there is a public association between AIDS and homosexuality. Persons found to be infected are summarily dismissed from their jobs. Anonymous testing is not available so most people either don’t know their status or have used a home test to determine their results.

SOCIAL/GOVERNMENT PROGRAMS

Since the 2001 Queen Boat Affair, Egypt has turned decidedly antigay. For example, after the abuses at the Abu Ghraib prison in Iraq by American military personnel were reported in 2004, demonstrators took to the streets of Cairo to protest the mistreatment of Arab prisoners by “homosexual American executioners.”¹¹ The use of these labels blurred the distinction between homosexuality and torture, thus serving a broader antigay political agenda. Not only are there no social or governmental programs focused on LGBT issues, but there are informal cultural and religious attitudes that make Egypt extremely dangerous for nonheterosexuals.

SEXUALITY/SEXUAL PRACTICES

Generally, women are much more constrained than men in their expressions of sexuality. Even in moderate cities like Cairo, where women are allowed to wear Western attire there still exist powerful social and ethical demands that women remain chaste, modest, and honorable. A strict set of rules governs ethical actions for women. The strongest of these rules is that women marry under the age of 25 in order to maintain familial honor. Therefore, lesbian urges are often stifled and deeply buried. Cruising for sex, even in the most discreet of fashions, is unthinkable.

Lesbians have a particularly difficult time in Egypt. In a patriarchal society built on heterosexual relationships, lesbians are often ignored or invisible. However, lesbianism is more common than one might expect in Arab countries, Egypt included. Some married women engage in homosexual activities as a way of combating boredom in their marriages. Others, who were well aware of their homosexual preferences and chose to get married anyway (to conform to social or family expectations), keep one or several female lovers on the side. Many Egyptian husbands are paranoid that their wives are unfaithful to them (with men) yet they suspect nothing when their wives spend the evening with other women. These husbands are often relieved to hear that their wives prefer the company of women rather than men.

As a result of their virtual invisibility in Egyptian society, many lesbians face serious mental health challenges. With invisibility comes isolation and disconnection. It is difficult to find ways to meet and speak with other lesbians since there are no lesbian support or resource organizations in Egypt. Some gay Egyptian men have a girlfriend or get married to protect themselves from the shame and isolation of being homosexual. They keep boyfriends and secret private apartments on the side. As a result of extreme social pressure to live heterosexual lives, very few individuals feel comfortable enough to identify themselves publicly as being homosexual.

To understand how sexuality is viewed and constructed in Arab countries, one must bear in mind that sexuality was a Western concept that came to fruition in the late 19th century and takes as its core the notion that sexual behavior determines a person's identity and therefore defines (to a certain extent) his or her lifestyle.¹² Therefore, a person who defines him partly or entirely by his sexuality is considered to be under the influence of Western gay culture. Thus, he is considered an outsider on many levels.

FAMILY

In traditional Muslim families, homosexuality is denied, ignored, or at worst treated with psychological and physical violence. In Morocco, Egypt, and other Arab societies, there are many testimonials of homosexual sons being attacked by their fathers and brothers, or forced to leave home. Others are subjected to countless therapy sessions or forced to undergo electroshock treatment.

In many well-educated and affluent households, homosexuality is treated as an illness and considered to be curable with the right and appropriate length of treatment. Parents in this situation often believe that their child has been seduced or forced into homosexual behavior. To avoid these various forms of family induced

trauma, many gay men take on faux girlfriends or even arrange marriages for themselves with lesbians who are similarly seeking safety.¹³

Marriage is obligatory in most Arab households. Most marriages are still arranged by parents. In cases where a gay or lesbian marries an arranged partner, many pursue homosexual relations outside the marriage.¹⁴ While many never come out as openly homosexual, some wait to do so until after one or both parents have died. Others simply live in secrecy or move to another country in which they can live out their lives honestly and relatively safely.

Violent reactions from family members are especially common in traditional parts of Egypt. In these regions, the notion of family honor is of the utmost importance. Any type of sexual deviance, homosexuality included, brings shame upon the household and also shames past generations. Such emotional reactions often result in fathers killing their homosexual sons to preserve the family's honor.

Since homosexuality is highly stigmatized, it is hard for parents and siblings to find support and advice from friends and extended family members. The social taboo of bringing up intimate or sexual topics in the public domain prohibits families from obtaining the proper types of information and scientific data regarding homosexuality. A lack of information (or a proliferation of misinformation) motivates a vicious cycle of violence and intolerance.¹⁵

COMMUNITY

Since homosexuality and various forms of *queerness* are generally not accepted in Muslim societies, it is nearly impossible to meet in gay support groups, much less attempt to celebrate one's sexuality in the form of a gay pride festival. In interviews, numerous Egyptian gays have reported feeling extremely lonely, isolated, and pressured to conform to a traditional, heterosexual lifestyle.¹⁶

In major Egyptian cities with larger numbers of gay people per capita (such as Cairo and Alexandria), a gay man or woman can more easily move away from the constraints placed on them by family and friends and engage in a more open gay lifestyle. However, these individuals are few and far between. They have to be both brave enough to risk being seen with other gays in public (and face the social consequences) or have enough revenue to fund a private apartment for their affairs. A gay community exists online, but again, money and access are necessary to engage in this type of virtual socialization.

The Queen Boat Affair and the events that followed have prohibited gays from freely associating in public spaces. Even virtual affairs and online chats have become dangerous. Individuals seeking solace in gay chat rooms are often the prey of undercover police officers masquerading as fellow gay chatters. The Human Rights Watch (HRW) has called this situation an "increasingly harsh campaign of entrapment and arrest of men solely on the basis of alleged consensual homosexual conduct."¹⁷ As a result of these political atrocities, many Egyptian homosexuals are forced to live in secrecy.

A unified gay community in Egypt does not currently exist, though there are resources within the global gay community that are available to Arab gays. In the aftermath of the 2001 Queen Boat Affair and the events that followed, organizations such as Al-Fatiha have become increasingly important. The Al-Fatiha Foundation is based in the United States. It is a nonprofit and nongovernmental

organization. Their mission involves supporting Muslim individuals who are lesbian, gay, bisexual, transgender, intersex, or questioning (LGBTIQ). In lieu of recent challenges facing homosexual populations in Arab countries, they have started a fund to disseminate money to asylum seekers from Egypt.

The Al-Fatiha Foundation also works with organizations such as the Lesbian and Gay Immigration Rights Task Force (LGIRTF) and The International Gay and Lesbian Human Rights Commission (IGLHRC). Both of these organizations provide documentation on international human rights abuses towards homosexual communities.

Since 1963, a small group of Egyptian lesbians has been meeting secretly in group members' homes. The name of the organization, called *Hamd* ("to praise"), was started by a lesbian named Farduz Hussein. Through joining this group, many gay Arab women feel for the first time that they belong and that they are safe.¹⁸

The arrival of the Internet in Egypt marked a distinct change in how information about homosexuality was disseminated. Various gay Web sites and discussion groups allowed Egyptian homosexuals, who had previously been isolated and uninformed, to finally connect to a larger gay community. The Internet also connected them to international gay organizations and other gay people worldwide.

The majority of these Web sites are in French or English, thus literacy in these languages (and access to a computer) is required. Egypt's literacy rate is 71.4 percent. Many young Arab gays find general safety or sexual information that may be useful; however, most of the psychological references are geared toward a Western audience and do not offer advice on how to live as a homosexual in an Arab country.¹⁹

After the Queen Boat Affair, police started surfing the web and pretending to be men in search of homosexual relationships. As soon as they had gotten to know an individual online, they would ask to meet the unsuspecting gentleman in a public location for a date. When they arrived, the police would arrest the person waiting to meet them. As a result, nearly all of Egypt's main gay Web sites were shut down. Many of the webmasters were either arrested or went into hiding for fear of being caught.

HEALTH

As far as HIV/AIDS is concerned, Egypt appears to be a high-risk country. Rates of condom use are low, even when compared with other North African countries. In a 2005 study, only 24 percent of men said they had ever used a condom. In addition, HIV testing rates are low among all demographics. One statistic reveals that 99 percent of drug users reported that they had never had a HIV test.²⁰

Most individuals who test HIV positive in Egypt are men. In fact, recorded cases of HIV are four times more common among men than among women. Part of the reasoning behind this is that few women are tested. Only six percent of women have full knowledge of HIV, according to a 2005 Egyptian Demographic Health Survey. Educational outreach efforts to high-risk populations of women (sex workers, impoverished women, etc.) are extremely limited.²¹

There are approximately 5,300 people in Egypt living with HIV/AIDS.²² For those who are living with HIV, antiretroviral drugs can cost up to \$1,000 per month because the government, which for the most part refuses to acknowledge its country's AIDS epidemic, has not authorized legal imports on drugs.²³ There is a powerful stigma attached to those living with HIV/AIDS that can lead to isolation and depression. This discrimination is the result of myriad forms of misinformation

(or simply lack of information) regarding HIV, even among the scientific and medical fields. Patients are frequently misdiagnosed several times before discovering that their symptoms are indeed those of HIV.²⁴

There is no social or governmental push to encourage safe sex through the use of condoms. Doctors claim that AIDS in Egypt is the “foreigner’s disease,” and that moral Arabs are immune. The underlying message is that Egyptians never have sex outside of marriage as a result of their religious beliefs. Therefore, those who follow these religious and social codes are immune to the disease. When condoms are used, which is rare, it is strictly for contraception.²⁵

Thus, the Egyptian government finds itself in a difficult place. By promoting safe sex, they may be viewed as condoning or even encouraging promiscuity among Egyptians.

UNAIDS and other international organizations are working together with the Egyptian government to promote change in the ways Egypt deals with HIV education and prevention.²⁶

POLITICS AND LAW

Historically, Egyptian society has been relatively accepting of many types of erotic activity (homosexuality included). However, The Queen Boat Affair was an event that exemplified a return to extreme Egyptian conservatism regarding sexuality. Of the men who were arrested, 23 of them were sentenced to between one and five years in prison for debauchery (since homosexuality itself is not technically illegal). The arrested were described as shameful to the nation for committing sexually deviant acts.

The context for this event is the ongoing political struggle between the government and followers of Sunni conservatism. Even though Egypt professes to be a secular state, policies are often informed by the views of the Sunni religious leadership.²⁷ Thus, the unprecedented arrest was, in essence, a way of regaining conservative control of the nation. Egypt is one of the only Muslim states without explicitly antihomosexual statutes written into their laws. In other Muslim countries, homosexual acts may be punished by a number of severe sentences, including up to 10 years imprisonment.²⁸

The importance of the Queen Boat Affair lies in the fact that, while not explicitly referred to in the country’s laws, certain regulations regarding prostitution and public morality are used to persecute gay men. Morality is, of course, determined by Muslim law.

Since the Queen Boat Affair, the Egyptian government has unlawfully arrested and tortured men suspected of homosexual or *lewd* acts. Some of the detainees were forced to stand on their tiptoes for extended periods of time, others received electric shocks to the penis and tongue, and the rest were beaten on the soles of their feet with a *felaqa* (a rod) until they lost consciousness. These men were tortured until they relented and agreed to work as spies and report other homosexuals to authorities.

Events such as this have caught the attention of international gay and human rights associations. Though significant strides have been made on the governmental level toward the elimination of violence against homosexuals, a general homophobic trend persists and known gay establishments, such as the Queen, remain frequent targets.

RELIGION AND SPIRITUALITY

Islam is the dominant religion in Egypt and the Koran strictly prohibits homosexuality: "And as for the two of you who are guilty thereof, punish them both. If they repent and mend their ways, let them be. God is forgiving and merciful." (4:16). Another important Muslim source is the *Shari'ah* ("path"). The *Shari'ah* is, in essence, a divinely created code of conduct (expressing God's will) that all Muslims must follow.²⁹ According to the *Shari'ah*, homosexual behavior is strongly prohibited.

The *Shari'ah* contains information on both sex and the regulation of it. The basic premise is that sex is natural and condoned. In fact, most Muslim sects believe that sex in paradise leads to the fulfillment of the spiritual and bodily self.³⁰ However, because of human imperfection, sex on earth has become corrupt and must be regulated. Sex within marriage is encouraged. However, a partner of the same sex is considered to be an illicit partner because he or she could never be a spouse and because a homosexual act threatens the natural order. In more conservative sects, homosexual activities are considered a revolt against Allah.³¹

Therefore, according to Muslim law, these thoughts must be repressed and never acted upon. If a Muslim admits to having homosexual thoughts, religious leaders encourage him to ask Allah to rid them of these feelings, never to get physically involved with a person other than his own heterosexual spouse, to seek medical advice and treatment, and to seek religious support from a local imam.³²

An important distinction between Islam and Christianity is that Islam addresses homosexual acts, but does not address homosexuality as an identity or lifestyle. Christianity tends to view homosexuality (the lifestyle, acts, and identity) as a sin, and preaches that this lifestyle is indeed a choice. The reasons for this distinction are clear if one bears in mind that homosexuality is perceived as a Western construction, a concept that came to fruition in the late 19th century and takes as its core the notion that sexual behavior determines a person's identity and therefore defines (to a certain extent) one's lifestyle.³³

In a more general sense, homosexuality also refers to the public transgression of moral codes and behaviors. In Islam, homosexuality often becomes representative of unnatural, disorderly conduct that will eventually lead to chaos and societal decay. Likewise, homosexuals themselves are seen as subversive elements and a direct threat to social order. Therefore, the category of homosexuality can become extended to incorporate anyone who disturbs the mores of Islam (criminals, political opponents, outsiders, or foreigners).³⁴

Traditional Muslim law prescribes harsh punishments for homosexual behavior. As mentioned, homosexual behavior is considered to be a form of adultery, thus the same guidelines hold true for heterosexual adulterers. The penalties consist of physical violence: stoning to death for married peoples, and 100 lashes for unmarried people. These extreme punishments, meant to deter homosexual activity, are often performed in public.

However, Islam recognizes that humankind is intrinsically fallible. Therefore, practice is gentler than theory. For corporal punishment to be carried out there must be an eyewitness to the homosexual event or a direct confession. If the accused seeks to repent and reform, punishment may be delayed or never carried out.

In 2003, Egypt's religious leader, Pope Shenouda III of the Coptic Orthodox Church heightened intolerance by calling for a campaign to fight the plague of gays in Egypt. He called for leaders of various faiths to join his crusade. In addition, he commends all those who are against gay marriage and the appointment of gay

clergy, which defies “the teachings of the holy book and threaten the stability of marriage, the family, and social morality.”³⁵

VIOLENCE

To understand the increasing violence against homosexuals in Egypt, one must first be aware of the perception of homosexuality in general. Homosexuality is viewed as a foreign illness, one that must be eradicated in order to maintain stasis in Egyptian life and values. Much of this violence is also politically driven.

One of the men arrested on the Queen was 32-year-old Sherif Farahat, an Israeli and a regular visitor to Egyptian gay hotspots. His particular case was heard in the state security court, one designed to address the political action of suspected terrorists on Egyptian soil. During his trial, the following headline was used in a Cairo newspaper: “Perverts declare war on Egypt.”³⁶

OUTLOOK FOR THE 21ST CENTURY

Given the numerous antihomosexual acts of the past decade in Egypt, it is likely that this conservative trend will continue. Arab societies used to be much more tolerant of homosexual activity if it was kept private. Now, public displays of homosexuality are viewed as a Western illness that must be cured through various techniques including psychotherapy, social exclusion, and violence.

Many Egyptian homosexuals do not envision changes in Egyptian political or social priorities in the immediate future. Others believe that it is the responsibility of all Egyptians to fight for freedom of intimacy for both heterosexuals and homosexuals (premarital sex is currently not allowed). Some homosexuals do not feel any more victimized than any other marginalized group in the country, such as women. These individuals call for a banding together of all of the marginalized identities to create a powerful social force. In the days following the Queen Boat Affair up until the present day, being gay in Egypt has been viewed as a political rebellion that is dangerous to its participants.

As a result of the complex and layered antigay and anti-Western ideologies that exist in Egyptian culture, it will be a long time before homosexuals will feel safe living openly gay lives on Egyptian soil. Over the past 10 years, much scholarly work has been done on identity and community formation among gay Arabs. This is a positive phenomenon in that it informs a Western audience of the challenges faced by the gay Arab population. Hopefully, as result of education and bringing hidden acts of violence into the light, academics and human rights organizations can help to eventually create a safe environment and sense of community for Arab homosexuals.

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Web Sites

- Bint el Nas Association for Arab Lesbians, www.bintelnas.org.
Bint el Nas is an international Arab lesbian association that maintains an informational Web site and published a biannual literary journal.
- The Gay and Lesbian Arabic Society, www.glas.org.
Established in the United States in 1988, GLAS is an international organization that aims to promote positive images of gays and lesbians living in both Arab and non-Arab communities. Another goal is to provide a network and educational resources for members of homosexual Arab communities.
- Gay Middle East, www.gaymiddleeast.com.
A comprehensive and diverse news source for those interested in homosexual issues in the Middle East. Provides links to articles from a variety of Middle Eastern, American, and British news sources. Gay tourism information is also available.

Video/Films

- Alexandria Again and Forever (Iskanderija, kaman oue kaman, 1990).*
- Alexandria ... Why? (Iskanderija ... Lib?, 1979).*
- Alley of the Pestle (Zuqaag al-Midaqq, 1963).*
- An Egyptian Story (Hudduta Misrija, 1982).*
- Daughter of Pasha in Charge (Bint el-bash el-mudir, 1938).*
- Miss Hanafi (Al Anissa Hanafi, 1954).*
- The Malatily Bath (Hammam al-Malathily, 1973).*

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3. Geoff Puterbaugh, "North Africa," in *The Encyclopedia of Homosexuality*, vol. 1, ed. Wayne Dynes (New York: Garland Publishing, 1990), 22.
4. Brian Whitaker, "Homosexuality on Trial in Egypt," *The Guardian*, November 19, 2001.

5. Brian Whitaker, *Unspeakable Love: Gay and Lesbian Life in the Middle East* (Los Angeles: University of California Press, 2006), 14.
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11. Patrick Letellier, "Egyptians Decry 'gay' U.S. Abusers in Iraq," *PlanetOut*, May 17, 2004. Yale Global Online. <http://yaleglobal.yale.edu/content/egyptians-decry-gay-us-abusers-iraq> (accessed September 23, 2009).
12. Maarten Schlid, "Islam," in *The Encyclopedia of Homosexuality*, vol. 1, ed. Wayne Dynes (New York: Garland Publishing, 1990), 618.
13. Whitaker, *Unspeakable Love*, 18–21.
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15. *Ibid.*
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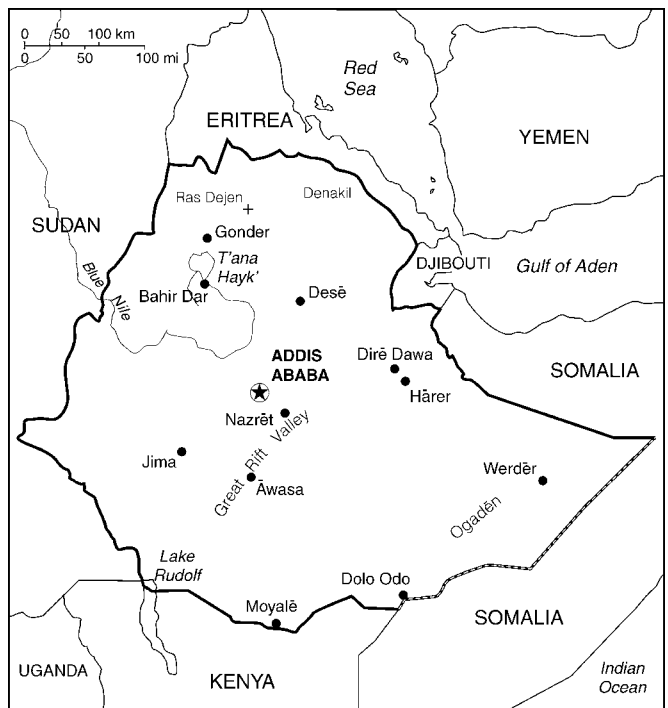
ETHIOPIA

Maria Federica Moscati

OVERVIEW

The Democratic Federal Republic of Ethiopia is situated in the Horn of Africa. It borders on Eritrea in the north, Djibouti and Somalia in the east, Somalia and Kenya in the south, and Sudan in the west. The Federal Democratic Republic of Ethiopia is divided into nine regions on the basis of ethnic federalism, plus two autonomous cities: the capital Addis Ababa (meaning “new flower”) and Dire Dawa.

Ethiopia is one of the oldest countries in the world with a history that can be traced back to the beginning of the Axumite Empire in the first century B.C., if not earlier. The country converted to Christianity in the third century A.D., and was ruled thereafter by a series of imperial dynasties, the most famous of which was the Solomonic Dynasty, which claimed to be descended from King Solomon and the Queen of Sheba. Emperor Haile Selassie I was the last of the Solomonic emperors to rule Ethiopia. Under Haile Selassie’s reign, Ethiopia was invaded and occupied (1935–1941) by fascist Italy. In 1974, Haile Selassie was deposed and murdered in a *coup d’etat* led by the Soviet-backed Marxist-Leninist military *junta*, the *Derg*, headed by Mengistu Haile Mariam. Mengistu, later to be found guilty of genocide, established a one-party communist state; tens of thousands of Ethiopians were killed in his program, known as the Ethiopian Red Terror. Those who were not murdered were subjected to starvation, drought, and several wars including the Ogaden War with Somalia (1977–1978), and in the conflict with Eritrea (1962–1991). Mengistu’s regime was



eventually defeated in May 1991 by a coalition of rebel forces named the Ethiopian People's Revolutionary Democratic Front (EPRDF) and a transitional government was formed in July 1991 under Meles Zenawi. The Constitution of the Federal Democratic Republic of Ethiopia was adopted in December 1994, and Ethiopia's first multiparty elections were held in May and June of 1994, though these were boycotted by most of the opposition parties. The EPRDF has twice been re-elected under Zenawi's premiership (in 2000 and 2005), although the May 2005 elections were marred by violence and political detentions. Eritrea seceded from Ethiopia in May 1993.

OVERVIEW OF LGBT ISSUES

LGBT people in Ethiopia cannot express their identities, as homosexuality is a criminal offence and it is not socially accepted. LGBT people are not protected by law against discrimination or homophobia. As explained here, the Revised Criminal Code refers to homosexuality as sexual deviation.

Consequently, LGBT people live in fear and do not expose themselves to possible homophobic acts. LGBT are invisible or hidden. It is even suggested on Web sites to use false names to avoid arrest.

It is difficult to collect data regarding the LGBT community in Ethiopia due to several issues: namely, LGBT people are generally considered not to be part of the Ethiopian culture, thus few will acknowledge their presence. Additionally, Ethiopia is facing dramatic social and economic problems that do not permit a focus on LGBT issues by the government.

EDUCATION

Until the mid-20th century, education in Ethiopia was primarily exclusive to the province of the Ethiopian Orthodox Church, although several schools were also established by European missionaries. Since the formation of the Democratic Federal Republic, education has been regulated by state law and is compulsory for six years. Literacy currently stands at 42 percent of the population over 15 years of age.

EMPLOYMENT AND ECONOMICS

Ethiopia is one of the poorest countries in the world. Ethiopia's economy is primarily agricultural, with agriculture accounting for almost half of the GDP, as well as for 80 percent of total employment and 60 percent of exports (mainly coffee, oilseeds, sugar, and flowers). Conflict with Eritrea and civil conflict in other parts of the country, such as the Ogaden, together with recurrent drought have contributed to Ethiopia's economic problems. An estimated five million people were dependent on emergency food aid in 2007.

There are no records concerning discrimination in the work place based on sexual orientation.

SOCIAL/GOVERNMENT PROGRAMS

There are no specific state programs for the LGBT community. However, there are several projects to assist with the prevention of HIV/AIDS. Indeed,

NGOs and international organizations have developed programs with the Government of Ethiopia to reduce the transmission of HIV among children, youth, and women.¹

SEXUALITY/SEXUAL PRACTICES

Ethiopian sexual mores are strongly influenced by religion, which views homosexuality as a sin. This vision contributes to the stigma against people who contract HIV/AIDS. Sexual liberty and chastity are protected by the Revised Criminal Code, Article 620 to 628. Generally speaking, men, women, and children are protected from rape and abuses.

It is very difficult for LGBT people to “come out” and meet. However, even though there are no data revealing how homosexual LGBT Ethiopians are trying to meet, it has been pointed out how the return of the Ethiopian Diaspora and the introduction of the Internet offer more opportunities for the LGBT community to meet.² Indeed, associations that work for the support of the rights of LGBT people are creating connections and are trying to work together.³

FAMILY

The Revised Family Code Proclamation No.213/2000, which came into force on July 4, 2000, is designed to bring existing Ethiopian family law up to date with the country’s socioeconomic panorama. This proclamation states that the family is conceptualized as the natural basis of society and the state. Marriage—namely a union between a man and a woman—is based on the free consent of the spouses and their equality. Ethiopian law provides for civil marriage, while at the same time recognizing religious and other customary marriages. Article 13 rules that the habitual performance of sexual acts by one spouse with a person of the same sex is viewed as a fundamental error in consent and can be used to invalidate the marriage. The last section of Article 13 provides that the spouse who concludes marriage due to this error in consent can apply to the court to order its dissolution.

COMMUNITY

As a result of the criminalization of homosexuality in Ethiopia, together with the social stigma attached to being homosexual, Ethiopia’s gay community is by necessity virtually invisible.

Homosexuality is widely seen as a sin or disease in Ethiopia. The coming-out process, therefore, tends to be hidden, making it difficult both to estimate the number of LGBT people in Ethiopia and to find out about their activities. Several testimonies published on the Internet⁴ refer to episodes of intolerance and homophobia. Moreover, even though historical research shows that homosexuality was known in ancient Africa,⁵ homosexuality is nonetheless commonly understood as part of Western culture, and is used to underline the independence of African states from their former colonial rulers.

Despite this situation, several initiatives for the rights of LGBT Ethiopians have been undertaken in both the country and abroad. The aim of these initiatives is to support homosexuals at every stage of their lives, from coming out onwards. Collaborating with similar organizations in other parts of Africa, Ethiopian LGBT

associations on the Internet are working hard to create a network that will give a voice to homosexuals in Ethiopia.

HEALTH

HIV/AIDS affects 4.4 percent of Ethiopia's population, amounting to about 1.5 million people. There are no well-documented records about the effect of HIV/AIDS on gay men, lesbian women, transsexuals, and transgender individuals.⁶

In February 2004, Ethiopia signed "The Johannesburg Statement on Sexual Orientation, Gender Identity, and Human Rights." The statement, signed by several African states, asked the African member governments, and the United Nations, to support actions for the protection of rights of LGBT people. The statement highlights how LGBT people are denied access to health care and omitted from HIV prevention programs.⁷

POLITICS AND LAW

LGBT issues are not part of the political agenda in Ethiopia, and so LGBT people are beneficiaries of only ad hoc projects to promote and protect their rights. The lack of inclusion of LGBT's in the political agenda is due to the criminal law, which identifies homosexuality as a crime.

The Constitution of the Federal Democratic Republic of Ethiopia, adopted on December 8, 1994, provides the principle of equality in Article 25. The article states that sex and gender cannot be used as elements to discriminate. Sexual orientation is not included in this protection, which in turn opens the door to discrimination against homosexuals.

Homosexuality in Ethiopia is a crime. The Criminal Code of the Federal Republic of Ethiopia, which came into effect on May 9, 2005, dedicates Title IV to the "Crimes against Morals and the Family." Section II of Chapter I focuses on "Sexual Deviations," which includes (Article 629) "Homosexual and other Indecent Acts."

Women and men who perform a sexual or any indecent act with a person of the same sex are liable for punishment by imprisonment. The basic penalty can be extended when the general aggravation listed in Article 630 occurs. Thus, the penalty of one year's imprisonment can be extended to a maximum of ten years when the accused is found guilty of having taken unfair advantage of the material or mental distress of the person with whom the sexual act was performed; or of having taken advantage of the authority exercised over that person by virtue of the office or capacity of the accused as guardian, tutor, protector, teacher, master, or employer in order to cause that person to perform or submit to the sexual act; or if the accused is found to be making a profession of such activities.

Furthermore, as the last section of Article 630 rules, homosexual acts can be punished by rigorous imprisonment of between three and 15 years, where the sexual acts are found to have been compelled by violence, intimidation or coercion, by trickery or fraud; or when the accused is found to have taken unfair advantage of the victim's inability to resist or to defend himself, or of their feeble-mindedness or unconsciousness; or when the accused has subjected his victim to acts of cruelty or sadism, or has knowingly transmitted to them a venereal disease; or when the

[victim] has been driven to suicide by distress, shame or despair as a result of the sexual act or acts.

The legal framework on the criminalization of homosexuality also includes the crime of “Homosexual and other Indecent acts performed on minors” in Article 631 of the Criminal Code. This article provides a general punishment of imprisonment for between three and 15 years for anyone who performs a homosexual act on a minor, where the child is between 13 and 18 years of age; and between 15 and 25 years where the minor is below 13 years of age.

Article 631 states that a woman found to have performed a homosexual act on a female minor should be punished with rigorous imprisonment for a maximum of 10 years, whatever the age of the minor. The special treatment of female homosexuality in Ethiopian criminal law has not been fully explained either in the law or in jurisprudence.

The final part of Article 631 emphasizes that imprisonment is also the punishment for the performance of “other indecent acts” on a minor, although such acts are not defined. This lack of adequate definition increases the probability of discrimination and the prosecution of cases that are denied a proper possibility of defense.

RELIGION AND SPIRITUALITY

Culturally, the most influential religion in Ethiopia is the Ethiopian Orthodox Church. However, a high percentage of Ethiopia’s population is Muslim. Ethiopia also contains many Christians of other denominations, together with people belonging to many different animist and other traditional religions. Among all of these religions there is a general hostility to sodomy.

Indeed, in December 2008 the Orthodox Church, the Roman Catholic Church, and the Protestant Churches adopted a resolution stating that homosexuality, defined as the “pinnacle of immorality,” is the cause of pedophilia and sexual abuse. The principal aim of the resolution was to ask to the Parliament to constitutionally ban homosexuality.⁸

VIOLENCE

Web sites report violence against gay men. Furthermore, letters are being sent to blogs and other sites denouncing violence based on sexual orientation. However, according to the U.S. Department refers there are no official reported cases or instances of violence enacted upon LGBT people in Ethiopia.⁹

OUTLOOK FOR THE 21ST CENTURY

The criminalization of homosexual acts means that life for gay men, lesbian women, transgender, and transsexuals in Ethiopia is not easy. Several other factors, including religion, culture, and politics contribute to the difficulties they face. Moreover, Ethiopia’s severe economic problems mean that attention is often focused more on basic needs than on issues related to sexual orientation.

Even with the support of the initiatives previously mentioned, significant progress towards full recognition of LGBT rights will be possible only with an accurate analysis of the social and cultural climate facing gays in Ethiopia in the 21st century.

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- Will Roscoe and Stephen Murray, eds., *Boy-Wives and Female-Husbands: Studies of African Homosexualities* (New York: Palgrave, 1998).
- Bahru Zewde, *A History of Modern Ethiopia 1855–1991* (Athens: Ohio University Press, 2001).

Web Sites

- Behind the Mask, www.mask.org.za.
Pan-African Web site with information about LGBT people in Africa.
- Global Gayz, www.globalgayz.com.
A charitable Web site on travel and culture. The site offers stories, pictures, and reports on the lives of LGBT people in 190 countries.
- Meskel Square, www.meskelsquare.com.
A Web log by Andrew Heavens on Africa. The blog features stories about LGBT people in Africa.

Organizations

- Behind the Mask, www.mask.org.za.
Nonprofit media organization publishing news regarding LGBT rights in Africa.
- Human Rights Watch, www.hrw.org.
Based in the United States. Human Rights Watch provides a detailed section of their Web site dedicated to LGBT rights worldwide and has a country section on Ethiopia.

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GHANA

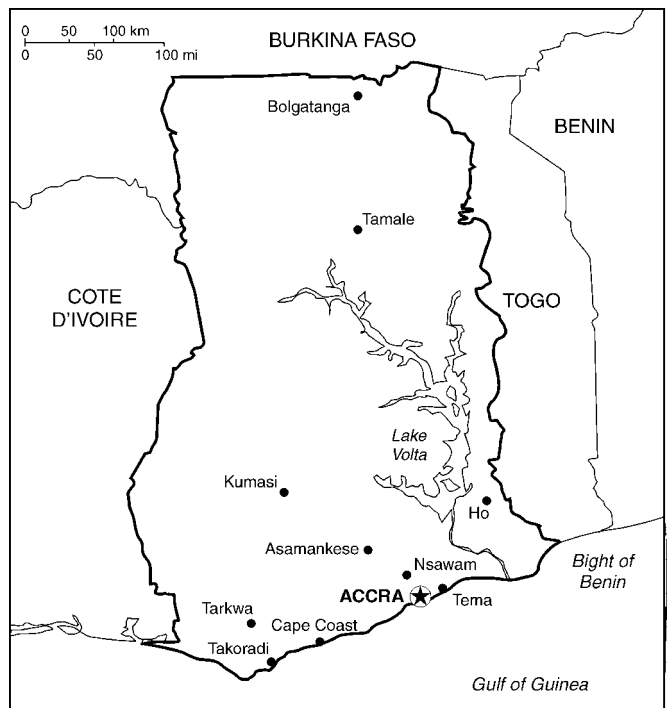
Benjamin de Lee

OVERVIEW

A little smaller than Oregon, Ghana is a West African country on the Bight of Benin, a large gulf bordered by several West African countries. Ghana's southern coastal lands are tropical and humid, with some jungle remaining, while the rest of the country stretches northward to arid dry savannahs.

In 1957, Ghana was the first sub-Saharan African country to receive independence. A former British colony, it was economically prosperous but a series of disastrous coups and dictatorial mismanagement mired the country in continuous economic woe. However, since the 1980s and the approval of a new constitution and multiparty elections, Ghana has become one of Africa's most stable and vibrant democracies, with a truly free press and open criticism of government officials. The current president, John Kufuor, is barred from seeking a third term.

Ghana's transition to a liberal democracy has not been smooth. Postindependence was marked by a series of dictatorships that denied basic civil liberties. None of these regimes, however, were cruel or brutal, like dictatorships elsewhere in Africa. Most of them failed on account of economic mismanagement. The 1992 constitution guarantees basic civil liberties and an independent judiciary. The press in Ghana is free, and Ghanaians take pride in their civil liberties and actively engage in political debate, protest, and discussion. Still, corruption is a problem, and police have been known to engage in intimidation and bribery.



Ghana is one of the wealthier countries in sub-Saharan Africa. Recent high prices for gold and cocoa have sustained high rates of economic growth. Regardless, almost one-third of the population lives in poverty, and Ghana was still a recipient of debt relief in 2002. Recent discoveries of large petroleum reserves off the coast promise future economic development. The country has worked hard to develop a tourist infrastructure, but a tourism boom has yet to begin.

Ghana has a navy, army, and an air force, but its armed services are quite small. Service is voluntary, and the military consumes 0.8 percent of the country's gross domestic product.¹

OVERVIEW OF LGBT ISSUES

Ghanaian homosexuals, as those in many African nations, are invisible. Ghanaians will frequently deny that homosexuality exists in their country, although attitudes toward it may vary. In traditional animism, same-sex unions were recognized and homosexual practices were tolerated.² In fact, individual Ghanaians may express relatively liberal attitudes toward homosexual acts while expressing disapproval or disgust toward homosexuality or gay individuals. Many Ghanaian men claim that homosexual experiences are quite common.³ Ghanaians think nothing of men holding hands in public or affectionately embracing one another, signs of affection that are not any indication of a sexual relationship. Ghanaian men think nothing of living together or even sharing a bed. Thus, it is easy for homosexual acts to take place and for homosexual relationships to remain invisible. At the same time, many gay Ghanaian men claim that people are very suspicious of homosexuality, and young men that do not have girlfriends or get married are assumed to be gay, and thus face discrimination.⁴

However, things are changing in Ghana. More and more gay Ghanaian men and lesbians are demanding an end to the silence and invisibility. There are increased hostilities toward gay men in particular. Religious leaders and politicians have made a point of explicitly condemning homosexuality and claiming that it is contrary to Ghanaian culture and values and is illegal. Gay men in particular have begun organizing, and in 2006 Prince MacDonald, president of the Gay and Lesbian Association of Ghana, attempted to host an international conference in Ghana. The government, however, forbade the conference and even launched an investigation to criminally prosecute its organizers.⁵ The Ghanaian media has begun to discuss homosexuality, with a lively debate that is far from over and is reminiscent of the debate on homosexuality in more conservative parts of the United States. At the same time, the media does not necessarily report evenly on injustices or rights violations that gays and lesbians sometimes face. While many gays and lesbians in Ghana claim oppression, others still insist that Ghana is a relatively tolerant society where homosexuality remains a tolerated but barely acknowledged phenomenon.

EDUCATION

Ghana has a basic primary and secondary education system, with technical schools and several universities. Instruction is primarily in English. HIV/AIDS awareness has become a focus in the school system, although abstinence is sometimes emphasized over safe-sex practices, and homosexual practices are rarely addressed.

EMPLOYMENT AND ECONOMICS

Ghana has an unemployment rate of 11 percent. However, over 28 percent are still below the poverty line, and many Ghanaians are subsistence farmers, craftsmen, and other laborers who do not have a steady income.

Gay men claim that they are particularly economically vulnerable. Many claim that they would lose their jobs if their sexual orientation were known. Many gay men who move to the cities and lack education or employment become sex workers.⁶

SOCIAL/GOVERNMENT PROGRAMS

There are no social or government programs for gays and lesbians in Ghana. In fact, HIV/AIDS programs only mention heterosexual contact as a means of transmission of the virus. LGBT organizations in Ghana are demanding recognition and support from the government. The two biggest challenges are government support and education in the area of HIV/AIDS, and equal protection under the law.

SEXUALITY/SEXUAL PRACTICES

While Ghanaians may be uncomfortable discussing sex and sexuality, most feel that sex is a basic human need. Ghanaian men claim that same-sex contacts are relatively common, but few consider themselves gay. Men who take the penetrative role (top) in particular do not usually consider themselves to be gay. Many men have both men and women as sexual partners. *Gay* is a designation usually reserved for those who take the passive role. Safe-sex awareness is a problem in Ghana, as sex education programs do not address or mention homosexual acts.

FAMILY

The family in West Africa can take many forms. Polygamy, even by Christians who supposedly disavow it, is common, although the wives may not all live in the same household. Single mothers are not unusual, and large extended families are not uncommon. Cousins and other relatives may all live in the same house, for work or economic reasons, or because of tradition. It can be difficult for an outsider to untangle the family relationships in a typical Ghanaian household. Someone may describe another male or female as a brother or sister, but upon further inquiry, the stated sibling may be a cousin.

For the most part, gays and lesbians report having a very difficult time coming out to family members.⁷ However, the reasons for ostracism of a gay family member are complex. Ghana, like much of West Africa, is a shame-based society. Certain things connected to sexuality, like homosexuality or AIDS, whether contracted from homosexual or heterosexual contact, symbolize moral deviation and degeneracy, while an unplanned pregnancy or adultery does not. Many Ghanaians are devout Christians or Muslims and feel that their religion disapproves of homosexuality. Others feel that it is the duty of a child to have more children, to carry on the family name and customs. Yet, some report that Ghanaian families are generally tolerant, especially if the family member does not admit to being gay.⁸ Ghanaians actually have quite liberal attitudes toward sex and sexuality. The rhetoric of clergy

and political leaders may emphasize traditional heterosexual monogamy, but premarital sex is common. Adultery is relatively common, and few parents will ostracize a daughter for getting pregnant out of wedlock. At the same time, Ghanaians are not comfortable discussing sex and are largely silent on the subject. Parents and children almost never discuss sex. Thus, the silence about homosexuality applies to all aspects of sexuality.

COMMUNITY

Efforts by gays and lesbians to organize have been met with considerable opposition in Ghana. The Internet has played an increasingly important role in helping gays and lesbians to meet and organize. It is reported that there are gay bars in Accra, and gay and lesbian organizations operate clandestinely to educate and help gay and lesbian Ghanaians. Other human rights groups, otherwise well-organized and vigilant in Ghana, admit that they do not want to tackle civil rights violations against gays and lesbians because of the public disapproval it would bring.⁹

HEALTH

HIV/AIDS is a major issue in Ghana as in most of Africa. Ghana, however, like many other West African nations, has had a lower rate of HIV infection, perhaps because of the prevalence of male circumcision, common even among non-Muslims.¹⁰ Thus, HIV/AIDS is not just a gay issue in Ghana, but also a societal and developmental issue. However, it is not necessarily the most pressing concern in spite of the attention and funding it has received from the West. Most Ghanaians still lack access to sufficiently clean drinking water. Malaria continues to be a pressing concern. Issues of malnutrition are still present, especially for the poor, both urban and rural. Other tropical illnesses, like schistosomiasis and guinea worm, are still problems in rural areas. Most of the population does not have access to adequate health care for any of these pressing health concerns, including HIV/AIDS. In addition, the stigma attached to HIV/AIDS leads many Ghanaians to avoid seeking treatment or even getting tested when they have symptoms. Many Ghanaians feel a great stigma attached to sexually transmitted diseases (STDs) and will not get treatment, even for easily curable STDs.

Gays and lesbians still face unique problems in receiving adequate health care. It is reported that hospitals require a person to report or bring his or her sexual partner for treatment if he is diagnosed with an STD. Thus, many gay men in particular would rather not get treatment. Also, ignorance is a huge problem. HIV/AIDS education programs often do not address homosexual sex practices, and many men, both homosexual and bisexual, believe that HIV/AIDS can only be contracted from sex with a woman.¹¹ Indeed, some men claim to prefer gay sex specifically to avoid contracting HIV.¹²

POLITICS AND LAW

Article 105 of the Penal Code (1960) forbids “unnatural carnal knowledge” with anyone. While it does not explicitly illegalize homosexual practices, it has been used to prosecute homosexual men. In 2003, four young men were sentenced to two years in prison each for engaging in homosexual acts.¹³ In 2007, a British tourist was charged with “unnatural carnal knowledge” after police searching him

at the airport found pictures of him having sex with a Ghanaian. He was held in jail and fined.¹⁴ More recently, Ghana has gained the reputation of being a bit of a gay destination, and many Ghanaian gay men post profiles on the Internet on Web sites like gaydar.co.uk.

In addition, gays and lesbians receive little or no support, or even recognition, from the government. Moreover, they are often not granted equal protection under the law, nor are gays and lesbians given protection from crime if the perpetrators of the crime accuse the victim of being homosexual. When the government banned the planned 2006 gay and lesbian conference in Ghana, Information Minister Kwamena Bartels claimed that organizers and those who approved the conference would be prosecuted and punished, but it was not made clear what law they broke.¹⁵ While the conference did not take place, in the end, no one was officially prosecuted for any crime.

The incident involving the cancelled conference reveals a more recent trend in Ghanaian politics. In general, there is silence on the subject of homosexuality, and many in Ghana, including the government, seem to prefer that gay Ghanaians remain a silent minority. However, when the issue does arise, often by gays and lesbians themselves, the condemnations are vociferous and extreme. Articles on www.ghanaweb.com either condemn homosexuality or appeal for an end to silence by recognizing that homosexuality is a disease and problem afflicting the country, although there are also voices for toleration.¹⁶

RELIGION AND SPIRITUALITY

A majority of Ghanaians belong to an organized religion. Almost 70 percent are Christian, 15 percent are Muslim, and over 8 percent practice traditional religion, usually some form of animism.¹⁷

Regardless of one's religions, many Ghanaians freely combine Christianity or Islam with more traditional beliefs, like ancestor veneration or animism. For many Ghanaians, there is no contradiction. Likewise, many who practice polygamy see no contradiction with their own Christian beliefs. In spite of these more inclusive attitudes toward traditional beliefs and polygamy, many Christians take a very traditional stance towards homosexuality. African Anglican leaders, including those in Ghana, expressed outrage at the Protestant Episcopal Church of America's consecration of the openly gay bishop Eugene Robinson.¹⁸ It is reported that some groups, like the Pentecostals, exorcise homosexuals to rid them of the demon that they believe has caused homosexuality.

VIOLENCE

In general, Ghana is not a violent society, and it has much lower levels of violent crime compared to other West African nations like Cote d'Ivoire and Nigeria. Gays and lesbians claim that they are frequently the victims of violence and that they are afraid to go the police for fear that they will be the victims of more violence, or be charged with some other crime.

OUTLOOK FOR THE 21ST CENTURY

Ghana is on the cusp of positive change in many ways. It is one of Africa's most successful and stable democracies. It has experienced steady economic growth.

As a healthy and stable democracy, it has the potential to become a place where gays and lesbians can openly assert their place in society and demand civil rights. While same-sex unions may not be approved as they have been in South Africa, Ghana may very well become the next country in Africa to completely decriminalize homosexual acts. Gays and lesbians in Ghana are beginning to pursue community organization, and are beginning to assert their identity. At the same time, there has been a backlash by more conservative forces in Ghanaian society who do not want any recognition for gays and lesbians in Ghana, or who want to continue to claim that homosexuality is a Western problem. While the coming decades promise struggle and continuing discrimination, the end to the silence is seen by many as a positive development.

RESOURCE GUIDE

Suggested Reading

- Aart Hendriks, R. Tielman, and E. van der Veen, eds., *The Third Pink Book: A Global View of Lesbian and Gay Liberation and Oppression* (Buffalo, NY: Prometheus Books, 1993).
- J. O. Murray and W. Roscoe, eds., *Boy-Wives and Female Husbands: Studies of African Homosexualities* (New York: St. Martin's Press, 1998).

Web Sites

- Ghana: Golden Anniversary, <http://journalism.berkeley.edu/projects/mm/luckie/index.html>.
Report by American journalism student who spent time in Ghana researching the LGBT community.
- Ghanaweb, www.ghanaweb.com.
Web site for and by Ghanaians covering many issues concerning Ghana. Includes news stories, editorials, and blogs on the subject of homosexuality. Includes personal ads from Ghanaian gays and lesbians in the classified section.

NOTES

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11. Prince, "Gay in Ghana."
12. Conversation of the author with native Ghanaians during Peace Corps Volunteer Service, 1999–2001.
13. Mark S. Luckie, "Somewhere over the Rainbow," Ghana Golden Anniversary, 2007, <http://journalism.berkeley.edu/projects/mm/luckie/rainbow.html> (accessed May 20, 2008).
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15. "Ghanaian Gay Conference Banned," *BBC News*, 2006, <http://news.bbc.co.uk/2/hi/africa/5305658.stm> (accessed May 16, 2008).
16. Dossier: Homosexuality, 2008, Ghana Home Page, <http://www.ghanaweb.com/GhanaHomePage/NewsArchive/dossier.php?ID=120>.
17. CIA, "Ghana: Statistics," *World Factbook*, 2008, <https://www.cia.gov/library/publications/the-world-factbook/geos/gh.html> (accessed May 16, 2008).
18. "Ordination of Gay Anglican Bishops—'Ghana cannot comment,'" 2006, Ghana Home Page, <http://www.ghanaweb.com/GhanaHomePage/NewsArchive/artikel.php?ID=110387>. Despite the title, in the article the Archbishop of Ghana explains that the church cannot make an official pronouncement like the Nigerian church because it is not an independent province. However, the archbishop stated that the Nigerian church represented the opinion of all Africa in its condemnation of the consecration of Eugene Robinson.

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KENYA

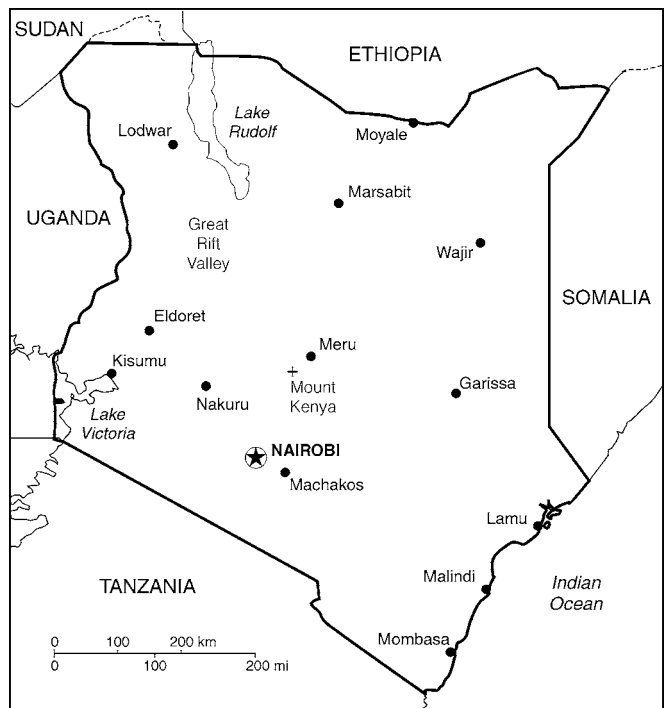
Nancy Nteere and Tom Ochieng Abongo

OVERVIEW

Kenya is located in the eastern part of Africa. It is bordered by Sudan and Ethiopia to the north, Tanzania and the Indian Ocean to the south, Uganda to the west, and Somalia to the east. Kenya has an area of 219,788 square miles, stretching from sea level in the east to 17,057 feet at the peak of Mount Kenya in the west. Between these two points is what is known as the Kenya Highlands, over 2,952 feet above sea level. The highlands are generally cooler and agriculturally richer than the lowlands, and are divided into two sections by the Great Rift Valley. Mount Kenya is on the eastern side. The Amboseli Game Reserve and Tsavo National Park, both rich in wildlife, are situated in the drier, lower belt of the Kenya Highlands. The coastline of Kenya is approximately 333 miles long. Kenya's approximate flying time from major European cities is 8–10 hours and approximately 16–20 hours from North American cities.

The major cash crops of Kenya are coffee, tea, wheat, corn, and pyrethrum. Livestock farming is also practiced. Kenya's natural resources include limestone, soda ash, salt, barites, rubies, fluorspar, garnets, and wildlife. The currency used in Kenya is the Kenya Shilling (KES).

As of 2007, Kenya has a population of approximately 36.7 million¹ with a higher concentration of people living in the urban areas compared to the rural areas. Traditionally, settlement has been preferred in places where water was easily found. Today, there has been a steady rise of migration



from rural to urban areas, as more people are opting to go to the city in search of opportunities and employment.

The population growth rate is 2.8 percent, and the birth rate is 37.89/1000. As of 2008, the estimated infant mortality rate is 56.01/1000 and the estimated life expectancy is 56.64 yrs.²

In rural Kenya, the birth rate has increased due to the lack of sexual and reproductive health education. In the urban centers, families opt to have three children on average, as the cost of living is considerably rising. Over 60 percent of Kenyans are under 30 years of age, with 32 percent of the entire population between 15 and 30 years old.³ In general, the population is slowly declining with the increasing rate of HIV/AIDS, which has in some instances wiped out entire families.

There are approximately 42 tribes in Kenya. The Kikuyu make up the majority of the population at 22percent, followed by the Luhya (14%), Luo (13%), Kalenjin (12%), Kamba (11%), Kisii (6%), and Meru (6%). The combined total of other African tribes makes up 15 percent of the population, while non-Africans compose only one percent.⁴ Each tribe has an indigenous language, however English and Swahili are the official languages of Kenya and are most commonly used.

Forty-five percent of Kenyans identify themselves as Protestant, and 33 percent identify as Roman Catholic. Of the remaining population, 10 percent are Muslim, 10 percent practice indigenous beliefs, and two percent practice other religions such as Hinduism or Sikhism.⁵

Before becoming an official colony in 1920, Kenya was a British protectorate dating back to 1895. By the 1940s, British settlers had acquired a great deal of fertile land in Kenya, commonly known as *the white highlands*. In 1944, Jomo Kenyatta formed the first national organization that gave rise to the Mau Mau rebellion in 1952. The legislative council elected African members in 1957 and lifted the state of emergency in 1960. The Kenya Africa National Union (KANU), and the Kenya Africa Democratic Union (KADU) were formed after Kenyan political parties were legalized. KANU won the general elections that were held in 1961, but refused to form a government until the release of Kenyatta, who had earlier been tried and sent to jail for being a member of the Mau Mau Society, though no proof was determined to support the claim.

Kenya gained its independence from Great Britain in 1963, with Kenyatta becoming the prime minister. In 1964, Kenya became a republic, KADU dissolved itself, and Jomo Kenyatta became the first president. For the remainder of Kenyatta's rule, Kenya remained a one-party state, as he banned an opposition party in 1969. Kenyatta died in 1978 and Daniel Arap Moi became the second president. In 1991, a multiparty system was restored, with several opposition parties. In 2002, the presidential candidate of the National Rainbow Coalition Party, Emilio Mwai Kibaki won the national election. Elections in 2007 were disputed following discrepancies in presidential vote tallying results by the ECK (Electoral Commission of Kenya). The two leading presidential contenders, the incumbent President Mwai Kibaki (Party of National Unity), and Raila Odinga, leader of the ODM (Orange Democratic Movement) agreed to form a coalition government. This coalition resulted in a unique political dispensation where the incumbent, Kibaki, retained his presidential seat and Raila Odinga became the Prime Minister. The next general elections will be held in 2012 and a number of reforms are under way under the auspices of the National Peace and Reconciliation Accord to bring equity, fairness, and justice to all levels of government. President Kibaki is serving his last term, which will end in 2012.

There are three branches in the Kenya military force: the Kenya Army, Kenyan Navy, and the Kenyan Air force. Due to the stigma associated with homosexuality, there has been no mention of same-sex relationship in the military. The military service age is between 18–49 for both men and women, with an obligation bracket of nine years.

OVERVIEW OF LGBT ISSUES

Former president, Daniel Arap Moi has verbally attacked homosexuals and lesbians on various occasions. Moi has said, “Kenya has no room or time for homosexuals and lesbians. Homosexuality is against African norms and traditions, and even in religion it is considered a great sin.” In 1999 he also stated that, “it is not right that a man should go with another man or a woman with another woman. It is against African tradition and Biblical teachings.”⁶ Kenya outlaws homosexuality, especially sexual activities between men. If two gay men are caught together, they are charged with indecent behavior, as the law states they can only be arrested if they are caught in the sex act itself. If there is evidence of homosexual behavior, a penalty of 5–14 years imprisonment, or a cash fine of up to KES 30,000 (\$400) is administered. (There is no mention of lesbian relations, but it is assumed that the law applies to them as well.) There have been a few cases in which men have been charged in court for alleged homosexual behavior, but there has not yet been a lesbian who has been arrested with a charge of homosexual activity. It is, however, very unlikely for the police to take action against a suspected homosexual male or female unless some other offense had been reported.

Homosexuality in Kenya has not drawn national attention nor has the topic received much attention from the government. The country assumes that the LGBT community is too small to give it time and attention, so there is very little said about it by the police or politicians. The LGBT organizations and groups are very discreet; a person will not know of them unless he or she is well-connected, which also makes it very rare for police to raid any gay parties. The LGBT groups and organizations rarely disclose involvement in any of their activities, as the general society is quite homophobic, and they may face condemnation or imprisonment. Although there is often a strong negative response from family members or church communities against individual instances of homosexuality and lesbianism, it is unlikely for discreet homosexuals to face prosecution or persecution.

The World Social Forum, held in Nairobi in January 2007, was a major arena where human rights activists, religious leaders, and Kenyan society as a whole came forward and challenged the existence of homosexuals in the country. For the first time in the history of Kenya, a gay man and a lesbian appeared in the media and declared their sexual preferences. At the same time, two of the gay male participants in the forum were chased away from their homes and are currently seeking asylum in different countries. LGBT organizations now operate so as not to antagonize the government.

EDUCATION

There is an unspoken hostility towards homosexual behavior in Kenya. Although the country is struggling with HIV/AIDS, the Kenyan government has excluded any subject or topic that touches on sex education in the school curriculum.

In August 1995, in the quest of spreading knowledge on sex education, the Roman Catholic Archbishop of Nairobi and the Imam of the Jamia Mosque in Nairobi led their congregation in the burning of condoms and sex education books.

According to interviews that were conducted within the LGBT community, most lesbian relationships in Kenya start in boarding schools.⁷ The heads of schools have occasionally been summoned to expel a student who showed any homosexual behavior, but due to the fear of losing prospective students, administrations often opt to turn a blind eye to the activities. However, some students have been periodically suspended for a short time if they are suspected of homosexual behavior.

In the curriculum of Kenya, there is recognition of two types of families, the nuclear and extended family. Despite the emergence of single parenthood, there is stigma attached to a family with only one parent. No nongovernmental organizations are geared to assist LGBT children. The children are referred to counseling or seek psychiatric help.

Immediately after independence, the government of Kenya promised free primary education to all children, but this did not come to pass until 2003 due to lack of funding. The education system that was promised was “7-4-2-4.” This meant seven years in primary school, four years in high school, two years in upper high school, and four years in university. In 1985, the system changed to 8-4-4, which meant eight years in primary school, four years in high school, and finally four years in university for the students who qualified. This system ensures that all students in Kenya receive basic knowledge to sustain them in their lives, even if they choose to drop out of school.

There are four types of primary schools in Kenya: government-owned, missionary-run, private, and harambee schools. (*Harambee* is a Swahili name that means “pulling together.”) Harambee schools are established by communities coming together and raising funds to establish a school in their neighborhood, village, or wherever there is a need. Harambee schools account for almost 80 percent of the schools in Kenya. Seventy-five percent of the secondary schools exist through the harambee effort. Private primary schools are normally more expensive than the other three options, but their students also perform better on final exams. Private schools also typically have fewer students compared to the government schools because of the tuition costs, and the fact that the majority of the government-owned schools provide boarding facilities. At the end of primary school, students traditionally take the final exam known as the Kenya Certificate of Primary Education (K.C.P.E), and the results obtained determine their placement in secondary education.

Depending on the score attained in the K.C.P.E, students opt to study in either private, government, missionary, or harambee secondary schools. In most schools, the students are guided by their career counselors on what subjects to choose, so as to determine their careers. At the end of four years in high school, the students sit for their final exam to earn their Kenya Certificate of Secondary Education (K.C.S.E). The final exam grade determines whether the student can go to university or their choice of career or vocation.

There are eight public universities and 18 private universities in Kenya. The first public university was established in 1970. Grades from the K.C.S.E exams determine acceptance into the public universities. Every year, the grades are raised as more students qualify for free public university due to the introduction of free primary education in 2003. There has been a steady rise in the establishment of

private universities as more Kenyans seek higher education. Parents who can afford to do so send their children to different countries to pursue their higher education, as there is still some congestion in the local universities. Basic facilities such as computers and boarding facilities are often lacking in public universities.

Through various acts of parliament, colleges and polytechnic schools have been established by the government to offer technical skills to students who do not attend universities. These institutions offer two or three year diplomas and certificates for technical and professional skills.

Distance learning is also becoming an option for higher education in Kenya. Most universities in Kenya have formed affiliations with universities overseas, and have developed online degree programs in which Kenyan students can study like their counterparts abroad. This trend is gaining popularity with the older generations who never got the chance to attend university, or those who are working full time and need a degree to earn a promotion at work or simply for self achievement.

The government of Kenya is slowly coping with the higher demand for education, despite the overcrowding of classrooms since the introduction of the free primary education and the constant strikes of teachers demanding higher salaries for their services.

The literacy rate in Kenya is 61.5 percent. According to a survey conducted by the Kenya National Bureau of Statistics between June 8 and August 18, 2006, 7.8 million Kenyans still have not acquired the minimum literacy levels and cannot read or write. The survey shows that Kenyans are more familiar with numbers than reading; the percentage of Kenyans who can do basic arithmetic stands at 67.9 percent. This is attributed to the fact that mathematics is a life-supporting skill that even a basic vegetable vendor needs to learn. The urban centers, such as Nairobi and Kisumu record the highest literacy levels, while the coastal areas have the lowest. One of the reasons cited for such low literacy rates in the coastal areas is a tradition of using the Swahili language, as opposed to English.⁸

EMPLOYMENT AND ECONOMICS

The economy of Kenya is dependent on agriculture. At the same time, only four percent of the land is arable. The country is divided into eight provinces: Nairobi, Central, Eastern, North-Eastern, Western, Rift-Valley, Nyanza, and Coast. The three major cities in Kenya are Nairobi, Mombasa, and Kisumu. Employment opportunities in Kenya are scarce due to a slow pace of industrialization, thus the majority of Kenyans are mainly dependent on the informal industrial sectors known locally as the *Jua-Kali* or “Hot Sun” industries, where all forms of work such as vehicle repair, sale of imported second hand clothes, sale of imported second-hand cars, and the sale of handicrafts are done in open grounds. There is a large influx of people migrating from rural to urban areas in search of job opportunities, contributing to the growth of shanty towns within major cities. As the population of young Kenyans who are graduating from high school, middle-level colleges, and universities increases, so too does an increasing scarcity of employment opportunities. Many young people are, in turn, turning to crime, prostitution, and illegal trade as a means of earning a living.

There is currently no recorded statistic of the percentage of the population employed by the government, civil service, or the military. LGBT people in Kenya

are more affected than their heterosexual counterparts by lack of employment opportunities. Those who cannot find employment must remain dependent on family members or guardians for sustenance, and often suffer abuse. This situation reduces the self-worth of LGBT people who are faced with having to accept and submit to the demands and conditions of living with relatives and family members.

Employed LGBT individuals in Kenya also face a number of tribulations in the workplace due to homophobia. In Kenya, most organizations and companies do adhere to an equal employment opportunity clause to have equal representation of male and female employees. This clause is actually not based on any national legislation, and is used more as a publicity statement. The biggest challenge, however, has been to fully practice inclusion of LGBT individuals. As such, there is always a silent policy of intolerance towards any person who is seen or suspected to be a homosexual. This is more so in the multinational companies, the civil service, and the electronic media organizations where one's profile might be viewed as being representative of a company's policy. The lack of a basic legal framework to protect the human rights of LGBT people in all sectors of the economy has led to many cases of abuse or assault against LGBT people in the workplace going unreported.

Gay men and lesbians who are independent professionals such as lawyers, doctors, or engineers prefer to keep their sexual orientation secret in order not to lose out on lucrative contracts or clients.

SOCIAL/GOVERNMENT PROGRAMS

The government of Kenya does not recognize the presence or the rights of LGBT people. Therefore, none of the programs and services for its citizenry include a component targeted to the LGBT community. The legal position, as stated in Section 162–165 of the Penal Code, outlaws all homosexual behavior. It is with this in mind that all services provided by the government do not address any issues specifically affecting the LGBT community. The National AIDS Control Council has occasionally involved the LGBT community in workshops that center around HIV/AIDS prevention programs.

SEXUALITY AND SEXUAL PRACTICES

The churches, as well as traditional cultures, have a great influence on sexual practices and on determining what is morally right or wrong. Abortion is illegal in Kenya, except in instances where the pregnancy places the life of the mother in danger. Most clinics, however, operate under the pretense of offering reproductive health services and do offer abortion as a choice of family planning method with the risk of being shut down if discovered. Although the Catholic Church came out strongly and denounced the act of abortion, there are still debates among pro-life and pro-choice activists, and the government has not enforced anti-abortion laws.

In the rural parts of Kenya, sexuality is still a taboo subject especially in communities in which cultural practices override religion. Sex is not discussed between people of the same age-group. Circumcision, which was mandatory in some communities for both boys and girls, was regarded as the passage through which the young men and women would receive sex education from their elders. However, with urbanization and intermarriages some of these customs have been forfeited as there has been a merge of cultures and westernization. For example, in the Kalenjin

community, a girl was forced to go through female genital mutilation in order to belong to the community. This was also necessary before she could be married off and also to reduce her urge for sex, which would theoretically help her remain faithful to her husband. However, a community-based organization called *Tumndo Ne Leel* Support Group has introduced sex education among the girls without the cut, thereby encouraging woman to seek education rather than undergoing genital mutilation.⁹

With the emergence of Christianity, the traditional Kenyan cultures have been forced to consider homosexuality as an immoral behavior and yet during the pre-colonial era homosexuals were not shunned or looked down upon. Peer education programs have been initiated by the government in different organizations in order to reach out to youth in fighting the HIV virus.

Religious institutions have not been supportive of introducing sex education in schools and have instead chosen to focus on the morality that surrounds it. There has been continued debate on whether it is the duty of the school, the religious leaders or the parents to educate children on sexuality issues. As a result of the silence that surrounds sexuality, the LGBT community has consequently kept their sexual orientation silent. The draft constitution was rejected by the religious leaders as they cited that it was encouraging homosexuality and yet it should condemn the behavior.¹⁰ For example, Emmanuel Kamau, a gay Kenyan man, confided in his priest about his sexual orientation and the priest recommended him to a church retreat in order to change his lifestyle; after the church realized he would not change his sexual orientation he was kicked out of the church.¹¹

FAMILY

According to Kenyan law, marriage is described as a union between a man and a woman and there is no reference to a family consisting of two people of the same gender. There is also no law legalizing two people of the same gender living together. A person who deviates from the societal expectation of a heterosexual relationship is viewed as a hooligan or a rebel against society.

There is limited research and statistics in regard to family, marriage, and divorce in Kenya; this may be attributed to the assumption that a marriage is a solid institution that does not need to be researched.

Setting up a family is highly regarded in the Kenyan culture. A typical family is a nuclear family or single-parent family in the urban setting; however in the rural parts of the country the extended family is common. The number of children per family varies in urban and rural settings. In the urban centers the cost of living is higher, and consequently families opt for fewer children as compared to the rural areas where the cost of living is considerably cheaper.

From the 1960s, a family that did not have a boy child was regarded as incomplete, as a boy was seen as the pillar to a family and the only way of sustaining the family name. In the 21st century, however, there has been a change as more families accept children of either gender with equal love and value. In some cases the girl child has proven to be more of an asset compared to the boy child, because girl children will eventually get married and, as a result, bring a bride price to the family either in the form of cattle or money.

The Kenyan adoption policies are quite stringent in regard to adoption. Currently the Kenya Children's Society is the only licensed adoption agency in Kenya.

The adoption laws prohibit homosexuals or single people from adopting children, and they also give preference to married couples who are financially stable. A marriage certificate is a prerequisite for adoption to be considered.¹²

COMMUNITY

Community is very important in rural Kenya. From the early 1960s, there were certain regions of the country that were designated for different tribes and communities. As such, it was believed that certain groups of people could easily describe the character of a person based on the region they came from.

Each tribe has its own culture, customs, and clans. The clans consist of people who are from the same tribe and share the same customs. In the clan there is a subgroup of people who belong to the same age group. These groups perform activities together, such as cattle grazing, seasonal dances, or arranging for parties in the said community. The clan is an important part of the community, as it is also responsible for punishing any member of their community who does not adhere to the laws that have been set by the council of elders. The elders also participate in organizing ceremonies such as circumcision, harvest dances, and marriage ceremonies.

In the traditional community, an elder is at liberty to punish any young person who is not considered moral. The community is, by itself, a family. In the urban centers the community is a cosmopolitan one. People from different tribes live together and share different cultures and customs. The urban community is not as close-knit as it is in the rural areas; the integration of different cultures, nationalities, religions, and tribes has led to a more diverse and accommodating atmosphere in the cities.

In the northern part of Kenya, the Pokot have accepted as pseudo-hermaphrodites men whose penises are too small to be circumcised. These men are not mocked, however, they are not assigned any gender roles in the community because they are regarded as neither male nor female.

Gay issues are discussed more prominently in Nairobi than in other urban centers. The gay community is quite discreet in its activities; however, among their own groups, they have many activities including parties, tournaments, training, and community services. However, the Penal Code, societal expectations, and homophobic social mores, restrict homosexuals from publicly announcing their events or activities.

Despite the social pressure against homosexuality and lesbianism from the society at large, a number of small LGBT organizations have been formed to fill up the void that currently exists in order to articulate issues affecting homosexuals. However, most of the organizations operate discreetly so that they will not be discovered by the government and will not fall foul of the law that prohibits any form of homosexual practice.

There are several LGBT organizations in Kenya. However they are not registered and some have only a few seasonal members. The first LGBT organization in Kenya was Ishtar, which was formed in 1997. However, due to the lack of support from government and nongovernmental organizations, Ishtar does not have programs or projects as an organization. The Gay and Lesbian Coalition of Kenya (GALCK) was established in 2006 and is the umbrella body of all the independent LGBT organizations. GALCK represents the LGBT organizations in Kenya in national and international forums and offers support services for the LGBT community.

HEALTH

The Ministry of Health has established provincial hospitals in Kenya's eight provinces, which are charged with the responsibility of providing subsidized health services to its citizens. There are also various public health centers run by the government, and church organizations are based at the district level to ease congestion at the main provincial hospitals. Independent private hospitals are also competing to provide health services to the public, though their fees are out of reach for the majority of Kenyans. Despite the efforts of the government to bring medical care to citizens, diseases like malaria, typhoid, tuberculosis, cholera, dysentery, and HIV/AIDS are still proving to be a big challenge to contain in both the urban and rural areas.

The first reported case of HIV/AIDS in Kenya was in September 1984.¹³ The notification of the disease was by a Ugandan journalist who made this public knowledge through the East Africa medical journal. Since 1984, HIV has spread rapidly nationwide. The University of Nairobi has occasionally initiated successful programs that target female sex workers in order to curb the spread of the virus and improve their social status. The Population Council of Kenya has, however, gone a step further in advocating for voluntary counseling and testing centers and providing follow-up activities on their effectiveness.

Kenya has declared the HIV/AIDS scourge as a national disaster and various measures have been in place to contain this fast spreading disease. The national HIV prevalence rate in Kenya between the ages of 15–49 is 6.1 percent, the population between the ages of 0–49 living with HIV at the end of 2005 was 1.3 million, and AIDS deaths in both adults and children were reported at 140,000 in the same year.¹⁴ In reality, HIV/AIDS is an issue that is affecting both the heterosexual and homosexual community in Kenya. However, government programs for HIV/AIDS, which are run by the Ministry of Health, do not have any information targeting the LGBT community in terms of prevention and treatment. This has amounted to the LGBT community being ignored in policy decisions made by Ministry of Health officials. There is also a lack of interest by health practitioners to try and understand the health needs of LGBT people.

Little research has been done in Kenya on the health needs of the LGBT community. However, there have been a number of nongovernmental organizations that have made strides in trying to ensure that health services reach the LGBT community. However, these organizations only exist in a few urban areas, leaving the rural LGBT community out of reach.

In August 2005, three GLBT groups organized 25 participants to complete a survey in order to establish existing gaps in regard to access to sex education and sex-related health services among men who have sex with men (MSM) in Kenya. The survey was also designed to form a strong network in addressing health concerns among the MSM. This was a ground breaking dialogue organized by GALEBITRA and Gay Kenya.¹⁵

The serious health problems that the LGBT community faces in Kenya are sexually transmitted diseases due to inadequate, or lack of, access to specific gay-oriented safe sex materials and improper use of the same where available. The ignorance that is displayed by health officials and staff concerning homosexual practices are always based on stereotypes and traditional beliefs. In most health institutions, LGBT people are ridiculed by homophobic nurses and doctors. This has resulted

in a majority of LGBT people using the only option available of visiting quacks and traditional healers for their health needs, leading to many hazardous results. This insensitivity displayed by the health authorities towards health issues affecting LGBT people has compounded the STD/HIV/AIDS problem in Kenya.

A research targeting 500 gay men, conducted between 2004 and 2005 by the National AIDS Control Council indicated an HIV/AIDS prevalence rate of 47 percent.¹⁶ The fight against HIV/AIDS on the part of the government has been one-sided and only targets the heterosexual community. There has not been any attempt to have HIV/AIDS information that educates LGBT people about safe sex, nor are there any provisions of LGBT safe-sex materials. This has resulted in ignorance on the part of the LGBT community in Kenya regarding how to avoid becoming infected with HIV/AIDS. The lack of response by the government in addressing issues affecting the LGBT community in its HIV/AIDS programs defeats much of the effort to reduce the spread of HIV/AIDS as a whole (considering the tendency of LGBT individuals to lead a double life by officially marrying a person of the opposite sex while maintaining secret affairs with partners of the same sex). This is a common trend in Kenya due to the dilemma that many adult LGBT individuals find themselves in while trying to conform to traditional societal norms.

According to leading Kenyan psychiatrist, Frank Njenga, homosexuality cannot be classified as a mental disorder. Njenga further stated that female genital mutilation and homosexuality receive the same moral judgment due to deep cultural beliefs and a lack of understanding of underlying factors.¹⁷

POLITICS AND LAW

Kenya is a multiparty democracy with presidential and legislative elections held every five years. The president has two term limits of five years each. No political parties currently represented in the legislative assembly have any LGBT representation. Many political leaders avoid openly supporting the LGBT cause for justice. It is always safer for political leaders to use gay bashing language in order to gain political mileage and votes from their supporters and constituents. Politicians in Kenya are, as a whole, against homosexuality, and if a politician makes a stand in support of LGBT people, he or she is sure to lose favor with the electorate.

In June 2007 an intersex inmate in one of the maximum-security prisons in Kenya sued the government for exposing him to ridicule, threats of rape, and molestation in the prison due to his sexuality. The inmate had been charged with a violent robbery. The Kenyan Constitution does not have provisions for the intersexed to receive special facilities and identifies their gender according to their behavior.¹⁸

Currently, the law does not protect any basic human rights of LGBT individuals. The Penal Code, under Section 162–165, outlaws any homosexual relations in Kenya and defines homosexuality as an “unnatural practice” with a penalty of 5–14 years in prison. There is no mention of lesbian relations in the stipulated law. The law, as currently constituted, makes no distinction between consensual sodomy and rape, and the determination is left at the mercy of legal experts who may apply their own personal view points to arrive at a decision.

The clamor for review of the Kenyan Constitution has been ongoing since 2000. However, the original constitution remains. The constitution review process

has been stalled by politicians who want statutory changes made only to enhance their powers, thus denying the common citizen of Kenya the chance of having a constitution in place that would guarantee human rights and freedom. At various forums that were set up to collect views from the public by the government-run Constitution Review Commission, a number of LGBT activists presented their views on the need to have in place a clause in the bill of rights that ensures that no one should be discriminated against because of his or her sexual orientation. The draft that was put through a public referendum in November 2005 was rejected; yet it was devoid of any mention of LGBT rights. This illustrates the apathy that LGBT people face in trying to bring forth issues that are paramount to their welfare as a community.

RELIGION AND SPIRITUALITY

The majority of Kenyans adhere to a Christian faith, while the rest of the population identifies as Muslim, Hindu, Sikh, or they adhere to the traditional African belief system. The largest single Christian institution in Kenya is the Catholic Church, followed by the Anglican Church and other Protestant churches. Religious leaders of all mentioned affiliations have come out strongly to condemn any form of homosexuality in Kenya. The Anglican Church in Kenya has been more vocal against homosexuality than other churches, especially after it broke away from the U.S. Episcopal Church after the consecration of openly gay bishop Eugene V. Robinson.¹⁹ Strong condemnation by church groups has had an impact on the treatment of gays in Kenya. For example, in Kisumu, a city in western Kenya of approximately one million people, cases of abuse against LGBT people have been on the rise following the stand taken by the Anglican Church.

Most gay people who need spiritual nourishment simply disguise themselves and attend church in order to be safe. This has been a source of mental anguish for LGBT people, many of whom seek spiritual guidance from their church but are afraid to openly admit who they are for fear of admonishment.

VIOLENCE

In general, same-sex relations attract negative reactions in Kenya. Gay bashing is a common occurrence in Kenya and many LGBT people have faced the wrath of unruly mobs who are misguided by proclamations made by political and religious leaders against gays. At the family level, many gays and lesbians suffer abuse at the hands of immediate family members who believe that they are bewitched and need cleansing through correctional rape, eviction from home, forced marriage, physical assault, and public humiliation.

Lesbians face more violence than gay men due to the nature of Kenya's patriarchal society. A man in traditional society is supposed to be the head of the family and, by the age of 25, should be ready to pay the price for a bride. A woman, on the other hand, should be ready to be married off between the ages of 18 to 23 years old. Any reverse role for a woman is shunned and not tolerated by immediate family members or the extended family, who believe that the bride price is a source of wealth for them. A woman is always under pressure to be seen to be in courtship with a male partner. The same applies to a man but to a lesser degree,

though eyebrows will start to be raised if a man is not seen courting a partner of the opposite sex. Any transgression from the normal channel is a cause of great concern and one is bound to suffer the consequences. A man cannot show affection to another man in public without provoking a reaction. If two men are seen holding hands or kissing in public, epithets such as *shoga* or *msenge*—abusive Swahili words meaning a person of loose morals—are thrown at them.

Emmanuel Kamau, a gay Kenyan activist, appeared on the television and on radio advocating for gay rights during the World Social Forum in 2007. Consequently, he received death threats and was forced to seek asylum in the United States.²⁰

OUTLOOK FOR THE 21ST CENTURY

During the 1990s, Kenya had one forum that addressed homosexuality and gay rights. Still, homosexuality still remains a taboo topic not to be talked about in public. The World Social Forum, which was held in Nairobi in January 2007, allowed the gay community in Kenya to come out and declare their existence in the country and to the world. LGBT Kenyans hope the government will review the Constitution and include a draft supporting their rights of association. There are eight key organizations advocating for LGBT rights in Kenya. With the opening up of dialogue and democratic spaces in all spheres in the Kenyan community, the expectations are high among the LGBT community that their voices will be heard.

RESOURCE GUIDE

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- Scott Long, A. Widney Brown, and Gail Cooper, *More Than a Name* (New York: Human Rights Watch Publication, 2003).
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- G. M. Shepherd and Patricia Caplan, eds., *Gender and Homosexuality: Mombasa as a Key to Understanding Sexual Options* (London: Tavistock Publications, 1987).

Web Sites

- CLARION Kenya: Center for Law and Research International, <http://www.clarionkenya.org>. In collaboration with the Human Rights Foundation in Oslo, seven human rights organizations in Kenya have collaborated to initiate a Human Rights House in Kenya. The Human Rights House has in the past addressed issues dealing with gay rights and serves as a vital hub in accessing information concerning gay rights.

Behind The Mask, www.mask.org.za.

Behind the Mask is an interactive e-zine involving LGBT communities in Africa in the debates surrounding homosexuality issues.

Gay and Lesbian Coalition of Kenya, <http://galck.org/>.

The Gay and Lesbian Coalition of Kenya (GALCK) is an umbrella body for gay and lesbian organizations in Kenya. GALCK represents the gay and lesbian organizations at international and local forums and also organizes conferences and workshops nationally. GALCK hosts nine LGBT organizations: Gay Kenya, Minority Women in Action, Ishtar MSM, Equality Now Development Group, Diverse Outing, GALEBITRA Kenya, Kenya Gay and Lesbian Trust, Changing Attitudes and The Other Men In Kenya (TOMIK)

Organizations

Nongovernmental Organizations

Family Health Options Kenya (FHOK), www.fhok.org.

Established in the 1950s, FHOK was the first family planning movement in Kenya. It encompasses other organizations and aims at establishing safe sex programs and a planned parenthood program in Kenya.

Kenya Association of Professional Counselors, www.kapc.or.ke.

KAPC provides guidance and counseling to people who are in a transition or change. They also train counselling in various fields such as HIV/AIDS and peer educators.

Kenya Human Rights Commission, Tel: 254-020-3874998/9, 38746065/6: www.khrc.or.ke.

The Kenya Human Rights Commission provides protection and enhancement of basic human rights in the political spheres, social structures, and cultural dimensions of Kenyan culture.

Liverpool Voluntary Counseling and Testing, www.liverpoolvct.org.

Liverpool VCT has been in partnership with the government of Kenya through the Ministry of Health's National AIDS and Sexually Transmitted Infections Control Program in addressing HIV/AIDS by providing counseling and testing services. In the past they have introduced a program that incorporates men who have sex with men.

Young Women Leadership Institute, www.ywli.or.ke.

YWLI provides a forum for young women to be sensitized on community issues. They have a wide range of programs that include human rights, advocacy, and organizing intergenerational dialogue forums.

Community-Based Organizations (CBO)

Equality Now! Development Group.

E-mail: equalitytoday2003@yahoo.com

Equality Now! is a peer group of LGBT people aspiring for equal access to information, education, health care, and to overcome all forms of discrimination in Kenya based on sexual orientation.

Governmental Organizations

Kenya National Commission on Human Rights, www.knchr.org.

The commission was established by the government of Kenya to promote, enhance, and fight for basic human rights for Kenyans. It was mandated in 2002 by an act in parliament.

National AIDS Control Council, www.nacc.or.ke.

The council acts as a support mechanism by providing resources and support for both the HIV infected and affected people. They set up policies that are adhered to by different organizations.

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LIBERIA

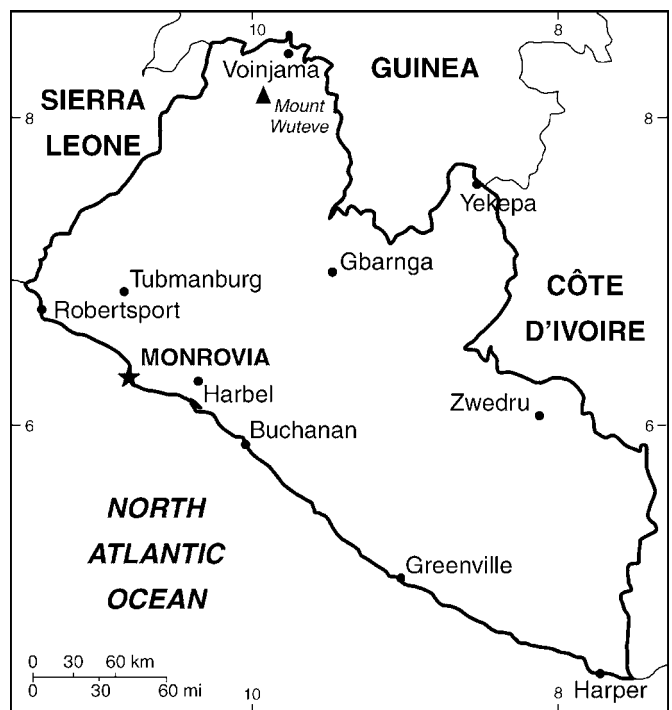
James Daniel Wilets

OVERVIEW

Liberia is a democratic republic located on the Atlantic Coast in West Africa, bordered by Sierra Leone on the northwest, Cote D'Ivoire on the southeast, and Guinea on the north.

The first Europeans to explore what is now Liberia were the Portuguese in 1461. Beginning in 1822, the area that is now Liberia was settled by freed American slaves, subsequently called *Americo-Liberians*. This migration was sponsored by the American Colonization Society, consisting of slave owners, abolitionists, and clergy. The Republic of Liberia was established by the Americo-Liberian settlers on July 26, 1847. This group also established a constitution and a style of government that was loosely based on that of the United States. The Liberian government was dominated from 1847 until 1980 by Americo-Liberians, who formed a one-party state under the True Whig Party. Indigenous Liberians, who comprised a large majority of the population, were denied the right to vote and were denied citizenship until 1904.

In 1980, the regime was overthrown in a violent military coup led by Master Sergeant Samuel K. Doe, who established an authoritarian regime for approximately nine years. Despite the poor human rights and undemocratic record of the Doe regime, it enjoyed close relations with the United States, and President Doe met two times with President Ronald Reagan. The dominance of the Krahn tribe in the Doe administration exacerbated ethnic tensions within the



country. In 1989, Charles Taylor led a rebellion against Doe's rule, resulting in Doe's death. This rebellion led to a lengthy and violent civil war between Taylor and the forces of the Liberian successor government to Doe, resulting in more than 200,000 Liberian civilian deaths. The Liberian government was supported by the United Nations, the international community, the United States, and the Economic Community of West African States (ECOWAS), and its military counterpart, ECOMOG. Taylor's forces committed many atrocities against civilians, such as inducting children into his forces and committing murder and rape on a systematic basis. Nevertheless, in 1997, Taylor won a national election and became president, largely based on public fear of continued civil war if he lost. Nevertheless, because of Taylor's continuing human rights atrocities, civil war broke out again in 1999. In 2003, Taylor resigned and fled into exile in Nigeria. He was subsequently indicted by the International Criminal Court in The Hague for atrocities committed by his forces in neighboring Sierra Leone and is standing trial in the International Criminal Court for his alleged crimes.

A transitional government established a functioning democracy in Liberia, and in 2005, Ellen Johnson-Sirleaf won the presidency in an election deemed by international observers as largely free and fair. The current government has taken affirmative steps to rebuild the society and disarm more than 100,000 ex-combatants and has benefitted from substantial international aid in its reconstruction.

Nevertheless, Liberia's violent and turbulent recent history has resulted in an ongoing reconstruction of basic societal, economic, and political institutions. Thus, many social institutions including those of relevance to the LGBT community, are absent.

OVERVIEW OF LGBT ISSUES

Same-sex relations are illegal in Liberia, and LGBT individuals are subject to widespread societal discrimination and social animus.¹ Animosity towards LGBT individuals is rooted in Christian and Muslim religious traditions, and the history of severe legal persecution of gays and lesbians is traditionally characteristic of other former English colonies in Africa, Asia, the Americas, and until recently, the United States.

There is no gay movement, gay organizations, or organized gay society in Liberia. There are no gay social clubs or prominent openly-gay individuals. A 2006 report filed by the United Kingdom Home Office stated that there were no known reports of any homosexual culture in Liberia.² This lack of a LGBT community is a result of three factors: (1) Liberia's nearly three decades of violent civil war, which resulted in severe social upheaval and the elimination of the most rudimentary legal and civic institutions that could provide any protection to LGBT individuals; (2) widespread societal animus towards LGBT individuals, which prevents gay individuals from being openly gay; and (3) legal persecution as reflected in the longstanding criminalization of homosexual acts.

EDUCATION

Although primary and secondary education is supposed to be universal, compulsory and free, in practice there is not a fully functioning educational system.³ There are no educational programs particular to the LGBT community. LGBT

students are prevented from expressing their identity or opinions regarding LGBT issues because of the widespread societal animus towards LGBT individuals.

EMPLOYMENT AND ECONOMICS

The principal economic activities in Liberia are mining and rubber plantations. One of the principal foreign investors in Liberia's mining operations is Pat Robertson, a well-known U.S. Christian fundamentalist leader and longtime foe of LGBT rights.⁴ Because of the Liberian Civil War, and Charles Taylor's involvement in the Sierra Leone conflict, the United Nations imposed sanctions on Liberian export of diamonds and timber. Those sanctions have now been removed. There is no employment protection for LGBT employees, and LGBT individuals are effectively silenced in the workplace as in other aspects of society.

SOCIAL/GOVERNMENT PROGRAMS

The destruction of the Liberian economy and societal institutions has meant that there are no social or governmental programs beyond the provision of the most basic, still inadequate, social services.

SEXUALITY/SEXUAL PRACTICES

Because of the invisibility of the LGBT community, there is no information available on sexuality or sexual practices in Liberia.

FAMILY

Liberia, along with Sierra Leone, suffered an unprecedented destruction of the family as large numbers of children were recruited as soldiers from as young as eight years old; Taylor's forces frequently forced children to commit atrocities against their own families in order to destroy the children's ability to identify with their tribe in the future. Taylor's forces also committed widespread sexual atrocities, using rape as a tool of war. As a result of this history, Liberians are extremely sensitive to the integrity of the family. To the extent that homosexuality is perceived as a threat to the integrity of the family unit, the preexisting anti-LGBT animus is heavily aggravated by Liberia's wartime history.

COMMUNITY

The Immigration and Refugee Board of Canada, charged with researching the human rights situation of homosexuals in Liberia, concluded that "[n]o information on the availability of... organizations that help homosexuals could be found among the sources consulted by the Research Directorate."⁵

HEALTH

In a 2004 report, the Family Planning Association of Liberia documented a "glaring inadequacy of services to address the unmet national sexual and reproductive

health needs.”⁶ According to the report, nearly two-thirds of the population does not have access to health care and only half have access to clean water.⁷

POLITICS AND LAW

Male and female homosexuality is criminalized in Liberia.⁸ Under Section 14.74 of the Penal Law, voluntary sodomy is categorized as a first-degree misdemeanor.⁹ Voluntary sodomy is defined as “deviate sexual intercourse.”¹⁰ With the exception of one presidential nominee who was rejected by the Interim Legislative Assembly for his reputed homosexuality,¹¹ there is no documented participation by LGBT individuals in Liberia’s political or legal systems.

RELIGION AND SPIRITUALITY

There are strong religious justifications given in Liberian society and political discourse for criminalization of homosexuality and discrimination against LGBT individuals. To a large extent, this reflects the prevalent Christian ethos from the time that the first Americo-Liberians came to Liberia, and in part this reflects a perception by those who practice indigenous African spirituality and believe that homosexuality is a Western importation. In fact, extensive historical documentation demonstrates that homophobia is largely a product of antihomosexual attitudes among Western colonialists rather than African indigenous culture.¹²

VIOLENCE

Liberia endured an extraordinarily violent and brutal civil war, lasting from 1989 to 1996, and again from 1999 to 2003. One unique aspect of the war was Taylor’s extensive use of thousands of children to commit horrendous human rights atrocities. Although an attempt is being made to integrate these child warriors into Liberian society, the culture of violence is still prevalent in Liberian society. Because there are very few openly LGBT individuals in Liberia, there is no documentation of violence against LGBT individuals.

OUTLOOK FOR THE 21ST CENTURY

Despite the dismal recent history of Liberia, the advent of democracy and a current government that generally supports human rights bodes well for all Liberians, including LGBT Liberians. Although progress for the LGBT community is far from being realized, even to a small degree, it can be expected that as Liberia becomes a more stable country, it will follow the path of other countries in developing, at a minimum, some kind of LGBT community.

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MOROCCO

Jen Westmoreland Bouchard

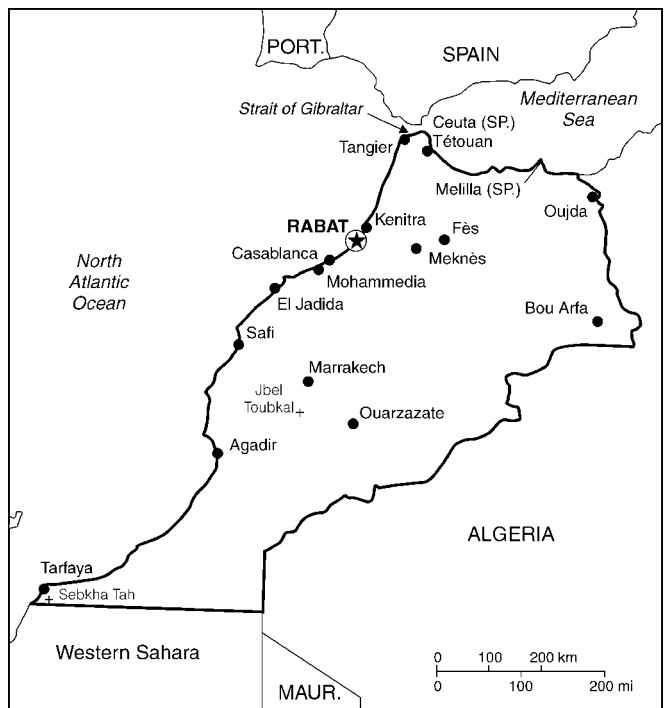
OVERVIEW

Morocco is a constitutional monarchy with King Mohamed VI as the head of state. Morocco is located in North Africa and is considered to be part of the Maghreb, along with Tunisia and Algeria. Morocco is approximately one-tenth larger than the state of California. The country is bordered by the Strait of Gibraltar on the Mediterranean side and the Atlantic Ocean on the northwest corner. Algeria is located to the southeast. Morocco is bordered by the disputed territory of Western Sahara. The Atlas Mountains extend northeastward from the south of Morocco to the Algerian frontier. The average elevation of the mountains is 11,000 feet (3,353 m). Because of the geographical challenges of mountains and desert, the majority of Morocco's population is grouped in the major cities of Tangiers, Casablanca, and Rabat.

Morocco gained independence from France in 1956, at which time Rabat was established as the capital city. The Moroccan *dirham* is the official currency. Morocco has an estimated population of 33,241,259 inhabitants. Arabic is the official language, yet many Moroccans speak Berber and French. Ninety-eight percent of the country is Muslim, Christians comprise 1.2 percent of the population, and there is a very small minority of Jewish citizens.¹

OVERVIEW OF LGBT ISSUES

Despite the fact that Islam strongly disapproves of sex between members of the same sex, Muslim societies, in general, have historically been tolerant of homosexual practice. This is



especially true if such relationships are discreet and out of the public eye. Numerous poets of classical Arabic literature indulged in homoerotic activities, yet they were viewed as no less successful than their heterosexual counterparts. In fact, the relatively liberal attitudes concerning homosexuality in much of the Arab world both fascinated and shocked the protestant European travelers of the 18th and 19th centuries. Homosexuality was often referred to as a contagion or an illness by European travelers in the 1800s. French visitors to Morocco during the 18th century often claimed that Arabs were bisexual in nature. Many male European authors wrote of *licentiousness* (lesbianism) among Moroccan women in public bath houses. Throughout this time period, the British considered homosexuality to be a *Persian vice*.²

Many Arab countries are becoming increasingly conservative concerning social issues.³ As is the case in most predominantly Muslim countries, homosexuality is a topic that most Moroccans are reluctant to discuss. Homosexual practices are considered to be un-Islamic, unnatural, and are typically viewed as a Persian or a Western import. As a result of this conservative trend, homosexual Moroccan men and women are often doubly oppressed within social, religious, and familial systems that simultaneously protect and inhibit them from living openly homosexual lives.

During the 1950s-1980s, Tangiers was home to numerous American and European homosexual celebrities such as Allen Ginsberg, William Burroughs, Truman Capote, Paul Bowles and the Frenchman, Jean Genet.⁴ However, since the 1980s (and continuing into the 21st century), there has been a conservative backlash in both Tangiers and Casablanca. Tangiers, in particular, has lost its appeal for homosexual celebrities. Somewhat contradictory to this development is the fact that the government often ignores the various forms of pederasty and homosexual prostitution that are still commonly practiced in Tangiers.⁵ Today, there exists a double standard regarding outward expressions of affection (heterosexual and homosexual) in Morocco and other Muslim countries. Heterosexual Muslim men are often seen walking hand-in-hand or kissing in public to express their friendship. However, homosexual men may not profess their sexual love for each other or express it in any way in the public eye. Same-sex relationships often happen behind closed doors. Outsiders who know of such relations ask few questions, and most do not protest if the couple is discreet. It is thought that if homosexual relationships are not talked about or written about, they do not exist according to Moroccan societal norms.⁶

Terminology, or the ways in which gays identify themselves (or are identified by others) linguistically, plays an important role in community formation in Morocco. In Arab and Muslim societies, the use of the word *gay* is loaded with a myriad of Western connotations. The term *homosexual* carries with it images of a certain lifestyle that only Western gays assume (and that Arab gays may try to emulate). The Arabic language has no accepted and used equivalent of the word *gay*. The Arabic term for homosexuality is *al-mithliyya al-jinsiyya*, which translates as “sexual sameness.” This term is used mostly in academic and literary circles. The shortened version of the term, *mithli*, is beginning to be used as a more commonplace word for gays. Both of these terms are relatively neutral and many Arab gays accept them. Religious conservatives and popular media publications often use the term *shaaadh* (which translates as “queer,” “pervert,” or “deviant”). Thus, the term *shaaadh* is a heavily loaded and pejorative term. The conventional term for lesbian is *subhaaqiyya*. There are many lesbians who argue this term has inaccurate connotations, and therefore prefer *mithliyya* (the feminine version of *mithli*).

There exist no positively connoted terms in Arabic to express the complex interactions of sentimental and physical relations between two people of the same sex. Most of the expressions in classical Arabic carry pejorative connotations. The term *shouzhouz jinsi* means “abnormal sexuality” and *loowat* is an insulting way of referring to a homosexual act among men. This term refers to the Biblical fable of Lot, or Lut, in the Koran. *Sibaq* is a derogatory term for homosexual acts among women. The term bisexuality has no positive translation in Arabic. The lesbian publication, *Bint el Nas* uses the expression *mozdawijat el moyool el jinsiya* to express female bisexuality and *mozdawij el moyool el jinsiya* to express male bisexuality. The working term for hermaphrodite or intersex, or a person who has both male and female reproductive organs, is *izdiwaji el jins*.

In regard to transsexual or transgender individuals, Arabic provides two terms. The negative term is *khanis*. A more positive option is *moghayir el jins*. An individual who is born with male reproductive organs but identifies as female is termed *moghayirat el jins* (male-to-female transgender). This term uses feminine adjectives out of respect for the way in which these individuals identify themselves, whether they have undergone gender transformative surgical procedures or not. An individual who is born with female reproductive organs but identifies as a male is called *moghayir el jins* (female-to-male transgender).⁷ Since homosexuality and various forms of *queerness* are generally not accepted in Muslim societies, it is nearly impossible to meet in gay support groups, much less attempt to celebrate one’s sexuality in the form of a gay pride festival. In interviews, numerous Moroccan gays have reported feeling extremely lonely, isolated, and pressured to conform to a traditional, heterosexual lifestyle.⁸ However, from the 1990s on, more gay social venues have appeared in larger Moroccan cities such as Rabat, Casablanca, and Tunis. However these establishments often experience an imposing police presence, precluding a comfortable sense of community.⁹

EDUCATION

There is no formal LGBT education in Moroccan schools.

EMPLOYMENT

There is no specific information on employment rates and homosexuality. However, many known or suspected homosexual Moroccans are discriminated against during the interview process and in the workplace.

Lesbians have a particularly difficult time in this arena. An unspoken norm is that any young woman who is not married or engaged will receive unsolicited sexual or romantic attention from her boss. Lesbians who do inform their bosses of their sexual identity are often fired. The only justification given by the boss is that lesbians are not employed at their establishment. Due to the complex political and societal relationship with lesbianism in Morocco, these women have very little legal recourse.¹⁰

SOCIAL/GOVERNMENT PROGRAMS

The Moroccan government does not provide funding for any social programs specifically for homosexuals. This is common in most predominantly Arab countries.

SEXUALITY/SEXUAL PRACTICES

Though contemporary Morocco is no longer the gay *mecca* it was known to be in the 1950s and 60s, sexual tourism persists. The current government often ignores prostitution because tourism of any kind boosts the economy in general, which is viewed as a positive outcome by most politicians.

Modern views and constructs of sexuality in Arab countries are impacted by the Western notion of sexuality, which came to fruition in the late 19th century. The construct of sexuality is centered on the notion that sexual behavior determines a person's identity, and therefore defines (to a certain extent) his or her lifestyle.¹¹ Therefore, a person who defines him or herself partly or entirely by his or her sexuality is considered to be under the influence of Western gay culture. Thus, he or she is considered an outsider on many levels.

Lesbians have a particularly difficult time in Morocco. In a patriarchal society built on heterosexual relationships, lesbians are often ignored or invisible. However, lesbianism is more common than one might expect in Arab countries, Morocco included. Many married women engage in homosexual activities as a way of combating boredom or dissatisfaction (sexual or otherwise) in their marriages. Other lesbians are well aware of their sexual preferences and chose to get married anyways (to conform to social or family expectations). These women often keep female lovers on the side. Given marital expectations in Morocco, these relationships are quite easy to maintain. So many Moroccan husbands are paranoid that their women are cheating on them with other men that they suspect nothing when their wives say they will be spending an evening with other women. In fact, most men are relieved that their wives would prefer to spend time with female friends instead of in the company of other men. One popular lesbian meeting place is the public bath, where women go for hair removal by a traditional Moroccan technique called *halawa*. However, authorities became aware of lesbian relations in many of these places and they have since been closed.¹² As for homosexual male meeting places, there exists no official gay infrastructure of bars, restaurants, or hotels anywhere in Morocco. However, many gay men identify each other through glances on the street, which lead to encounters in alleyways and private residences. Married gay men often keep one or multiple lovers and a separate apartment on the side for their homosexual rendezvous.¹³

FAMILY

In traditional Islamic families, homosexuality is usually either denied or ignored. At worst, homosexuals who come out to their families are treated with psychological and physical violence. In Morocco and other Arab societies, there are countless testimonials of homosexual sons being attacked by their fathers and brothers or forced to leave home. Others are subjected to intensive therapy sessions or forced to undergo electroshock treatment.

In many well-educated and affluent households, homosexuality is treated as an illness. It is considered to be curable with the right and appropriate length of treatment. Parents in this situation often believe that their child has been seduced or forced into homosexual behavior. To avoid these various forms of family-induced trauma, many gay men take on faux girlfriends or even arrange marriages for themselves with lesbians who are similarly seeking safety within the confines of cultural convention.¹⁴

Marriage is obligatory in most Arab households. Marriages are commonly arranged by parents. In cases where a gay or lesbian marries an arranged partner, many pursue homosexual relations outside the marriage.¹⁵ Many never reveal their sexuality until after one or both parents have died. Some simply live in secrecy or move to another country where they can live out their homosexual lives honestly and relatively safely.

COMMUNITY

In Morocco, young homosexuals find most of their information about homosexual lifestyles on the Internet. At times, this knowledge is also passed on from more experienced friends. The majority of the Web sites used as resources are in French or English, thus literacy in these languages (and access to a computer) is required. Many young Arab gays find general safety or sexual information on the Internet that may be useful. However, most of the psychological references found online are geared toward a Western audience and do not offer advice on how to live as a homosexual in an Arab country.¹⁶

Moroccan lesbians face certain challenges when using the Internet as a way of connecting with other women. The fellow lesbians they find online (who are allegedly looking for lovers or friendship) frequently end up being men (sometimes even the suspicious boyfriends or husbands of lesbian women). Therefore, many lesbians use caution and judgment when looking for companionship online. Street-smart homosexual women arrive early to an agreed upon meeting place and keeps a safe distance so that they can observe who shows up before he (or she) sees them.¹⁷

Despite the obvious negative aspects of being gay in Morocco, one positive trend is that local publications are beginning to provide more information to Moroccans about gay culture. In March 2002, *L'Indépendant Magazine* published a feature article entitled "Les gays marocains font leur coming-out" ("Moroccan Gays Come Out"). In 2004, Casablanca's *Tel Quel* published "Etre homosexuel au Maroc," ("Being Homosexual in Morocco") an article outlining the numerous difficulties associated with being gay in Morocco.¹⁸ Though not a topic commonly broached by authors, homosexuality has been discussed in several highly controversial Moroccan novels of the second half of the 20th century. In the 1950s, Driss Chraïbi criticized Morocco's sexual value system in *Le Passé Simple*. More recently, Abdelhak Serhane attacked cultural phobias surrounding gay sex in *L'amour Circoncis* (1995).

There also exist organizations such as the Gay and Lesbian Arabic Society (GLAS) that serve Arab homosexuals worldwide. Established in the United States in 1988, GLAS is an international organization that aims to promote positive images of gays and lesbians living in both Arab and non-Arab communities. Another goal of GLAS is to provide a network and educational resources for members of homosexual Arab communities.¹⁹ Another notable organization is *Bint el Nas*. *Bint el Nas* is an international Arab lesbian association that maintains an informational Web site and publishes a biannual literary journal. In their mission, they state that they are designed to provide information and social assistance to "women who identify as gay, lesbian, bisexual, transgender, and/or queer (including female-to-male and male-to-female transgender people in any state of transition), and who are identified ethnically or culturally with the Arab world, regardless of where they live."²⁰ *Bint el Nas* is an Arabic expression that translates to "daughter of the people." In Arab cultures, this phrase means "a girl or woman of good social standing."

HEALTH

Many gay Arabs report feeling lonely or isolated. This correlates directly to a lack of familial and communal acceptance and support. Consequently, mental illness is prevalent among both gay men and women and many become suicidal. This issue is complicated by the fact that Islam (like Christianity) considers suicide to be a mortal sin.

Homosexual individuals living in Islamic countries also find it difficult to receive adequate health care. In 2006, the Moroccan Association for the Fight Against AIDS launched a fund-raising campaign to support AIDS research and awareness. Instead of receiving widespread support, the association is now fighting conservative Muslims who accuse it of endorsing “the culture of the condom.”²¹ This privately funded organization states that about 19,000 people in Morocco have either HIV or AIDS, mainly transmitted through heterosexual activity. Opponents of this initiative believe that AIDS is a divine punishment for homosexual activity.

Traditional Muslims blame practices associated with sexual tourism for the spread of HIV/AIDS in Morocco. The Moroccan economy depends heavily on tourism and hopes to have 10 million visitors per year by 2010.²² This conservative backlash will certainly have a negative effect on the reputation of the tourism industry. In the past several years, conservative Muslims have taken over beaches and demonstrated against sunbathing and swimming by engaging in collective prayers. This series of events came to be known as “the war of the beaches.” In light of the recent controversy over protection against AIDS, many Moroccans believe there is a looming “war of the condoms.”²³ There are currently 19,000 living with HIV in Morocco. Rates of HIV infection are especially high among at-risk demographics (sex workers and drug users). Thanks to the intervention of UNAIDS and their work with local governments, antiretroviral medications are available at a reasonable cost to those living with HIV.²⁴

POLITICS AND LAW

In the minds of many Moroccans, attitudes towards male homosexuality (and also women’s rights) are intertwined with international politics. Homosexuality is considered yet another form of Western imperialism. Thus, political and cultural discussions of homosexuality are inextricably linked to the opposition of various forms of Western cultural invasion.²⁵ In a tenuous era of neocolonialism, many Arab societies have turned to traditional customs and practices as a way to bolster national morale and solidify a common identity. Thus, homosexuality is not only viewed as a Western creation, it is also considered to be decidedly un-Arab and culturally offensive. Conversely, lesbian relationships are not typically viewed as signifiers of cultural degradation or Western imperialism. When invoked in contemporary Arab discourse or literature, they tend to be discussed as a natural, logical recourse for a woman who has not been satisfied by her husband.²⁶ Therefore, lesbian relationships have become a sort of shameful warning sign to married Arab men.

Somewhat paradoxically, the Moroccan government has historically turned a blind eye to the use of homosexual prostitution (even among the youth) to earn money, a visa, or travel opportunities. These young gays are extremely knowledgeable when

it comes to international gay codes and norms. Many know how to attract homosexual tourists' attention by emphasizing certain physical characteristics, strategically placed jewelry, or the wearing of certain fashions.²⁷ In 2004, a 66-year old Englishman was arrested in Rabat after engaging in homosexual activities with a known prostitute. He was sentenced to one year in prison and forced to pay 500 dirham (the equivalent of about US\$60). He claimed to have visited Morocco as a sexual tourist many times since the 1980s and had never been arrested before this incident. Later that year, nine adolescent boys were killed in Taroudant. Both of these events ignited debate over homosexual prostitution in the press and among government officials. The man who was arrested for the killings reportedly committed the murders after engaging in pedophilic activities. The press surrounding this case strengthened the Moroccan government's resolve to eradicate homosexual prostitution.²⁸

Homosexuality is criminalized under Section 489 of the country's Penal Code. Currently, the legal penalty for sexual relations between people of the same sex is between six months and three years in prison, in addition to fines from 120 to 1,000 Dirhams (US\$30–70).

RELIGION AND SPIRITUALITY

Islam is the dominant religion in Morocco. In the main book of the Koran, homosexuality is strictly prohibited: "And as for the two of you who are guilty thereof, punish them both. If they repent and mend their ways, let them be. God is forgiving and merciful" (4:16). Another important Islamic source is the *Shari'ah* (meaning "path" in Arabic). The *Shari'ah* is, in essence, a divinely created code of conduct (expressing God's will) that all Muslims must follow.²⁹ According to the *Shari'ah*, homosexual behavior is strongly prohibited.

The *Shari'ah* contains information on sex and the regulation of it. The basic premise is that sex is natural and condoned. In fact, most Muslim sects believe that sex in paradise leads to the fulfillment of the spiritual and bodily self.³⁰ However, because of human imperfection, sex on earth has become corrupt and must be regulated. Sex within marriage is encouraged. However, a partner of the same sex is considered to be an illicit partner because he or she could never be a spouse and because a homosexual act threatens the natural order. In more conservative sects, homosexual activities are considered a revolt against *Allah* (God).³¹ More commonplace is the notion that deviant sexual acts produce illness, such as AIDS.

Therefore, according to Muslim law, these thoughts must be repressed and never acted upon. If a Muslim admits to having homosexual thoughts, religious leaders encourage them to ask Allah to rid them of these feelings and never to get physically involved with a person other than his own heterosexual spouse. He will be further advised to seek medical treatment and religious support from a local *imam* (religious leader).³²

An important distinction between Islam and Christianity is that Islam addresses homosexual acts but does not address homosexuality as an identity or lifestyle. Christianity tends to view homosexuality (the lifestyle, acts, and identity) as a sin and preaches that this lifestyle is indeed a choice. The reasons for this distinction are clear if one bears in mind that homosexuality is perceived as a Western construct. The term homosexuality embodies the notion that sexual behavior determines

a person's identity, and therefore defines (to a certain extent) his or her lifestyle.³³ Particularly in Morocco, homosexuality is viewed as a form of Western decadence.

In a more general sense, the term and concept of homosexuality also refers to the public transgression of moral codes and behaviors. In Islam, homosexuality often becomes representative of unnatural, disorderly conduct that will eventually lead to chaos and social decay. Likewise, homosexuals themselves are seen as deviant members of society and as such, they are a direct threat to social order. Therefore, the category of homosexuality can easily (and dangerously) become extended to incorporate anyone who disturbs the mores of Islam, including criminals, political opponents, outsiders, or foreigners.³⁴

Traditional Islamic law prescribes harsh punishments for homosexual behavior. Since homosexual behavior is considered to be a form of adultery, the same guidelines hold true as for heterosexual adulterers. The penalties consist of physical violence: stoning to death for married peoples and 100 lashes for unmarried people. These extreme punishments, meant to deter homosexual activity, are often performed in the public eye.

However, Islam recognizes that humankind is intrinsically fallible. Therefore, practice is gentler than theory. Therefore, for corporal punishment to be carried out, there must be an eyewitness to the homosexual event or a direct confession. If the person who has made the transgression seeks to repent and reform, punishment may be delayed or simply never occur.

A somewhat contradictory historical Moroccan cultural belief is *baraka* (religious good luck). Historically, it was believed that saintly or blessed men could transmit his *baraka* to another man through anal intercourse (fellatio was not considered an effective form of transmission).³⁵

VIOLENCE

Violence against homosexuals in Morocco is related to the perception of homosexuality in general. Homosexuality is viewed as a foreign illness, one that must be eradicated in order to maintain stasis in Moroccan life and Muslim values. Since homosexuality is viewed as just one of the many ways in which Western cultures are trying to dominate the world, much of the violence against homosexuals is driven by this fear of neocolonialism.

As a result of both family and random acts of violence, gays who have the financial means to leave Morocco move to European countries or the United States; places in which they can continue their lives in peace. On several occasions, Moroccans have been granted asylum by the United States Government after undergoing beatings from family members and other members of Moroccan society as a result of their sexuality.

Violent reactions from family members are especially common in traditional parts of Morocco. In these regions, the notion of family honor is of the utmost importance. Any type of deviance, homosexuality included, brings shame upon the household and also shames past generations. Such emotional reactions often result in fathers killing their homosexual sons to preserve the family's honor. In the heterosexual context, brothers have been known to collectively kill a sister if she becomes pregnant before marriage in order to maintain the family name and reputation. They have been threatened by honor killings by family members if they return to their towns.³⁶

OUTLOOK FOR THE 21ST CENTURY

The rise in antihomosexual events in Morocco in the past decade reveal a conservative trend away from accepting homosexuality. In the past, Arab societies were much more tolerant of homosexual activity if it was kept private. Now, public displays of homosexuality are viewed as a Western illness that must be cured through various techniques including psychotherapy, electroshock therapy, social exclusion, and violence. This mentality is also entangled in international politics. The perceived threats of Western imperialism and modernity in general have spawned an overwhelming return to traditional Islamic values as a cultural defense mechanism. However, these traditional values are much less universal than the majority of Arabs realize. As proven by historical writings, these conservative sexual values were not wholly respected or observed in the past. However, there still exist numerous conservative Muslims who portray the battle of sexual orientation as a Western crusade against Islam.

As a result of these complex and layered antigay and anti-Western ideologies, it will be a long time before homosexuals will feel safe living openly gay lives in Moroccan society. Over the past 10 years, much scholarly work as been done on identity and community formation among gay Arabs. This scholarly attention is a positive phenomenon in that it informs a Western audience of the challenges faced by gay Arab populations. By bringing cases of injustice and hidden acts of violence into the light, academics and human rights organizations can help to eventually create a safe environment and sense of community for Arab homosexuals in Morocco and worldwide.

RESOURCE GUIDE

Suggested Reading

- Abdul Aziz Al-Fawzan, "The Evil Sin of Homosexuality," 2004, <http://www.islamweb.net/english/family/socialaffair/socaff-84.html>.
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- Abderrahim El Ouali, "Morocco: War Over Condoms in the Battle Against AIDS," *Inter Press Service English News Wire*, 2006.
- Madelaine Farah, *Marriage and Sexuality in Islam: A Translation of al Ghazzali's Book on the Etiquette of Marriage* (Salt Lake City: University of Utah Press, 1984).
- Matthew Link, "Under Morocco's Sheltering Sky: The Timeless Magnetism of the Desert Lures Modern Travelers into the Mysticism of an Ancient North African Land," *The Advocate*, 2005.
- Valentine M. Moghadam, *Modernizing Women: Gender and Social Change in the Middle East* (Boulder, CO: Lynne Rienner, 2003).
- Vincenzo Patané, "Homosexuality in the Middle East and North Africa," in *Gay Life and Culture: A World History*, ed. Robert Aldrich (New York: Universe Publishing, 2006).
- Geoff Puterbaugh, "North Africa," in *The Encyclopedia of Homosexuality*, vol. 1, ed. Wayne Dynes (New York: Garland Publishing, 1990).
- Staff Writer, "Briton Jailed for 'Homosexual Practices' in Morocco," *AP Worldstream*, 2004.

Serge Trifkovic, "Islam's Love-Hate Relationship with Homosexuality," *Front Page Magazine*, 2003.

UNAIDS, "Morocco Country Profile," 2007, www.unaids.org.

Brian Whitaker, *Unspeakable Love: Gay and Lesbian Life in the Middle East* (Berkeley: University of California Press, 2006).

Brian Whitaker, "Behind the Veil: Lesbian Lives in the Middle East," *Diva Magazine*, July, 2006, <http://www.divamag.co.uk/diva/features.asp?AID=1677>

Brian Whitaker, "Let's Talk about Sex, Habibi," *The Guardian*, June, 2006, http://commentisfree.guardian.co.uk/brian_whitaker/2006/06/the_history_of_sex.html.

Web Sites

Bint el Nas Association for Arab Lesbians, www.bintelnas.org.

Bint el Nas is an international Arab lesbian association that maintains an informational Web site and publishes a biannual literary journal.

The Gay and Lesbian Arabic Society, www.glas.org.

Established in the United States in 1988, GLAS is an international organization that aims to promote positive images of gays and lesbians living in both Arab and non-Arab communities. Another goal is to provide a network and educational resources for members of homosexual Arab communities.

Gay Middle East, www.gaymiddleeast.com.

A comprehensive and diverse news source for those interested in homosexual issues in the Middle East. This site provides links to articles from a variety of Middle Eastern, American, and British news sources. Gay tourism information is also available.

NOTES

1. "Morocco," 2006, www.countryreports.org.

2. Serge Trifkovic, "Islam's Love-Hate Relationship with Homosexuality," *Front Page Magazine*, 2003.

3. Geoff Puterbaugh, "North Africa," *The Encyclopedia of Homosexuality*, vol. 1, ed. Wayne Dynes (New York: Garland Publishing, 1990), 19–22.

4. Ibid.

5. Ibid.

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7. Bint el Nas, <http://www.bintelnas.org>.

8. Whitaker, *Unspeakable Love*; Brian Whitaker, "Behind the Veil: Lesbian Lives in the Middle East," *Diva Magazine*, July 2006, <http://www.divamag.co.uk/diva/features.asp?AID=1677>; Brian Whitaker, "Let's Talk about Sex, Habibi," *The Guardian*, June 2006, http://commentisfree.guardian.co.uk/brian_whitaker/2006/06/the_history_of_sex.html; Staff Writer, "Briton Jailed for 'Homosexual Practices' in Morocco," *AP Worldstream*, 2004.

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11. Maarten Schlid, "Islam," in *The Encyclopedia of Homosexuality*, vol. 1, ed. Wayne Dynes (New York: Garland Publishing, 1990), 615–20.

12. Whitaker, *Unspeakable Love*; Whitaker, "Behind the Veil"; Whitaker, "Let's Talk about Sex, Habibi."

13. Matthew Link, "Under Morocco's Sheltering Sky: The Timeless Magnetism of the Desert Lures Modern Travelers into the Mysticism of an Ancient North African Land," *The Advocate*, 2005.

14. Whitaker, *Unspeakable Love*.
15. Ibid., 25.
16. Ibid.
17. Ibid.
18. Patané, "Homosexuality in the Middle East and North Africa."
19. The Gay and Lesbian Arabic Society (GLAS), www.glas.org.
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26. Ibid.
27. Patané, "Homosexuality in the Middle East and North Africa."
28. Staff Writer, "Briton Jailed for 'Homosexual Practices' in Morocco."
29. Schlid, "Islam."
30. Ibid.
31. Ibid.
32. Whitaker, *Unspeakable Love*.
33. Schlid, "Islam."
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NAMIBIA

Nancy Nteere

OVERVIEW

Namibia is located on Africa's southwest coast and covers 318,261 square miles. It is the second least populated country in the world with a population of only 20,550,080 people (2007). The life expectancy for women is 41.8 years and for men it is 44.4 years. The fertility rate (2007) is 2.94 children born per woman.¹ There is a high rate of HIV/AIDS in the country with a total of 230,000 people living with the virus.²

Namibia is bordered on the east by Botswana and South Africa, on the west by the Atlantic Ocean, on the north by Angola and Zambia, and on the south by South Africa. Deserts occupy most of Namibia—namely the Kalahari and Namib deserts. There is scant vegetation in the deserts and grasslands, which are used by livestock and game animals to graze. The semi-arid central plateau is covered by woodland savannah. The forests in the northeast region of Namibia are home to game animals such as zebras, lions, giraffes, rhinoceros, and hartebeests.

Namibia was formerly known as South West Africa. German settlers discovered diamonds in the region in 1908, which encouraged an influx of European settlers. Namibia is a rich source of minerals and the primary exports are diamonds, copper, gold, zinc, lead, and uranium, as well as a variety of game meat. The Okavango River generates more hydroelectric power than all other rivers in Southern Africa. The Namibian climate is typically hot and dry. The average rainfall, which ranges from the Namib



Desert to the coast, is two inches a year. The summer (October-March) is the rainy season. In the mainland to the south, the average rainfall is six inches annually. To the north, rainfall is 22 inches per year. The average temperature in the mainland is 70 degrees Fahrenheit, and at the coastline it is 62 degrees Fahrenheit.

Namibia's population is comprised of a variety of ethnic groups. More than half the population consists of the *Ovambo* tribe. The other groups are the *Kavango*, *Herero*, and *Damara* peoples, mixed race (*colored* and *rehoboth*), white (German, Afrikaans, and Portuguese), *Nama*, *Caprivian*, Bushmen, and *Tswana*. Most of these groups share similar home languages, but the black and white Namibians are distinctively different in their communal identities. The *Ovambo*, *Kavango* and *East Caprivian* people work as herders and farmers and are settled in the well-watered and fertile parts of the country. However, urbanization, industrialization, and the zest to find jobs elsewhere in different regions have resulted in integration of the different communities in the urban centers such as Windhoek (the capital city). There is a minority white population that is descendant from South Africa, Britain, Portugal, and Germany.

More than half of the white population speaks Afrikaans, a language derived from the 17th-century Dutch settlers. Each ethnic group has a chief or a queen to govern the traditional acts in honor of democracy. Most communities elect women since it is believed they embody strong leadership skills and, ultimately, respectable traditional homes. The oldest community in Namibia was known as the *San*, who lived in the Kalahari Desert; however the Kalahari is now divided between Botswana, Namibia, Angola, and South Africa.

OVERVIEW OF LGBT ISSUES

In the rural parts of Namibia, gays and lesbians are forced to marry and have children. As in many African countries, once the community suspects or discovers someone is gay, he or she is ostracized or physically attacked without the protection of law. Shortly before Namibian independence in 1990, gays in Namibia had the freedom to hold hands in public without much repercussion. However, that changed as the economy faltered. Namibian leaders and government officials looked for any scapegoat to attribute the slow economic growth—and homosexuality was blamed. In 1996, the debate on homosexuality prompted the former president Sam Nujoma to give his first antigay speech in which he encouraged government officials and ministers to discriminate against gays. This negative stance has been repeated by other government officials. For example, approximately ten years ago, the Deputy Minister of Land, Resettlement, and Rehabilitation was interviewed and advised gays and lesbians to be operated on to remove some of the “unnatural hormones” that made them homosexual. It is no wonder that LGBT people in Namibia are afraid to come out.

According to the national AIDS policy that is under consideration, homosexuals will be included as an identified group. If the draft is approved, it will intervene to help with the prevention of HIV among gays and lesbians. This is an important step forward in bringing national awareness to gay issues.

Due to the high number of hate speech and crimes directed towards LGBT people, a large percentage of the gay population prefers to stay silent and closeted, and are expected to do so for the foreseeable future. However, gay organizations have slowly formed in the major cities and members have openly declared their sexual

orientation. These organizations have also held workshops and visited schools and churches to spread their message of tolerance. Even with the negative government position, the overall climate in Namibia has become less hostile in recent years.

EDUCATION

As in most African countries, higher education is paid for by the students; however, the Namibian constitution guarantees that primary education is free and compulsory. Formal primary education is made up seven years, grades one through seven. The secondary education consists of three years of junior secondary school and two years of senior secondary school. Students of primary education vary between the ages of six to 16 years. The language of instruction chosen by government-sponsored schools is English due to various reasons including: Pan-Africanism, unity, wider communication with the outside world, and greater access to science and technology. The government began teaching about HIV/AIDS transmission using age-appropriate sex education materials in schools in order to curb the prevalence among Namibia's youth.

Just after independence and through the intervention of President Sam Nujoma, a commission was established to review the higher education needs. The result of the commission was the elimination of tertiary education and the inclusion of a university and polytechnic institutes. The University of Namibia was established in 1992. In 1994, the polytechnics of Namibia were established as institutions of higher learning, along with four teaching universities.

Namibia boasts of being one of the countries with the highest literacy level in sub-Saharan Africa. The Namibian government claims to have achieved almost a 100 percent literacy rate except for a small population found mostly in the *San* community. For the *Sans*, informal education facilities have been established to accommodate their special living conditions. Many academics challenge the official literacy rate and claim it is much lower as evidenced by the large population of unskilled unemployed workers.

EMPLOYMENT AND ECONOMICS

A fairly large portion of Namibia's population is either unemployed or underemployed. The majority of the unemployed manage to eke out a living in the informal sectors, such as by hawking goods or working in family owned farms to produce food crops. The working force is comprised of 820,000 people. Overall, unemployment stands at 35 percent of the population.³ Agriculture employs almost half of the total work force. A large number of the work force still remains illiterate and unskilled, prompting the government to enroll more people in education and training.

Namibia's per capita gross domestic product (GDP) is US\$7.781 billion (2008 est.; \$7,478 [2005 est.]). The growth rate is 3.5 percent (2005 est.) and the inflation rate is 2.3 percent (2005 est.).⁴

A large number of Namibia's imports originate in South Africa. The two countries' economies remain dependant on the South African currency as the rand (ZAR) can be used to trade in both countries.

Former president Sam Nujoma's government has generally diversified Namibia's economy by introducing Export Processing Zones, increasing fishing, mining

and tourism incentives, and also by improving the infrastructure. Mining is Namibia's chief export sector. A small percentage of the population is employed in the mining sector. In Africa, Namibia is the fourth largest exporter of nonfuel minerals. Ranked as the world's fifth-largest producer of uranium, Namibia also exports lead, zinc, tin, silver, and tungsten. Coupled with the micro and macro economic policy, mining has stabilized the inflation rate, economic growth, and interest rates.

Corruption is rampant at all levels of government. Consequently, there are a lot of uncertainties and unjustified dismissals in the labor force.

There have not been any reported cases of unlawful dismissal from employment due to sexual orientation. Most of the LGBT organizations employ gay and lesbian employees. There have not been any notable cases of discrimination at work places due to sexual orientation, but many workers also remain closeted to their employers.

SOCIAL/GOVERNMENT PROGRAMS

According to Namibia's new labor laws, discrimination based on sexual orientation has been eliminated. Yet, the laws are not enforced, leaving a gap concerning the labor rights of the LGBT community. The country is conflicted between asserting basic rights while at the same time government officials (including the president) are making discriminatory remarks. For example, key ministers in the government have made varied homophobic statements. These in turn led to out-right discrimination by government officials and others. As such, the new labor laws are rarely enforced.

As a result of homophobic statements from key people in government posts, gay organizations such as The Rainbow Project, Legal Assistance Center, and Sister Namibia have developed programs in which they incorporate gay activists and encourage gay people to speak out. Members of these pioneer gay groups visited schools, churches, television and radio shows, and human rights organizations in order to educate people and gain recognition for tolerance. Allying with other African countries, Namibia has had programs that have incorporated other lesbian, gay, bisexual, and transgender groups. Among the programs that are organized by the government are those that involve the sensitization of both genders on basic human rights education through workshops targeting traditional teachers, counselors, parents, and the youth.

Half of the population works in agriculture. The government has issued farm policies concerning the use of titled land as security in banks and government institutions. As such, small-scale farmers and women have benefited from this program since 1994. However, married women require consent from their husbands in order to access the loans. Since gays and lesbians cannot marry, these important credit programs are unavailable to same-sex couples.

SEXUALITY/ SEXUAL PRACTICES

The first debate on the legalities of homosexuality in Namibia was initiated in 1995. The debate centered on the recognition by law of lesbian couples who lived together. The High Court termed the union a "Universal Partnership," which granted the same recognition as given to a cohabitating heterosexual couple.

In the urban setting, a small percentage of LGBT people come out to their families and rarely experience homophobia. There are some organizations and shelters that offer counseling services for members of the LGBT community. However, most gays and lesbians still remain closeted. Some actively participate in workshops and events that promote self-awareness and acceptance.

Namibia, like most other African countries, considers homosexuality as un-African and taboo. Although there is a history of some ethnic groups being aware of the existence of gay people and go so far as to give them special tribal names, the names chosen usually have a negative connotation to them. For example, Namibia's largest ethnic group is the *Ovambo*. They are deeply rooted in patriarchy and believe homosexuality makes gay sons unacceptable for inheritance of land from their fathers. In contrast, the *Damara* is one of the communities that is more accommodating towards homosexuality.

Namibia's LGBT community operates discreetly. The official status of homosexuality remains illegal, therefore the gay community meets in places that are determined to be safe, such as in offices that are gay friendly. Same-sex dating is not accepted by Namibian society, which forces same-sex couples to camouflage their relationships as friendships in order to divert attention. However, there are cases of house parties that are organized by the LGBT community where there is open interaction and pairing up of same sex couples. The National HIV/AIDS policy was adopted in parliament; however gay, lesbian, bisexual and transsexual people were left out of the policy, and thus receive no recognition.

FAMILY

It has been preached all over Africa that homosexuality is un-African and a Western influence, and Namibia is no exception in terms of spreading this type of rhetoric. The former president, Sam Nujoma, often made remarks supporting antigay culture, values, and morality, and called for the eradication of same-sex relationships. Nujoma repeated the claims that homosexuality was promoted by Europeans and, as such, was a deviancy to be stamped out. He gave permission to parents and traditional leaders to discipline young people who refused to follow cultural norms, including gay and lesbian children. However, Nujoma allowed lesbians to practice their rights in their homes but not in public.

All African languages have specific terms denoting the practice of homosexuality. This history counters the idea that homosexuality did not exist until European colonialization. In each of the Namibian indigenous languages, there existed a tribal word for homosexuality.

Namibian law recognizes customary marriages as a legal union between a man and a woman so long as all the customs are adhered to. Different communities have different traditions of solemnizing marriage. Even still, the marriage traditions need to conform to constitutional law. As such, same-sex customary marriages are not acceptable as they are still unconstitutional. Traditional marriage also does not allow for divorce. Women are forced to endure promiscuous husbands until "death do us part." Polygamy in a household mostly depends on the available wealth, since the man is required to pay for the bride's price and take care of the new wife and family. There are, however, some harmful traditional marriage customs. In some communities, blood relatives of a deceased man are allowed to confiscate his property from the widow and children. This leaves the widow and

children homeless and destitute. In such cases, the local chief is obligated to officiate over the matter.

COMMUNITY

Due to homophobic outbursts from members of parliament concerning homosexuality, South African lesbians and gays have teamed up with lesbian and gay citizens of Namibia to set up an active LGBT community. LGBT organizations have come to the support of the gay communities of these countries. Additionally, in Namibia's urban centers, many people in the general population have also been in support of LGBT organizations. Behind the Mask, a South African LGBT organization and Web site, has sponsored conferences and talks in Namibia. The organization offers support to the victimized LGBT groups in Namibia. The two key feminist organizations that address gay and lesbian issues in Namibia are Sister Namibia and The Rainbow Project.

HEALTH

Namibia has one of the highest HIV infection rates in the world. The government has introduced strategies in prevention and treatment, and supplies free antiretroviral to people who are living with the infection. By the end of 2005, there were 230,000 adults and children between the ages of 0–49 living with HIV. The HIV prevalence rate among adults between the ages of 15–49 is 19.6 percent. Compared to other health care systems in Africa, Namibia has one of the best in both its population-to-doctor and its population-to-hospital-bed ratios.

Namibia's national HIV/AIDS policy excluded issues concerning the gay and lesbian community. In many ways, the policy assumes that homosexuals do not exist in the country. This oversight may be caused by the status of homosexuality as illegal, and also due to the fact that many Namibians associate AIDS with male prostitutes.

Most of the programs related to health rights are geared towards heterosexuals and, therefore, very few address the issue of same sex relationships. In most African countries, women take the role of being celibate and monogamous in marriages and men are sanctioned to be promiscuous. Gay men in Namibia are faced with the decision of being celibate or monogamous to their partners in order to curb sexually transmitted diseases and HIV/AIDS.

There has been little effort by national or regional HIV/AIDS prevention education campaigns to address issues related to same-sex sexuality. An example of this negligence is found in the Namibian prisons. Security wardens are provided with condoms while the inmates who are involved in same-sex relationships have no provision of them. It is assumed only heterosexual sex is the main transmission of HIV/AIDS, and this misconception has led to sky rocketing HIV rates among inmates.

POLITICS AND LAW

Male homosexuality remains illegal in Namibia; however lesbian sexual acts are not mentioned in the law. It is normally assumed lesbian acts are also illegal

although no woman has ever been prosecuted under the law. The labor laws prohibit discrimination based on sexual orientation, but this is not enforced. Once a person is suspected to be a homosexual they are often subjected to verbal and physical violence. There have been a few incidents where the former president used the term *homosexuality* as an epithet to attack his political enemies. This encouraged other gay bashings. Due to the antigay remarks by key politicians in the government, gays have received sexual assaults in homes, schools, prisons, and police cells. In the rural parts of Namibia, lesbians sometimes are forced to marry older men or are married off as second wives to retain the community's culture or traditions.

There were threats in 1998 by the Minister of Home Affairs, who planned to introduce new legislation against homosexuals. He stated that gay rights would never qualify as human rights and should be regarded as human wrongs. He claimed that authentic Namibian culture and religious institutions ranked homosexuality as a sin against God and country. However, the new legislation was never introduced.

Since independence, there have been many discussions concerning human rights for Namibians. Only one legislation touched on the issue of same-sex sexuality issues. The labor law was modified to criminalize discrimination based on sexual orientation.

RELIGION AND SPIRITUALITY

Being gay in Africa leads to being called un-Godly or un-Christian. Homosexuality is often characterized and smeared as a European import. However, this strategy can backfire since Christianity was an European import. Colonization obliterated Namibia's cultural traditions and religions. For example, in northern Namibia, homosexuals historically served as spiritual leaders and healers. Thus, there is confusion over the veneration of traditional beliefs, imported Christian values, and nationalism.

LGBT Namibians often turn to their churches for help in their struggle for equal rights, but the response has been varied. Christians account for the highest population in Namibia, Protestants make up 38 percent, Roman Catholic 28 percent, indigenous beliefs 26 percent, Muslim 7 percent, and others 1 percent.⁵ Most Christian churches have been antagonistic toward gays but Lutheran churches have been more accepting.

VIOLENCE

There have been few reported cases of physical violence against the gay community in Namibia, but reports are hard to find as most gay people are closeted. There was, however, a notable case of gay bashers who attacked three gay men. Additionally, a case was reported on the Web site run by Behind the Mask on the July 19, 2005, on a case of a student who was sodomized by a male teacher. Sister Namibia, an organization supporting gay rights, has had their offices gutted by fire and their library burned to ashes.

In Namibia, antigay policies and beliefs have been made into a political platform. In the past, politicians including former president Sam Nujoma, made verbal attacks against homosexuals. Nujoma clearly stated that homosexuality was

un-African and ungodly. He ordered that once homosexuals are found, they were to be arrested, imprisoned, or deported. He instilled the notion that homosexuality was a foreign ideology and that Europeans were diluting the Namibian culture.

In a speech made by the former president's Home Affairs Minister, the minister asserted that the police had been ordered to rid Namibia of gays and lesbians, and equated their relationships to unnatural acts, including murder. He blamed gays for the rising HIV infection rate. He also ordered the killing of *gay dogs* (i.e., dogs owned by gay people). Further, the Deputy Home Affairs Minister equated homosexuals to patients with psychological and biological deviations and who should be cured of their sickness.

There have been some brutal attacks on gays and lesbians. For example, families of lesbian daughters have arranged to have the daughters raped in order to teach them the *right* way to have sex. Similarly, gay men have had their earrings ripped off from their ears by the police. Some gay students have dropped out of school because they have been outcast or are subjected to violent "cures." In an article written by *Chicago Tribune* foreign correspondent Laurie Goering, a leading government official was reported as issuing a treatise on the cure of homosexuality.⁶ It advocated sawing off the top of the skull and using a chemical solution to cleanse off the homosexual tendencies.

OUTLOOK FOR THE 21ST CENTURY

In Africa, no church or religion has taken a pro-gay stand or offered support for the LGBT community. In rural regions of Namibia, there are many hurdles in accepting homosexuals as equal members of society. However, the gay-friendly Lutheran church may be instrumental in helping other religious groups learn and accept gays and lesbians as equals. These other religious groups dominate the national discourse and play the greatest role in national politics. South Africa has played a significant role in Namibia's gay rights struggle by intertwining LGBT organizations from both countries.

Urban centers like Windhoek will continue being central to the struggle for LGBT rights. Many lesbians and gay men have migrated there with the hope of recognition and assistance in the fight for their rights. Although progress has been slowed by verbal attacks from political leaders, there is hope that with new leaders the situation will change for the better. Although homosexuality is still deemed illegal in Namibia, the Namibian LGBT community in the 21st century is hopeful of achieving equality and a peaceful life.

RESOURCE GUIDE

Suggested Reading

- Barry D. Adam, Jan W. Duyvendak, and Andre Krouwel, *The Global Emergence of Gay and Lesbian Politics* (Philadelphia, PA: Temple University Press, 1999).
- William Beinart, *Twentieth Century South Africa* (Oxford: Oxford University Press, 2001).
- Ken Cage, *The Language of Kinks and Queens* (Johannesburg: Jacana Media, 2003).
- Cary Alan Johnson, *Off the Map, How HIV/AIDS Programming is Failing Same-Sex Practicing People in Africa* (New York: International Gay and Lesbian Human Rights Commission, 2007).
- Ezekiel Kalipeni, *HIV/AIDS in Africa* (Oxford: Blackwell Publishing, 2004).

- Scott Long, Widney A. Brown, and Gail Cooper, *More Than a Name* (New York, Human Rights Watch Publication, 2003).
- Fatima Mernissi, *Beyond the Veil: Male-Female Dynamics in Modern Muslim Society* (Bloomington, IN: Indiana University Press, 1985).
- Ruth Morgan and Saskia Wieringa, *Tommy Boys, Lesbian Men and Ancestral Wives: Female Same Sex Practices in Africa* (Johannesburg: Jacana Media, 2005).
- Robert Morrell, *Changing Men in Southern Africa* (London, Zed Books Limited, 2001).
- Jennifer Ellen Robertson, *Same Sex-Cultures and Sexuality: An Anthropological Reader* (Oxford: Blackwell, 2005).
- Shaun Waal and Anthony Manion, *Pride, Protest and Celebration* (Johannesburg: Jacana Media, 2007).
- Veit Wild-Flora, *Body, Human in Literature- Body Sexuality and Gender*, ed. Dirk Naguschewski (Amsterdam: Radopi Publications, 2005).

Web Sites

Behind the Mask, www.mask.org.za.

Behind the Mask gives a voice to the African LGBT community by publishing an online magazine and by providing a platform for exchanging and debating issues relating to the LGBT community in Africa.

The Gay & Lesbian Alliance Against Defamation (GLAAD), www.glaad.org.

The Gay & Lesbian Alliance Against Defamation (GLAAD) works to eliminate homophobia and discrimination based on gender identity and sexual orientation by ensuring accurate and inclusive coverage of events in the media.

Legal Assistance Center of Namibia, www.lac.org.na.

The LAC's five broad themes are advocacy, law reform, research, education and training, information, and advice and litigation. The main objective is to protect the human rights of all Namibians.

Organizations

Nongovernmental Organizations

Khomas Women in Development (KWID)

KWID is a good resource for women in Namibia to seek information, education, and support while learning new skills and developing confidence to promote their advancement.

P.O. Box 7061

Katutura, ERF 682, Windhoek, Namibia

Ph: 264-61 218723

Legal Assistance Centre, E-mail: dianne@iwwn.com.na.

The center works on law reform issues, compiling statutes on rape and domestic violence in Namibia.

Namibian Women's Association (NAWA)

P.O. Box 3370

John Knox Street, Maroela, Katutura

Ph: 061 262 461

National Society For Human Rights, www.nshr.org.na.

Sister Namibia, E-mail: sister@windhoek.org.na or sister@afrika.com.na.

Sister Namibia focuses its efforts on addressing issues such as lesbian rights, media and communications, reproductive rights, sexuality, and violence against women.

P.O. Box 40092, Windhoek 9000, Namibia

Ph: 264 61 230 618/230 757

The Rainbow Project, <http://overland.naomba.com/rainbow.html>,
 Advocates for Lesbian, Gay, Bisexuals and Transgendered rights in Namibia. Organizes programs, projects, advocacy education in various communities and churches in support of GLBT issues.
 P.O. Box 26122, Windhoek, Namibia
 Ph: 09-264-61230710
 E-Mail: madelene@trp.org.na or trp@mweb.com.na

Governmental and Religious Organizations

Department of Women's Affairs, Office of the President, E-mail: women_affairs@namibia.com.na.

Tre Building, 1st Floor, Private Bag 13339, Windhoek
 Ph: (264-61) 226 842 / 226 637

Ministry of Women's Affairs and Child Welfare (MWACW), E-mail: women_affairs@namibia.com.na.

Corner of Independence Avenue and Juvenis Building
 Private Bag 13359
 Private Bag 13339, Windhoek, Namibia
 Ph: (264-61) 2833111/2833204

NOTES

1. Namibia Statistics, globaledge.msu.edu/countryinsights/statistics.asp?.
2. United States President's Emergency Plan for AIDS Relief, "2007 Country Profile: Namibia," <http://www.pepfar.gov/documents/organization/101659.pdf>.
3. Ibid.
4. "Namibia," [Worldpress.org](http://www.worldpress.org/profiles/namibia.cfm), <http://www.worldpress.org/profiles/namibia.cfm>.
5. Namibia Statistics; "Namibia Facts and Figures," *Encarta*, 2009, http://encarta.msn.com/fact_631504824/Namibia_Facts_and_Figures.html.
6. Laurie Goering, "Africa's Gays Persecuted as Cause of Ills," *Chicago Tribune*.

NIGERIA

Unoma N. Azuah and Leo Igwe

OVERVIEW

Nigeria is a West African country that is bordered in the north by Chad and the Niger River. To the east it is bordered by the Republic of Benin. Nigeria spans approximately 356,700 square miles—about the size of Arizona, California, and Nevada combined. The geographic terrain is a mixture of tropical forests, open woodland, grassland, and then coastal swamps in the south, and semi-desert in the far north. The annual rainfall along the coast is 150 inches, compared to 25 inches or less in the north. Nigeria obtained its independence from Britain in 1960 and, after 33 years of military leadership, adopted a new constitution in 1999 and held democratic elections.

During the same period, a transition to a civilian rule was concluded. Nigeria's largest economic base is petroleum, but corruption and gross mismanagement have caused the waste of most of its oil revenues. Consequently, with a population of about 140 million, over 70 percent of the Nigerian populace is categorized as poor. Out of the 140 million, there are about 20 million that make up the LGBT community in Nigeria; this is according to Reverend Jide Macaulay who runs one of the very few nongovernmental organizations in Nigeria for homosexuals. Further, the Nigerian LGBT community cuts across the multiethnic and religious beliefs that exist in Nigeria. The diversity of ethnicities and religions in Nigeria has caused ethnic and religious strain, however, the problems that occur due to this strain are not



manifested through any specific persons with specific sexual orientation. Besides, most of Nigeria's LGBT community are in the closet and do not openly reveal or talk about their sexual orientation because of the backlash that may occur. Most Nigerians, for example, would rather deny the existence of homosexuality in Nigeria. However, among the 140 million that make up the population of Nigeria, 20 million make up the LGBT community. There are about 250 ethnic groups in Nigeria; the *Hausa-Fulani*, *Igbo*, *Yoruba* and *Ijaw* are the largest. Nigeria's official language is English, even though Nigerian indigenous languages include, *Igbo*, *Hausa*, *Yoruba*, *Tiv*, and *Ijaw*. Nigeria's LGBT community consists of people from these various ethnic communities.

OVERVIEW OF LGBT ISSUES

Because Nigeria acceded to the International Covenant on Civil and Political Rights in 1993 to protect the rights to freedom expression, conscience, assembly, and freedom of association, it would have no option but to keep to the rules it has agreed to maintain. It also underscores an international legal obligation to fundamental freedoms. The African Charter on Human and Peoples' Rights also asserts the equality of all people.

Even though Nigeria's LGBT community is said to be more than 20 million, its penal system criminalizes homosexuality, thus hampering any form of debate or progress on LGBT rights. It also legalizes intolerance and discrimination against gays and lesbians. However, the constitution provides for a wide range of human rights. These provisions have been used to argue and lobby the government on LGBT issues.

EDUCATION

Even though the European style of education is wide spread and the dominant form of education in Nigeria, there are two other educational systems, namely the indigenous system and the *Quranic* system. In the indigenous educational system practiced mostly in the rural areas, children learn skills that range from farming, cattle herding, blacksmithing, textile, trading, and fishing. They also learn skills that would aid them as adults and contributors to their communities. Some of these skills include an apprentice scheme, a craft that involves leather and mat-making among other hand crafts.

Part of the religious duties of Muslims in Nigeria is to receive an Islamic education. Before children get to the age of six they are required to learn two chapters from the Koran, and are taught by a religious teacher or a *mallam*. The curriculum of the Islamic education comprises of copying and reading the Arabic alphabet and the ability to read and copy texts needed for daily prayers. Most instructions for this system of education are carried out in mosques, under a tree or in a religious teacher's house. The primary level of education is the most common. However, a limited number of young children who further their education are usually from well off homes; they go as far as scrutinizing the interpretations of the Arabic texts, including jurisdiction, rhetoric, syntax, arithmetic, grammar, and even theology at a much advanced level. The next level of schooling sees students moving on to famous Islamic learning centers. Nonetheless, most of the Islamic education is offered through *mallams*, or religious scholars whose specialties are in religious

studies and teaching. Most of the Muslim schools set up during the colonial period were situated in Kano. Missionaries brought the western system of education to Nigeria in the 19th century. The Methodists found the first missionary schools in 1843, but the Missionary Society of the Anglican Church aggressively created a series of mission schools in 1850, which was closely followed by the Roman Catholics in the later part of 1850. By 1887, an education department that started forming requirements for curriculum and the administering of grants to mission societies was created in Southern Nigeria. When northern and southern Nigeria were amalgamated in 1914, 59 government and 91 mission primary schools existed in the south, and all the schools except for one were mission schools. In the same year there were 1,100 primary school students in the north, compared to 35,700 in the south.

Additionally, the north had no secondary schools while the south had eleven. In 1950, based on the British replica, Nigeria established the three-tier system of education consisting of primary, secondary, and higher education. The heels of independence were followed by a 10-year period of outstanding growth in education. Consequently, a movement for universal education was born in Western Nigeria. Primary school enrollment in the north sky rocketed from 66,000 in 1947 to 206,000 in 1957. Within the same period in western Nigeria the figures jumped from 240,000 to 983,000. In the east, it went from 320,000 to 1,209,000. Because of the importance of formal education, this became the largest program of the Nigerian government. By 1984–1985, more than 13 million students were enrolled in mostly public primary schools. Approximately 3.7 million children attended 6,500 schools, and about 125,000 were enrolled in postsecondary schools, including 35 colleges and universities. The enormous growth in education came with its own problems. The final examination method adopted from the British for one to earn a degree and economic hardship introduced widespread corruption among students, staff, and faculty in higher institutions; plus there were no incentives for research, and writing added to a lack in needed materials like required texts. Some measures were introduced to rectify these problems. For example, private universities and colleges were established to encourage healthy competition. The LGBT community was heavily involved in all of these attempts to improve the educational system in Nigeria. Despite their active role, they remain invisible, especially with the absence of LGBT organizations in these institutions. Homophobia dominates most, if not all the educational system in Nigeria.

In general, the Nigerian educational system is estimated to have 32 percent of men enrolled in secondary education, while 27 percent represent female students. These percentages include teenagers and adults who are members of the LGBT community in Nigeria. The general literacy rate is between 39 to 51 percent; this also does not exclude LGBT members. Across the country, about seven million children are out of school, though enrollment is gradually increasing. These seven million un-enrolled children include children that are being raised by lesbian and homosexual parents, and often living in the closet.

Early in the 21st century, formal education in Nigeria remains in the control of religious bodies, faith-based institutions, and states who often use it as a weapon of evangelization and proselytizing. Schools are often covert churches, and both mosques and the educational modules are infused with religious indoctrination. Students are made to embrace the religious ideologies of their schools, including the conservative and antagonistic stance on LGBT issues. The religion-laden

education and instruction that Nigerians receive at home and in schools continue to undermine progress and national debate on LGBT rights. Because most students in Nigerian universities and high schools are guided by their religious beliefs, a good number of them are homophobic.¹ For instance, as recent as the 1990s, a male homosexual student was beaten to death at the University of Ife in Oyo State, Nigeria. The students that attacked him were under the impression that he was trying to make passes at one of them. Additionally, there have been cases where homosexual high school students have been punished by being lashed and expelled from school. According to the British, Danish fact-finding mission on human rights in Nigeria, there was a recent case where two lesbians were discharged from the University of Enugu.

EMPLOYMENT AND ECONOMICS

Nigeria's estimated economic growth of six percent in 2004, primarily from the oil industry, conceals the fact that Nigeria has a high unemployment rate. The oil industry in Nigeria is capital-intensive and does not entail a lot of labor. Fifty-five percent of the unemployed population are high school graduates. Additionally, more than half of the population is under the age of 35, and they are mostly unskilled. As such, it is speculated that Nigeria's unemployment rate is approximately 17 percent.

A privatization program that was formed in line with the IMF and World Bank's conditional policies, aided in changing the attitude of some employees in the public sector, however, there is no proof that privatization works or benefits citizens.² Yet another sector that is a challenge to the Nigerian economy is the electricity supply. Its power capability is about 20 percent of a country like Egypt. Improving the electrical supply has remained a top priority for the Nigerian government, who expects to improve its capacity by ten-fold in the year 2010.³

Nigeria's nominal gross domestic product for 2007 was estimated to be \$175 billion; their 2006 data revealed that 26.8 percent of this revenue came from agriculture; 48.8 percent came from industry, while 24.4 percent came from services. The actual gross domestic product rate was estimated to be at 6.3 percent; oil growth was between five and six percent, and non-oil growth was at 9.6 percent. Further, Nigeria's per capita gross domestic product was estimated to be \$1,158, with inflation at the rate of 5.4 percent.

There are no known records of how the Nigerian LGBT community contributes to the economy, but they make up the vast majority of workers and executive directors who are more or less living closeted lives. Nigeria's natural resources, which include oil and natural gas, were estimated to be 37 percent of the 2006 gross domestic product. Apart from petroleum, other natural gas resources include: tin, columbine, lead, limestone, coal, zinc, and iron ore. Nigeria's agricultural products include cocoa, groundnuts, yams, millet, livestock, rice sorghum, cassava, palm oil, and cotton. Nigeria's top industries consist of textiles, car assembly, detergents, cement, footwear, metal products, lumber, beer, and food products. In regard to trade, Nigeria's exports are valued at \$59 billion; petroleum alone provides for 95 percent of the revenue. Other export products are comprised of rubber and cocoa. Nigeria's trade partners are the United States, which imports about 52.5 percent of its product, followed by Spain, which imports 8.2 percent, and Brazil at 6.1 percent. The value of Nigeria's imported products is \$25 billion, and

these imports are mostly machinery, manufactured goods, chemicals, and transport equipment. Nigeria's main import partners are China, the United States, United Kingdom, and the Netherlands.⁴

Nigeria's oil reserves total approximately 36 billion barrels, while its reserves of natural gas are estimated to be over 100 trillion cubic feet. Nigeria is a member of the Organization of Petroleum Exporting Countries (OPEC). By 2006, its crude oil production came to an average of about two million barrels per day. However, destruction of oil infrastructure ensued because of an unfortunate relationship with the indigenes. Added to this were harsh ecological damage and the government's inability to secure lives and property in the Niger Delta oil producing region. This epidemic haunted the oil industry. One of the programs created to remedy these problems was the Niger Delta Development Commission-NDDC, to assist with economic and social development of the area. The Nigerian economy is trending in a positive direction, especially with the 2005 summit of the G 7 where its external debt was reduced from 60 percent to barely five percent. The hike in oil prices around the world could also boost its revenue and reserve.

LGBT persons face systemic discrimination and exclusion in the area of employment. Anybody who is identified to be a gay or lesbian in most cases is automatically fired.⁵ So, LGBT persons are forced to hide or disguise their identities in order to get or keep their jobs. From time to time, the Nigeria Army and local police expel officers alleged to be homosexuals. However, with the emergence of many privately owned companies, limited involvement of the state on employment and job creation, is generating hope for gays and lesbians in Nigeria to live and work with dignity in the years ahead.

SOCIAL/GOVERNMENT PROGRAMS

Though Nigeria witnessed a boom in almost all of its sectors in the 1970s, when it had a prosperous period in its economy because of the oil windfall, in subsequent years, especially within the past two decades, its general infrastructure has gradually depreciated. The downward trend of services like health and education is mostly due to poor management, lack of required work materials, inadequate, and disenfranchised staff.⁶ Further evidence that show the downfall in social services is revealed in the decline in school enrollment and the decline in the use of public health facilities since the 1980s. Poor quality in services and facilities force people to look elsewhere; many people tend to utilize private health services. Also, family planning services are not offered in over 70 percent of public health facilities.⁷ The figures in the location of social services tend to be disproportionate. For example, in both the public and private health services more than 80 percent of hospital beds are in southern Nigeria, which leaves about a mere 20 percent for the north. The disproportionate allotment of services also affect the LGBT community because they are considered invisible, and as such are mostly treated the same way heterosexuals are treated. Their peculiar needs are not often taken into consideration, even when very few build up the courage to publically reveal their sexual orientation.

The Nigerian government is not oblivious to the problems that exist within the homosexual sector of social services. It has, therefore, gone ahead to introduce wide-ranging national guidelines for improvement in health, education, and population. Part of the plan for the introduction of these programs is to reduce poverty among the citizenry, even though the peculiar problems of the LGBT community

are not taken into account. Some of the developed and published policies that are aimed at improving social services include the National Policy on Education, the National Health Policy, and the National Policy on Population. The National Policy on Education aims to achieve a universal, free, and mandatory education for all; it takes care of all educational functions and actions. The National Health Policy underscores the importance of health care as the best way to enable Nigerians to live lives that are rich and productive. In the meantime, the National Policy on Population concentrates on ways to check the mortality and reproductive rates of mothers and their children; here, family planning is emphasized. There are also efforts being put in place to build up the National Policy on Nutrition. Though these policies have been described as bogus and impractical,⁸ and constant changes in government have threatened the success of these policies, the current government is determined to see them succeed. Again, disregarding the needs of the LGBT community, consequently there is no public health and social programs for the LGBT community in Nigeria, though some nongovernmental organizations work underground with LGBT persons. Some of these organizations include SMAN (Sexual Minorities Against Aids in Nigeria) Alliance Rights, INCREASE (International Center for Reproductive and Sexual Rights), the MCC church headed by Pastor Jide Macaulay, and the Humanist Society of Nigeria.⁹ These organizations organize lectures and seminars in numerous schools, both at the university and high-school level, in the cities where they have their central offices. The focus of their seminars is mainly safer sex, AIDS, STDs and encouraging the Nigerian LGBT community to be proud of their sexuality as one way of curtailing homophobia.

SEXUALITY/SEXUAL PRACTICES

The International Center for Reproductive Health and Sexual Rights in Minna, Nigeria, conducted research that affirms the existence of nontraditional sexual choices in Nigeria and found that the Nigerian environment is very homophobic or at least appears to be.¹⁰ According to the study, there is an outward expression of homophobia in the dominant culture although among the general population, there is greater understanding and tolerance that the practices exist. It is difficult for gays and lesbians to come out and admit to others that they are gay, bisexuals, or lesbians. They are therefore forced into heterosexual relationships. They marry to give a semblance of belonging to the widely accepted sexual orientation—heterosexuality—while they continue to meet their same sex partners secretly. This trend is additionally validated by Oludare Odumuye, one of the founders of the first openly gay association in Nigeria. He attests that, “because of the stigmatization of homosexuality, many gay men have girlfriends and even marry to be seen to conform to cultural and societal norms. It is not uncommon . . . for men to insist on using a condom with a woman but not bother with a male lover since they do not always realize that AIDS can be caught from sex with another man.”¹¹ This phenomenon occurs because homosexuality is illegal in Nigeria; it is proscribed both in its penal code and the Muslim law. In northern Nigeria, a predominantly Muslim region, same sex relationships can get the harshest sentence: death. Under the penal code, homosexuality carries up to 14 years in prison. In January of 2006, the Nigerian Federal Executive Council was presented with a proposal that attempted to ban relationships between people of the same sex. This would not

only criminalize such relationships or unions but also punish groups of persons or organizations that supported homosexuals and their activities. The proposed law entailed a five-year imprisonment for people who go “through the ceremony of marriage with person of the same sex, performs, witness, aids or abets the ceremony of same sex marriage, or is involved in the registration of gay clubs, societies and organizations, sustenance, procession or meetings, publicity, and public shows of a same-sex amorous relationship directly or indirectly in public and in private.” These would include anyone like a cleric helping or supporting such unions. These people would also be liable to get the same prison sentence. The bill consisted of outlawing the adoption of children by homosexuals. The nullification of approved same-sex marriages conducted abroad was inclusive in the bill. Conversely, the United States Department of State reviled the law. Additionally, 16 human rights groups from all over the world wrote a letter to the government of Nigeria expressing disapproval of the bill and insisted that among other harms the bill will do, it will jeopardize the fight to stop or put a check on the spread of AIDS, especially when Nigeria has the world’s third highest population with AIDS, with more than three million infected with HIV.

Chapter 42, Section 214 of Nigeria’s criminal code punishes consensual homosexual sex among adults with a 14-year jail term. Added to that is the Sharia punitive code that was introduced in 1999 in northern Nigeria; it proceeds to criminalize sodomy. This is reflected in Chapter 111 “Hudud and Hudud related offences.” There is also the Part 111 “Sodomy (Liwat),” Section 128–129 of the Kano State Sharia Punitive Code Law 2000. Further, as homosexuality is a capital crime in Islamic law, a married homosexual man faces a death penalty if caught, while a single man faces up to 100 lashes. Homosexuals who live in bigger cities have less reason to be afraid because most of them are in the closet and do not flaunt their sexuality. However, rich or well-known homosexuals who are either in government or in the public eye are often able to bribe their way through in order to escape the penalty. There are also situations where some homosexuals in cities like Kano and Lagos were caught by the police and they were disgraced by the Nigerian police force. They were asked to perform homosexual acts as a means of being implicated. Photographs of the act were taken and used by the Nigerian police as exhibits in court. Fear of being ostracized has kept majority of the Nigerian gay population underground. This fear may have been responsible for the fact that it was only in the year 2004 that a homosexual rights group was formed in Nigeria.¹² This group, known as Alliance Rights Nigeria (ARN), revealed themselves when the fourth national AIDS conference was held in Abuja. They were and still are working to spread the message of tolerance. They insist on the need for the country to acknowledge and defend the LGBT community because the secrecy attached to their lifestyle has consequently led to the astronomical rise in the number of AIDS victims, especially among homosexual men. To make matters worse, a broad spectrum of Nigerians deny that homosexuals exist. According to the late Oludare Odumuye, the president of Alliance Rights Nigeria, “It means that, for most of the Nigerians, [men who have sex with men] MSMs are not human beings—they simply don’t exist.” Odumuye continued by revealing that, “Recently, some of us have been arrested by the police, thrown into jail and raped in cells.” Odumuye further disclosed during the AIDS conference in Abuja that “One out of 50 lawyers we have contacted has accepted to defend their interests. The others were too afraid to be associated with homosexuals, even if they were homosexuals themselves.”¹³

The basic human rights of homosexuals are being threatened, especially as shown in the Nigerian government's attempt to introduce a bill that would render it nearly impossible for homosexuals to enjoy rights as every other Nigerian citizen. The witch-hunting by the government of Nigeria makes it obvious that their agenda is to strengthen the hate toward those with homosexual sexual orientation; particularly, when there exist laws that already prohibit homosexuality. So far there have been arbitrary arrests and sentencing of homosexuals and persons suspected to be homosexuals. In July 2007, in northern Nigeria, a Sharia court sentenced a man to death by stoning.¹⁴ The man had admitted to having homosexual sex, even though he was accused of committing sodomy. He has remained on death row for months waiting to be put to death.¹⁵ In August 2007, 18 men in northern Nigeria were arrested and are facing 10 years imprisonment; they are to receive 120 strokes of the cane. They have been accused of cross-dressing at a private party.

These current events are in contrast with centuries of acceptance by Nigerians of homosexuals. For example, in northern Nigeria, there have been men referred to as *Dan Daudu*. They had been accepted and have remained part of the *Hausa-Fulani* culture until the Sharia Islamic law was introduced.¹⁶ *Dan Daudus* are men who cross dress and act like women. They perform roles and acts considered traditionally to be women's. Even party organizers hire them as entertainment crews for their guests. However, Islam, as an alien religion to Nigeria, has threatened and continues to threaten that part of the culture. For example, in April 2008, Abubakar Hamza, a 19-year-old cross-dressing man in Kano, also known as "Fatima Kawaji," his female identity, was jailed and fined for what was described as "immoral behavior."¹⁷ Also, in April 2008, a lesbian couple in Kaduna, northern Nigeria, was sentenced to six months in prison plus 20 strokes of the cane for homosexual activities.¹⁸

These homophobic stances seem contrary to the African cultural standards because African traditional tenets have been based on the needs of the communities, on what they thought was best for them. Africa was made up of independent ethnic communities, monarchies, and people with varied cultural traits and philosophies, before Western and Arab colonists arrived. Groups of people were governed by caucus, mutual consents, and laws handed out by traditional rulers, elders and priests. Because of the high mortality rate, a great emphasis was placed on reproductive sex and procreation, and not necessarily on any other kind of sexual practices. Therefore, heterosexuality was the medium; it served the need for sustaining land and offspring. Yet, that heterosexuality was considered typical did not mean that homosexuality was rejected or considered nonexistent.

Traditionally, Africans did not perceive same sex relationships as a vice. Rather, people were punished by being exiled, lashed, or stoned to death for murder, rape, kidnapping, and larceny. Nobody was, however, penalized for same-sex relationships or acts. However, with the introduction of foreign religions like Islam and Christianity, the abhorrence of homosexuals entered into the social consciousness. This debunks the myth that homosexuality is alien. Homophobia can therefore be said to be alien to Africa, not homosexuality.

In spite of the terrorization homosexuals confront in Nigeria, there remain some who are outspoken for equal rights, like Jide Macaulay. Macaulay became well-known after he spoke out against the same sex bill on the floor of the Nigerian House of Representatives in Abuja in February of 2007. Macaulay is a 42-year-old gay minister and the pastor of House of Rainbow, a church in the outskirts

of Lagos. His church is one of the very few institutions in Nigeria that provide counseling for sexual health among gay men and lesbians. They also provide safe-sex resources. Macaulay emphasizes the need for partners to be faithful in their relationships. Through his ministry, he has created a space and a safe haven for about 30 Christian homosexual males who have lost their means of livelihood, endured some kind of mistreatment from friends and family members, or have been harassed by the police. He has additionally reaffirmed the place of homosexuals as children of God, especially for those who left the church because of their sexual orientation.¹⁹ He restates this when he says that the mission of his church is to get, “gay men and women to reconcile their sexuality and their spirituality. The tragedy is that many people cannot do it because of historical interpretations of the scriptures.”

FAMILY/COMMUNITY

Acceptance and accommodation of same-sex relationships existed in precolonial Nigeria.²⁰ Among the *Igbos* of Eastern Nigeria, same-sex marriages were (and still are) practiced. Women marry women; an only female child could choose to marry a woman to have children in most cases to keep her father’s lineage. For the purpose of procreation, she arranges with her wife to have sex and have children with a man outside of their marriage. Because the African culture is matrifocal, emphasis is placed on procreation particularly for working the land. There was an emphasis placed on reproductive sex for childbirth, and homosexuals in Africa were constrained to live and express themselves privately and secretly, but this was not without the awareness of the other members of the community. So, homosexuals engaged in heterosexual marriages; this was to fulfill the social and not necessarily individual-need for children.

Nigeria is a very family oriented society. Their definition of family is not restricted to the nuclear type of family where only a mother and a father and their children are found. A sense of family to Nigerians would include extended family members; this will include uncles, aunts, cousins, nieces, nephews, and in-laws. In other words, relatives, regardless of how distant, can be considered a family member. This pattern is also obtained even in polygamous homes. This system is inclusive, especially in situations where two lesbians or two gay men can raise a child or children. Yet they will likely need to live a closeted life.

Children are very important to Nigerians. The need for children is so vital that a childless woman or man is looked upon as unfortunate. This is yet another reason why the Nigerian LGBT community is looked down upon, as they are not able to naturally bear children. Because there is a general love and desire for children, many Nigerians have a lot of children. Consequently, children are raised with the belief engrained in them that they will grow up to have wives in the case of men, and in the case of women, to have husbands. Therefore, observances like child naming are highly essential to most families. A child is typically given a name after seven days of his or her birth; this comes often with an elaborate celebration. Another factor responsible for the need for children is based on the importance placed on the male child; he is seen as the inheritor of the patriarchy and therefore maintains the genealogy of the patriarchal line. When a family lacks a male child, there is usually a tendency for the family to keep having children until they eventually get a male child. It is seen as a misfortune for any family or woman not to have

a male child. However, there is a growing trend among some Nigerians (mostly in cities) not to have more children than they can care for. This is mostly due to economic reasons. Further, there is a tendency for most Nigerians to refer to their extended family members who are of their parent's age and related to their parents as "uncle," "aunt," "mother," or "father."

In most *Igbo*, *Ijaw*, or *Yoruba* communities for example, parents are usually acknowledged by the name of their first-born child. In other words, if a parent has a first child or a child called "Dada," he or she would be known as "Mama Dada"—Dada's mother or "Papa Dada"—Dada's father. The calling of parents Mama or Papa is not restricted to birth parents. Members of the Nigerian LGBT community who inherit children, mostly their relatives' children, still have the status of being called a Mama or a Papa. In most instances their sexuality is not revealed. The possibility of a lesbian couple or a gay male couple raising children is further affirmed in the African proverb that states, "it takes a village to raise a child." Almost everybody in a community is involved in raising a child because when a mother or father is not home, a neighbor automatically assumes that role. The communal life that exists in Nigeria also helps in the sense that a neighbor will usually feel free to run into a neighbor's house to ask for a pinch of salt, some water, or anything he or she runs out of unexpectedly. This relationship is usually symbiotic. It involves and affects most aspects of Nigerian life. For example, a neighbor can baby sit, help out in the farm, cook, and even take care of a sick neighbor when immediate family members are not around. Also in Nigeria there are unconventional family arrangements such as female same-sex couples, and single motherhood. These unorthodox family configurations are chosen and embraced by individuals to satisfy family needs and aspirations. However, with the rise in education, urbanization, and globalization, many Nigerians are abandoning the traditional ideas of the family relationship and are gradually embracing novel family values and configurations like those formed on the basis of LGBT rights and identities.

HEALTH

In 2007 52 deaths occurred for every 1,000 live births. There are 102.44 deaths among male infants compared to 1,000 live births. Meanwhile, female infants are at the rate of 88.38 deaths to 1,000 live births.²¹ These occurrences affect both the heterosexual family and the closeted homosexual family.

Life expectancy for Nigeria's total population is at an average of 47.44 years. As of 2007, the average life span for Nigerian men was age 46.83, while women have 48.07 years of life expectancy. The fertility rate is 5.45 children born/woman. The prevalence of HIV/AIDS among adults is at 5.4 percent as far back at the year 2003. In the same year, 3.6 million Nigerians were living with HIV/AIDS, and about 310,000 people died from HIV/AIDS-related deaths.²²

Because the LGBT community in Nigeria is largely ignored, they do not get the health care they need. For example, there are no known hospitals or clinics in Nigeria that accept openly gay men and women. It has been noted that if gays "announce to the doctor that they have anal wounds, you can be sure that they won't get proper care."²³ This finding is alarming considering that about 40 percent of men who have sex with men are married men. As Odumuye further observes, it has also been noted that "they continue to have sex with male partners, covertly-putting their wives and families at the risk of HIV infection." The Nigerian

government's per capita spending on health is speculated to be one of the lowest in Africa. Consequently, there is a lack of workers in the health care field. Most of the qualified health workers migrate to the west, especially to Europe and America for better opportunities. About 21,000 Nigerian doctors have migrated to the United States alone. These doctors include doctors who are members of the Nigerian LGBT community, thereby limiting the chances of homosexuals to have access to a doctor that may be sympathetic to their peculiar situations. The Nigerian budget deficit in the health division is a primary cause for the lack of adequate health care. This problem exacerbates the spreading of the AIDS epidemic. For example, Nigeria has about one million orphans due to AIDS; there are three million people living with HIV. Yet, there are less than 20 doctors accessible for every 100,000 people in Nigeria. The shame associated with AIDS has, for many years, limited the open acknowledgement of the disease. However, the Nigerian government has established organizations like the National Action Committee on AIDS (NACA); this organization coordinates the building of centers that specialize in offering gratis testing, treatment, and care. At least a quarter of those in need of antiretroviral drugs, or about 135,000 patients, received the drugs through the more than 200 centers in Nigeria by the last part of 2006.²⁴ Yet in all these arrangements, homosexuals, particularly men who sleep with men (MSM), are not seen as a fundamental group of people to work with in this respect.

Due to the fact that homosexuality is a crime, it is difficult to know the health situation including the prevalence of HIV/AIDS among the Nigerian LGBT community.²⁵

POLITICS AND LAW

Nigeria's laws are modeled after the British Common Law, and in northern Nigeria there is an influence of Islamic law. There is also the traditional law based on the traditional tenets that existed before the colonization of Nigeria. Nigeria adopted a new constitution on May 5, 1999, which became effectual on May 29, 1999. Nigeria's government is referred to as the Federal Republic of Nigeria. It consists of 36 states, of which is included Abuja, the Federal Capital Territory. Nigeria also contains 774 local government areas. The Nigerian government has overhead costs that exceeds \$13 billion, as reflected in its 2006 budget.

Some of the political parties that make up the Nigerian political organizations include Action ANPP, or All Nigeria People's Party, PSP or People's Salvation Party, FDP or Fresh Democratic Party, LP or Labor Party, PRP or Peoples Redemption Party, Accord Party or AC, APGA or All Progressive Grand Alliance, UNPP or United Nigeria Peoples Party, AC or Action Congress, AD or Alliance for Democracy, MRDD or Movement for the Restoration and Defense of Democracy, NDP or National Democratic Party, PPA or Peoples Progressive Alliance, and the ruling party, which is called the PDP, or Peoples Democratic Party. Some members of the Nigerian LGBT community are well-known politicians who are constrained to hide or deny their sexual orientation in order to keep a positive image for the public eye; they need to do this to enable them win votes. Nobody in Nigeria would vote for an openly gay politician. Some of their secret lovers who were willing to be interviewed, even though they refused to give their names, revealed that these politicians have arranged marriages to give the impression that they are heterosexuals. They are paid handsomely to keep these affairs a secret.

In spite of the turmoil that was witnessed in the 2003 and 2007 presidential elections, in 2008 Nigeria has come to embrace its longest period of civilian leadership since achieving independence in 1960. For example, the April 2007 elections became the first civilian-to-civilian handover of power in the history of the country. Politically, the LGBT community is excluded from politics. In fact, no openly gay person can take part in politics. Nobody who openly support gay rights can succeed politically in Nigeria. A gay identity is a weapon of blackmail. The laws criminalizing homosexuality remain in place and there seems to be no indication that they would be reversed any time soon. However, the recent suspension of the Anti-Gay Marriage Bill (initially sent to the parliament in 2006) by the federal government is a sign that the end of state-sanctioned homophobia may be drawing near.

RELIGION AND SPIRITUALITY

The religious practices in Nigeria include Islam, Christianity, and indigenous religions. Muslims make up 50 percent of the population, and about 40 percent are Christians. Indigenous believers equal about 10 percent of the population. African traditional religion did not record any hatred for homosexuals or homosexuality but with the infiltration of foreign religious practices, especially Islam and Christianity, the detestation and persecution of homosexuals began entering into the culture. Christian leaders, such as Anglican Bishop Peter Akinola, are some of the religious figures who are intensely homophobic. Because religion is taken very seriously in Nigeria, most Christian leaders encourage homophobia. Further, the severe Islamic Sharia Laws introduced in northern Nigeria have made the atmosphere impossible for homosexuals in the north to live and express themselves freely. There is no record of homophobia in the Nigerian indigenous religion.²⁶

Indigenous religion involves the worship of deities like water spirits called *Mammy Wata*. The worshipers of water spirits are offered good fortune in return for some form of relationship with the spirits. These spirits can also inflict mayhem in an individual's life. Worshipping of *Mammy Wata* is well-known in the water areas of south and southeastern Nigeria. Also in southeastern Nigeria is what is known as traditional worship; it consists of two forms of worship: the routine worship and the occasional worship. Routine private worship is comprised of offerings given to ancestors through the head of a family at an ancestral shrine. The offerings are usually kola-nuts, white chalk, prayers for general good health of the family, success, and protection. Occasional private worship is done when a diviner asks an individual or a family to carry out the wishes of the gods or ancestors. This is usually after a family or an individual had consulted the diviner. There are no known records that indicate a person's sexual orientation excludes him or her from participating in these rituals. There are also rare occasions where a diviner conveys a message to a total stranger on a street. He gives the stranger a message, and often times the message is a request from the gods or ancestors asking for a sacrifice, and no emphasis is placed on sexual orientation as a means of being qualified to be a part of this belief. The LGBT community in Nigeria practices either the traditional religion, Christianity or Islam; even though Islam and Christianity as practiced in Nigeria directly or indirectly promote homophobia. Some Nigerian Christian Bishops, like Archbishop Peter Akinola, have been in the forefront in condemning homosexuals, not only in Nigeria but also throughout the world. In Akinola's

words, homosexuality is “an aberration, unknown even in the animal kingdom.”²⁷ He also describes homosexuals as “strange, two-in-one humans.”

VIOLENCE

There are three primary sources of violence in Nigeria: Inter-ethnic conflicts, religious fights, and rebellion in the oil producing region of the Niger Delta. Apart from the three main ethnic groups in Nigeria—the *Igbos*, *Yorubas*, and the *Hausas*, there are more than 250 ethnic communities that exist in Nigeria. Many of them live in dire circumstances. Some of them are also excluded from their land rights because almost everything is perceived as property of the Nigerian government. On occasion, rancor arises between neighbors due to land disputes or inter-ethnic family brawls.

Since the introduction of the Islamic Sharia law in 12 northern states of Nigeria, religion has remained a major basis for violence, particularly between the predominantly Islamic north and minority Christians living in the north. As a result, the Christian dominated south has, on occasion, rallied to avenge the deaths of their relatives killed in the north by attacking and killing Muslims living in the south. Therefore, the number of people killed in religious/ethnic clashes dating as far back as 1999 has exceeded 13,000. The government has not been successful in controlling these clashes, nor has it been able to hunt down the people responsible to charge them for their crimes.

Further, the discovery of oil in Nigeria dating back to the 1950s became a mixed blessing for the country; it has remained the major source of Nigerian revenue. Oil produces about 95 percent of the country’s foreign exchange, but it has also remained the major source of violence in the Delta region. In spite of the four-fold increase in oil revenue, the region still remains in abject poverty and there is still a severe lack of services. This situation gave rise to the sprouting of rebellious groups like the Movement for Emancipation of the Niger Delta (MEND). These groups focus on pressurizing the government to implement environmental justice and the development of the region’s infrastructure. Additionally, some of the rebel groups engage in vandalizing, damaging installations of the oil refineries and kidnapping expatriates and some traditional leaders.

Violence against LGBTs in Nigeria is common and widespread.²⁸ Many have suffered physical attacks, personal harm, and injuries. Some have been beaten and roughed up. Some years ago, a mob attacked an openly gay person in Ile Ife, which is in southwest Nigeria, and forced a stick into his anus.²⁹ Such violent crimes against LGBTs go unaddressed and unpunished because gay sex is illegal.

OUTLOOK FOR THE 21ST CENTURY

The outlook for Nigeria in the 21st century is uncertain, as its quadruple gain in oil revenue does not translate into better lives for its citizens. Over 70 percent of its people live on under one dollar a day. Even with adequate food production, an international agency called ActionAid suggests that at least one-third of the citizens are starving. Nigeria is the fifth largest exporter of oil to the United States; it also has the largest population (about 140 million) in Africa.

Nigeria’s unsuccessful attempt to leave any significant mark in the Millennium Development Goals (MDGs) has led the United Nations to conclude in 2007 that

the MDGs will possibly not be reached in sub-Saharan Africa. Nigeria, on the other hand, has not given up on improving. For instance, some of the government programs established to check poverty include what is called the National Economic Empowerment and Development Strategy (NEEDS) and this program has an ancillary branch in all of the 36 states in Nigeria. Even though some administrative flaws threaten to slow the initiative down, the government of Nigeria has remained optimistic. In addition, the Nigerian Ministry of Finance has recorded a notable five percent growth in the Nigerian economy. Though it may cost Nigeria \$5 billion to sustain and achieve the MDGs, it has not given up on working towards the goals. The situation may be worse for the LGBT community because they have to live an invisible life as members of an unacknowledged sexual minority. Nigeria may not accept homosexuality in the near future. However, the country is under pressure to uphold and respect the free and democratic choices of the citizens and to make its laws compatible with international human rights standards. This type of social progress portends a hopeful and promising future for LGBTs in the country.

RESOURCE GUIDE

Web Sites and Organizations

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- The Independent Project for Equal Rights, Nigeria, <http://www.ysm-rights.org.page.tl/>.
- International Center for Reproductive Health and Sexual Rights (INCREASE, Nigeria), <http://www.increase-increase.org/>.
- Lawyers Alert, Nigeria, www.lawyersalert.org/about.php.
- Nigerian Humanist Movement, Nigeria, <http://www.iheu.org/node/1472>.
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SOUTH AFRICA

Johan H. B. Smuts

OVERVIEW

The Republic of South Africa is located on the southern tip of the African continent. It borders Namibia, Botswana, Zimbabwe, and Mozambique to the north while facing the Atlantic Ocean to the west, and the Indian Ocean to the south and east. South Africa also surrounds the two small nations of Lesotho and Swaziland.

South Africa has the largest economy and most developed infrastructure on the African continent, and ranks 26th in global GDP. This ranking does not diminish the fact that South Africa, with its dual economy, high unemployment rate, and underdevelopment in the rural areas, remains a developing country. Economically and politically there are major divides in the population. Poverty is the norm among all races, becoming even more pronounced due to privatization and disinvestment. The white middle class remains the most homogenous and represented population group, although there is a rapidly expanding black middle class.

South Africa has a population of around 47 million people. The majority of the population are black Africans (80%), while white and mixed-race Africans, as well as South Africans of Asian descent comprise the remaining 20 percent. South Africa has 11 official languages, including English, the only official language to be spoken outside of the continent. Nearly 80 percent of South Africans identify as Christian, belonging to denominations found only in South Africa, which are heavily influenced by African traditional religions. The



majority of the white population identifies as Protestant, Charismatic, Anglican, or Catholic, in that order.

South Africa is diverse in its geography and people. It is noted for its multicultural, multiracial, and multilingual society. Communities are rural and urban, rich and poor, conventional and modern. Every major religion, including African traditional religions, is practiced. All of these differences influence the way people think about and interpret social issues such as gender and sexuality, and it is difficult to give a comprehensive account of all LGBT issues across all South African communities.

Until 1994, an oppressive regime of white leaders descended from European colonists represented mostly white South Africans, controlled all politics, economy, and law. Their moral motivation was rooted in Christian Nationalism, the ideology of the ruling class, which stripped nonwhite, nonheterosexual, and some non-Christian people of their rights as citizens of the Republic. Nonwhites were sent to live in *cultural homelands* called Bantustans, which were actually segregated townships and suburbs. This race-based discrimination, known as apartheid, extended to the separate use of public amenities such as transportation, toilets, and shops. Despite their policy of freedom of religion, the white government still attempted to control the morality of the general population.

Under the laws of apartheid, intimate interracial relationships were deemed illegal, as was the practice of homosexuality. After the relatively peaceful transition of rule from the all-white government to a demographically representative, democratic government in 1994, these laws were revoked, and in 1996 the Bill of Rights was accepted as central to the Constitution of the Republic. The Bill of Rights included a detailed antidiscrimination clause that included gender and sexual orientation, and with that clause penned in, South Africa became the first country in the world to outlaw discrimination against sexual orientation in the Constitution. In South Africa there exists no institutional discrimination; however, this has not curbed infrequent homophobic acts and attitudes. Homosexual South Africans neither automatically assumed equal footing with their heterosexual neighbors, nor did the Constitution change the way homosexuality was understood and practiced in rural areas, towns, and cities. Despite the extreme variation in culture, class, and race, homosexual people and their practices are found in all communities.

OVERVIEW OF LGBT ISSUES

Officially, it appears as if the struggles of the LGBT community in South Africa is over and victorious. Full recognition is officially given to alternative sexualities and relationships, and recently the Civil Union Act (Act 17 of 2006) of Parliament placed civil unions on a legal par with heterosexual marriage. The term civil union remains a bone of contention, as some activists believe that true equality would culminate in an amendment of the Marriage Act.

In the private sector, examples of individual discrimination and victimization can be identified, yet there is not an extensive record of homophobic acts and violence perpetrated against members of the LGBT community. This may be due to individual fears about reporting incidents to the police while having to continue living within communities that may not hold the same attitude as the Constitution in regard to the equality of people with alternative sexualities.

Amongst theorists and academics in South Africa, sexuality is consistently equated with gender, a problem not only for their peers in the academy, but also for the subjects about whom they theorize. The tenacious conviction that gender is sexuality remains, even among members of the South African LGBT community. Another inherent dilemma facing social scientists and commentators is the backlash by black African intellectuals and traditional leaders who deny the *Africanness* of homosexuality, claiming it was a vice imported by European colonials.

HIV/AIDS is the single largest crisis facing South Africans in the 21st century. It is a problem primarily associated with heterosexual people in lower income or poor communities, more so than with gay men. Even among men who practice homosexual sex, HIV infection is most often found among transitory laborers and sex workers.

A concern not always considered by the LGBT community is their previous history under an oppressive, discriminatory legal system. Homosexuality, sodomy, and cross dressing all led to incarceration under the nationalist regime. Furthermore, homosexual individuals conscripted into the defense force during the 1970s and 1980s were subjected to a number of faux-therapies that did not keep up with the growing acceptance of homosexuality in the rest of the world.

LGBT South Africans, for the most part, seem to be satisfied with the legal recognition they enjoy under the liberal Constitution, but this does not mean that the experience of individuals in communities are simplified. Politically there is no rallying point for LGBT people in South Africa, which is an ongoing struggle for those concerned with having a political voice.

EDUCATION

The South African educational system was unified from different departments of education that had previously catered to specific racial groups under the former nationalist government. Now a single department is responsible for all education in South Africa. Primary and secondary schools are administered by provincial departments of education, while colleges and universities remain under the authority of the national department.

The current education policy gives more responsibility to individual communities for running and funding their own schools. This means that the unification of the educational system did not close the breach that existed between previously disadvantaged schools and middle-class schools. Even if most schools are public schools, those located in more affluent areas still have a financial benefit over those in the rural areas and poorer settlements. This inequality results in some schools having very good access to educational technologies and resources, while many others are without basic necessities such as running water and electricity.

In general, public institutions, such as schools, respect the Bill of Rights as applied by the Constitution. Schools cannot discriminate against LGBT learners in any way. Some provincial departments even run programs in their schools to develop attitudes of equality and tolerance. There are a number of examples of high school seniors who have, with the support of their schools, attended school functions with their same-sex partners. This atmosphere of tolerance does not always extend to less privileged schools. Very few of the poorer schools allow for the formation of student associations, and so there is a shortage of approved school associations for LGBT students. Although schools are governed by liberal constitutions

and policies, some students experience homophobic acts and attitudes from other students.

Colleges and universities, on the other hand, have always been at the forefront of liberalism in South Africa; most of them have been supportive of political and institutional transformation. Many universities have organized LGBT societies that cater to the needs of their student bodies. Many universities also teach courses dealing with sexuality and gender and continue to research and publish on the topic. A conservative, resistant element still remains in institutions that used to be solely for those who spoke Afrikaans.

EMPLOYMENT AND ECONOMICS

Due to the disparity of wealth in South Africa, the country has the unique characteristic of having a dual economy, a formal economy, and an informal economy. These separate economic superstructures are estimated to be of about equal size, but this is difficult to prove as the informal economy is completely without record. The size of the informal economy can be ascribed to poverty among most South Africans. High interest rates and unemployment force many individuals to engage in informal, untaxed labor, as well as trade in unregulated commodities that are easier to afford. The government is trying to curb what they call the “second economy,” as massive turnover results in a notable loss of tax revenue. Due to the unregulated nature of the informal economy, the issues surrounding sexuality in this economy, including the proliferation of sex work—most of which is illegal—remains unrecorded.

Like most other sectors of society, discrimination in the workplace based on sexual orientation is prohibited by the Labor Relations Act (Act 66 of 1995). The situation had improved even more when the Employment Equity Act (55 of 1998) classified diverse sexual orientation and race as a characteristic that should be represented in all corporate and employment structures. In spite of Act 66, many South Africans remain hesitant to disclose their sexual orientation in such a public way. The application of Act 66 is primarily geared toward the advancement of black Africans in the workplace.

The currency of South Africa is the South African Rand (ZAR). Marketers and retailers have realized the value of the *pink rand*, that is, money from the LGBT community. This can be seen in the many ad campaigns geared toward LGBT consumers in both the gay and mainstream press. Apart from poverty, marginalization from the formal economy in labor and consumption is not an everyday experience for the majority of LGBT people.

SOCIAL/GOVERNMENT PROGRAMS

A number of social programs, both privately and publicly funded, are geared towards the LGBT community in South Africa. The vast majority of programs for LGBT South Africans are operated by nongovernmental organizations (NGOs). In rural and poor areas, programs attempt to inform people about sexual health issues, and strive to create safe environments within which LGBT individuals can socialize and express themselves. There seems to be less community critique of homosexuality, or of those who are in same-sex relationships, when people do not self-identify

as gay or lesbian. Most public money is spent on sex education and HIV/AIDS centers, and on research for a predominantly heterosexual population.

In the more affluent parts of South Africa, funding for social projects aimed at LGBT people also comes from both the public and private sectors, most notably philanthropists from the European Union and the National Lottery. A number of community centers, pride parades, festivals, and film festivals cater to individuals who can afford to attend these events, each run by independent organizations that include health education and activism in their agendas.

SEXUALITY/SEXUAL PRACTICES

In South Africa, the nature of sexual practice depends on its social context. Some communities may be very tolerant of homosexuality, while others are not. In some communities, such as single-sex institutions like prisons and labor compounds that house transitory laborers, the practice of homosexuality is a viable expression of sexuality. The Department of Corrections has gone as far as supplying condoms to prisoners in an attempt to minimize HIV and STD transmission. The expression of same-sex affection in places such as these is structured according to social norms that may not exist outside those institutions.

Homosexuality among people not living in single-sex environments is also not limited to men and woman who self identify as LGBT. Most cities and towns have areas such as public toilets and cruising areas where anonymous sexual encounters between individuals, especially men, take place. Public sex is not heavily policed. Anonymous sexual encounters between women are not well documented.

In South African LGBT communities where homosexuality is not a taboo topic, anonymous sexual encounters among gay and lesbian individuals are less frequent. LGBT people are prone to more intimate homosexual interactions than heterosexuals, even if these interactions do not lead to relationships.

A popular misconception remains about the nature of gay and lesbian sex. Most people believe that gay and lesbian sex is similar to the traditional heterosexual model in that one partner should assume a dominant or “masculine” role, while the other should assume a passive or “feminine” role. This may be the case in some relationships, while others are based on equality, mutual respect, and synchronicity.

FAMILY

Family structure is another example of the diversity found in the South African population. Families and the relationships that structure them can be divided into three broadly defined categories: The first and most visible category would be the Western nuclear family model, although they are decreasing due to a rise in divorce and the acceptance of single parent households. This kind of family is most likely found in urban areas and parts of the privileged rural populations.

The majority of rural South African communities consist of extended families, many of which are centered on polygamous households where one man, when he can afford it, has more than one wife, and children with each of those wives. These marriages are not illegal in South Africa; the Constitution allows for the recognition and practice of traditional law in as much that traditional law has to be considered in courts. Not all people are allowed to have polygamous marriages, however; only a person who functions and resides in a community where traditional law is

practiced may have more than one wife. The rules that govern these relationships are different from community to community, and even when permitted by law, not all people in those communities practice polygamy.

The third category of family is family-households that consist of people who choose to live together without being biologically or legally related. The majority of LGBT households in South Africa would fall into this group. Family households living together by choice have the benefit of domestic and economic cooperation among individuals. Family households of this nature are neither limited by the nature of the relationship between its members, nor the number of people who participate in these households.

A new household pattern has arisen due to the prevalence of HIV/AIDS in South Africa. In many communities, so many adults succumb to AIDS-related illnesses that there is an increase in child-headed households. These households, for lack of the presence of healthy adults, are run by and provided for by underage children as young as their early teens. The government has responded to this social problem by lowering the age of legal adulthood to eighteen.

COMMUNITY

The many different kinds of communities in South Africa affect the lives and social interaction of LGBT individuals. The 1980s saw the first attempts of homosexual South Africans to organize politically. The effect it had on social policy was minimal, and catered primarily to the social needs of interested participants. This was to be the life story of many South African LGBT movements in the following decades. The liberation struggle against apartheid benefited on a number of levels from the contribution of LGBT people, like Justice James Cameron, a human rights lawyer, who now resides on the bench of the Constitutional Court; their contribution created a sentiment fostered by the new government of equality and tolerance. Gay liberation was inherent to the Constitution of the Republic, and further struggles against public institutions were deemed unnecessary unless institutions infringed on the right of the LGBT community.

A number of organizations geared toward LGBT services operate in most major cities, but the social relevance exerted by these organizations is limited to devoted members. Social clubs and events are more successful in mobilizing the LGBT community to participate. Currently, LGBT lobbying and pressure is controlled by a select number of NGOs.

HEALTH

In South Africa, any citizen can seek medical assistance and treatment from the state, as there are currently hundreds of hospitals and thousands of community clinics available. The standard of service provided by state health care providers has degraded to such an extent that those who can afford it would rather use expensive medical services provided by the private sector. Private sector health care is comparable to health care in the first world. The state does not provide health services that cater specifically to the needs of the LGBT community. It would appear that the services required by the LGBT community in South Africa do not differ from the needs of mainstream society at all, as no incidents of unfair treatment due to sexual orientation have been reported.

HIV/AIDS is the largest health issue in South Africa, followed by tuberculosis. The combination of these two epidemics taxes the public health system to its extremes. The government, initially loath to agree to the relationship between HIV and AIDS, chose to ascribe the occurrence of these diseases to poverty. Under pressure from activists, the government has started the mass supply and distribution of antiretroviral treatments. This program aims to increase the life expectancy of the population at large, as demographic change prompted by the pandemic shows a reduction in economically active age groups. Some medical service providers dedicated to LGBT health issues exist, primarily run by private health care professionals and NGOs. Health issues among men-who-sleep-with-men differ from group to group; in labor compounds and prisons the incidence of HIV and STD transmission is higher than in other contexts, while some communities have more information about safe sex practices than others. Health issues among lesbians and women-who-have-sex-with-women are not well researched.

POLITICS AND LAW

Laws dealing with LGBT issues are comprehensively governed by the Constitution. The Constitution, in turn, is subject to the Bill of Rights and the Constitutional court, both of which are champions of LGBT rights. Not only were the laws that criminalized homosexuality and its practice rescinded by the National Assembly, but laws governing sexual expression were also revised in favor of more liberal approaches. These changes came about through the lobbying of some LGBT organizations, but a ready path existed in the freedoms offered in the Constitution. One of the major LGBT lobbying victories though was reducing the age of male sexual consent to 16 years old, which is the same as the age of consent for females. The most recent legal change in favor of the LGBT(I) community was the institution of same sex marriages, known by the term civil unions. Some activists think that the act is still discriminatory by making a distinction between same-sex and opposite-sex relationships, and excluding same-sex unions from the definition of marriage.

Parliament consists of two houses. In the lower house, also known as the National Assembly, the people are represented by elected political parties. Currently the party with the ruling majority (African National Congress) and the official opposition (Democratic Alliance) have a very good record of supporting LGBT rights. At the same time, a number of minority parties have politically and religiously conservative policies regarding sexuality, and these parties are often outspoken and critical of the positive attitude that the government has toward the LGBT community.

RELIGION AND SPIRITUALITY

All major religions, as well as the moral reservations they have about homosexuality, are practiced and recognized in South Africa. About 80 percent of the population identifies as Christian, but many local interpretations of Christianity are closely related to African Traditional Religions (ATRs), and much of the theological interpretation and iconography may seem strange to western Christians. These churches are outspoken in their disapproval of homosexual lifestyles and identities.

White South African churches are divided on LGBT issues. Afrikaans Dutch Reformed denominations have changed their attitude from outright damnation to a more enlightened attitude of “hate the sin and not the sinner.” The Charismatic churches follow the trend set by the Christian right of the United States, and thus view homosexuality as a curable disease. The Anglican Church in South Africa has set itself apart from Anglicans on the rest of the African continent by having a positive attitude towards LGBT issues. Some South African Anglican priests are even willing to bless same sex unions in the church, even if civil union liturgy has not yet been created. The Catholic Church in South Africa follows the doctrine of the Vatican. Most Christian LGBT people remain in the closet, or they leave the church entirely. Some of the major metropolitan areas have churches that are dedicated to serving the LGBT community.

Jewish and Muslim communities thrive throughout South Africa, with Islam having more devotees. Both of these communities make their policies under strict guidance of religious scripture. South African Jews and Muslims seem to be less outspoken and critical of LGBT issues, but that may simply be due to underrepresentation. Organizations that serve LGBT individuals in the Jewish and Muslim communities exist and are active in improving the lives of the LGBT community and other social issues.

African Traditional Religions (ATRs) are practiced by many South Africans, most of whom are black. These religions originated in the rural areas, but are still practiced all over modern South Africa. The leaders of these religions are traditional healers, practitioners of magic, and *sangomas* (shamans), all of whom rely heavily on the intervention of the ancestors in the lives of individuals. ATRs do not deal with LGBT politics and policies. In many ATRs however, the sexual orientation of a man or woman is considered an indication of the ancestors calling such people to service. The practice of homosexuality is not prohibited in ATRs, but LGBT people who practice these religions may choose not to self-identify as gay or lesbian. Religion in general does not have a major influence on national politics because South Africa is a secular state.

VIOLENCE

South Africa is one of the most violent countries in the world. Much of the violence can be ascribed to crime. South Africa has a very high crime rate and many people are murdered, raped, robbed, hijacked, and assaulted daily. Some theorize that this is because of the extreme divide between rich and poor in the country, and that some poor people commit crime in order to survive. The violent nature of crimes, however, is not explained by this theory; practically no research is being done on the subject. Violence committed against members of the LGBT community also takes place, but very little proof exists to illustrate that they are singled out because of their sexual orientation.

Violence against homosexual women and men in affluent communities rarely goes beyond homophobic statements and bullying. For homosexual people in more traditional communities, the situation can be much worse. Some lesbians are raped by men in order to “make them straight again”. Much of the violence committed against LGBT(I) people comes from within the LGBT(I) community itself in the form of domestic violence. Domestic violence among same-sex partners is also prohibited by the Domestic Violence Act (Act 116 of 1998).

OUTLOOK FOR THE 21ST CENTURY

LGBT communities in South Africa are some of the most fortunate in the world. They get full recognition and protection from the state when they demand it. LGBT people in South Africa hope to contribute to the future of their country by participating in its economy and nation building. There is a concern that LGBT rights may be infringed upon in the future, because even if the government is liberal on LGBT issues inside the Republic, it remains quiet in regard to the legal oppression of homosexual people in its neighbor states of Botswana, Namibia, and Zimbabwe. Few organizations have tried to pressure government into discussing the issue with the governments of these countries, but larger political issues overshadow these concerns and government policies of silent diplomacy are ineffectual.

It is the hope of the LGBT communities in South Africa that mainstream society will become less sensitive to their presence, and be more informed about the myths created by LGBT stereotypes. This will not happen unless the LGBT community rallies itself around desensitization campaigns, aimed not at institutions and government, but at people in general.

RESOURCE GUIDE

Suggested Reading

- Edwin Cameron and Mark Gevisser, eds., *Defiant Desire: Gay and Lesbian Lives in South Africa* (London: Routledge, 1995).
- Paul Germond and Steve de Gruchy, eds., *Aliens in the Household of God: Homosexuality and Christian Faith in South Africa* (Northampton, MA: Interlink Publishing Group, 1997).
- Gordon Isaacs and Brian McKendrick, *Male Homosexuality in South Africa: Identity Formation, Culture and Crisis* (Capetown: Oxford University Press Southern Africa, 1992).
- Herb Klein, *South African Sons* (London: Prowler Press, 1998).
- William J. Spurlin, *Imperialism within the Margins: Queer Representation and the Politics of Culture in Southern Africa* (New York: Palgrave Macmillan, 2007).
- Saskia Wieringa and Ruth Morgan, *Tommy Boys, Lesbian Men and Ancestral Wives* (Johannesburg: Jacana Media, 2005).

Video/Film

- Apostles of Civilized Vice*. Directed by Zackie Achmat, 2000.
- Apostles of Civilized Vice: Part I: Questions of a Queer Reading History*. Directed by Zackie Achmat, 2000. Wits Gay Library.
- Cold Stone Jug*. Directed by Cedric Sundstrom, 2003. CMS Film Productions: Johannesburg, South Africa.
- Everything Must Come to Light*. Directed by Mpumi Njinge and Paulo Albertson, 2003. Coproduced by The Gay & Lesbian Archives of South Africa, and Out in Africal Gay & Lesbian Film Festival.
- Four Rent Boys and a Sangoma*. Directed by Catherine Muller, 2004. Documentary filmed in the streets of Johannesburg, South Africa.
- Metamorphosis: The Remarkable Journey of Granny Lee*. Directed by Luiz DeBarros, 2000. Underdog Entertainment; South Africa.
- My Son the Bride*. Directed by Mpumi Njinge, 2002. Documentary filmed for M-Net pay channel.

- Out in South Africa*. Directed by Barbara Hammer, 1995. Barbara Hammer Productions; South Africa.
- Property of the State: Gay Men in the Apartheid Military*. Directed by Gerald Kraak, 2003. Coproduced by GALA, Out-in-Africa, and the National film and Video Foundation.
- Proteus*. Directed by John Greyson, 2003. Pluck Productions; Canada and South Africa.
- Pussy*. Directed by Stanimir Stoykov, 2004. South Africa.
- Quest for Love*. Directed by Helena Nogueira, 1989. Distant Horizons: South Africa.
- Simon and I*. Directed by Beverly Ditsie and Nicky Newman, 2002. South Africa.

Web Sites/Organizations

- Cape Town Pride, www.capetownpride.co.za.
- Gay and Lesbian Archives, www.wits.ac.za/gala.
- GEM: Gay issues in the media, www.gemsouthafrica.org.
- Gender Dynamix, www.genderdynamix.org.za.
Transgender issues.
- RainbowUCT, www.rainbowuct.org.
Student group at the University of Cape Town.
- SA Bears, www.sabears.co.za.
A gathering of large masculine men who self-identified as “bears.”
- Triangle Project, www.triangle.org.za.
Counseling, mental health, HIV support, and advocacy.
- Up & Out, <http://www.up-and-out.co.za/>.
GLBT student society at the University of Pretoria.

TANZANIA

Tom Ochieng Abongo

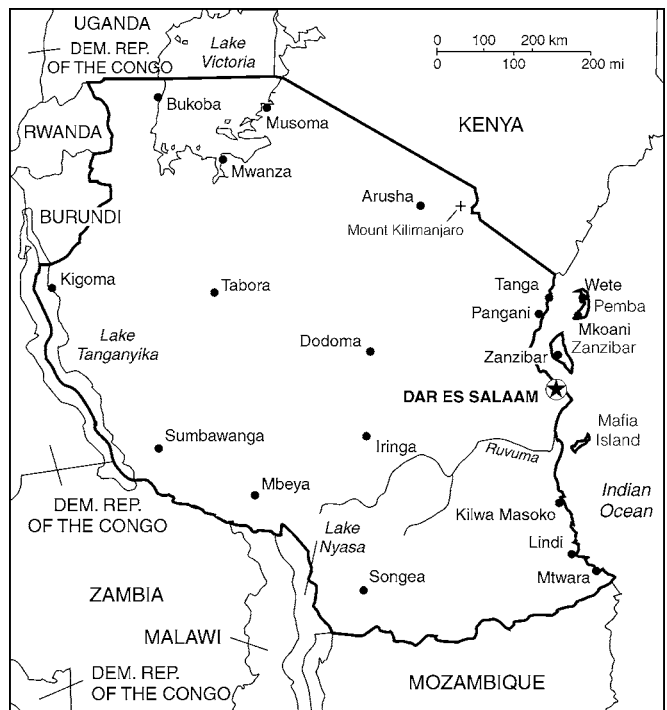
OVERVIEW

Tanzania is a united republic comprised of two independent states: Tanganyika on the mainland and Zanzibar on the island in the Indian Ocean. Tanganyika attained independence from the British Empire on December 9, 1961, and one year later it became a republic. Likewise, Zanzibar became independent on December 10, 1963, and after the revolution of January 12, 1964, the People's Republic of Zanzibar was established. These two independent republics finally merged on April 26, 1964, to form the United Republic of Tanzania. However, the two republics maintain a distinct governing autonomy.

Tanzania is bordered by both Kenya and Uganda to the north, thereby making up the East Africa region. Tanzania is a secular state with a diverse religious composition; the main religions are Islam, Christianity, and Hinduism. The official language in Tanzania is Swahili, though English is also used widely in most urban areas.

OVERVIEW OF LGBT ISSUES

Homosexuality is frowned upon in Tanzania, and all of the religious followings condemn any behavior that does not conform to the perceived law of nature. The definition of sexual intercourse under Tanzania's Sexual Offenses Act of 1998, is given as penile-vaginal penetration, and any sexual act that does not conform to this is an offense that can incur a prison term of up to 30 years, along with corporal punishment in jail.



EDUCATION

The education system in Tanzania is based on a “7-4-2-3” system, in which seven years is spent in primary school, four years in secondary school, two years in high school, and three years in university. Public schools are funded by the government. All lessons in public schools are conducted in the Swahili language. However, there are a number of private schools and academies that conduct their school curriculum in English; these are preferred by the middle- and high-income earners who want their children to be taught in an internationally recognized language.

In schools, same-sex relations abound but are always kept secret out of fear of expulsion. Gays in school struggle to identify with their sexuality due to homophobia. School authorities have clamped down on homosexual relations, and anyone suspected of engaging in homosexual behavior is put through the worst punishment available.¹

The safety of LGBT students in school is not guaranteed and gay organizations are not permitted. Sexual harassment against gays is a common occurrence that goes unreported in most schools.² On the other hand, teachers in public schools in Tanzania are not trained to handle the psychological trauma of a young teenager who is struggling to identify with his or her sexual orientation.³ Lack of counseling in schools has led many gay youth to abuse drugs and alcohol, and has often led to suicide.⁴

EMPLOYMENT AND ECONOMICS

The economy of Tanzania is based on agriculture. The first president of Tanzania, the late Mwalimu Julius Nyerere, introduced socialist policies in all sectors of the economy after independence from colonial rule. Socialism, however, did not work well for the economy of Tanzania, and instead of growth there was a decline in many areas. The economies of neighboring Uganda and Kenya, which followed capitalism after gaining independence, grew in leaps and bounds, leaving Tanzania behind. This prompted Nyerere to officially admit in the early 1990s that socialism had failed in Tanzania. Following this humble admittance, Tanzania soon embraced capitalism and a free-market economy that has tremendously improved the country’s economic performance. The current government of Tanzania, under H.E (His Excellency) President Jakaya Mrisho Kikwete, has pursued consistent and predictable national economic policies with low inflation rates, thus attracting major foreign investments that have boosted the economic growth rate, improved infrastructure (including roads, electricity, water supply, and communication facilities), spurred industrial growth, reduced donor aid dependency, and has led to the establishment of well-equipped public health facilities.

However, the major challenge of the government has been an increase in people moving from rural to urban areas in search of jobs and a better life. This has resulted in the mushrooming of shantytowns or informal settlements, accompanied by high levels of crime, illicit trade, commercial sex work, and other vices. This trend is visible in all urban centers across the country, with private entrepreneurs taking advantage of rural immigrants and paying low wages—a factor that has contributed to poverty across the country. LGBT people are also affected by the same lack of employment crisis.

SOCIAL/GOVERNMENT PROGRAMS

The government funds public health hospitals and clinics countrywide. In conjunction with international nongovernmental organizations (NGOs), the government has put in place HIV/AIDS intervention measures countrywide.

However, there are no programs targeting the LGBT community specific, due to denial on the part of the government of the existence of homosexuals in their areas of jurisdiction. Organizations that have supported gay people are often forced to operate discreetly in order to avoid being penalized under the Sexual Offences Act, which prohibits homosexuality.

SEXUALITY/SEXUAL PRACTICES

The effect of HIV/AIDS in Tanzania has prompted the government to introduce sex education in schools with the intention of encouraging young people to change their behaviors and to promote safer sex practices. Free condoms have been distributed widely in recreational areas, hospitals, higher education institutions, and both public and private offices. However, sexual health education in Tanzania is biased and only addresses heterosexual activity. The LGBT community has been left out of all safe sex programs that have been implemented by health authorities. Safe sex materials specific to the needs of LGBT people are hard to come by and, if they are available, it is always at a high cost. A number of LGBT groups have been formed to fill the void left by health authorities, but their programs are often hampered by the legal system. To date, no research has been done by government health officials on matters of health concerning homosexual people in Tanzania.

FAMILY

The family unit in Tanzania consists of a husband, wife, and children. An adult male and female are, according to cultural norms, expected to marry by the age of 25. Single families and childless unions are frowned upon. Most widowers and widows are pressured to remarry by family members and friends. In most rural areas, people live in small village enclaves where the surrounding land is shared communally. Such a setup confines people to follow the traditional family structure without wavering. In the family unit, the man is the sole earner, and the wife is supposed to stay at home and take care of the house and children. Same-sex relations are unheard of, and if they do exist the couple lives a secretive life away from relatives or friends.

COMMUNITY

Despite the Sexual Offenses Act's prohibition of any same-sex relations, a number of independent gay activists have been vocal in championing the rights of LGBT people in Tanzania. Some courageous activists have even mobilized gays to form organizations that represent the interests of gays in local and international forums. Such organizations have been instrumental in providing LGBT people with health information, safe sex information, access to antiretroviral drugs, legal advice, and voluntary counseling and testing (VCT). Workshops and conferences

have been held in the main city of Dar es Salaam, where attendees advocate for the human rights of LGBT people.

HEALTH

It is estimated that 22.5 million people in Africa are living with HIV/AIDS, making this epidemic one of the major health concerns of the continent.⁵ In Tanzania, the HIV/AIDS scourge has affected the entire population equally. HIV/AIDS programs run by the government in conjunction with local and international NGOs only target the heterosexual community. There are no programs specific to the health needs of the LGBT community. Despite the fact that health services are subsidized by the government through public clinics and hospitals, the cost of health care is still too high for the majority of people. Health services in private clinics and hospitals are also beyond the reach of low-income earners, who form the majority of the population. Homophobia in health institutions has made it difficult for LGBT people to visit hospitals or clinics. LGBT people are often forced, under these circumstances, to visit traditional healers and medical quacks for their health needs, thereby exposing themselves to even more health risks. Common ailments like syphilis, tuberculosis, herpes, and various STDs have been a challenge to control due to the tendency of LGBT people to shy away from hospital treatment and instead rely on nonsanctioned medicine for their health care needs.

POLITICS AND LAW

When Tanzania gained independence in 1961, its constitution required presidential and parliamentary elections to be held every five years, a practice that has been followed by all governing authorities to date. The fourth president of Tanzania, H.E. (His Excellency) President Jakaya Mrisho Kikwete, emerged as the victor in the presidential and parliamentary elections held on December 14, 2005. On December 21, 2005, the President of the United Republic of Tanzania was sworn into office for a five-year term. The Constitution of Tanzania was amended in 1985, giving presidents a limit of two terms in office.

The Constitution presently guarantees the human rights of every citizen of Tanzania. However, same-sex relations are criminalized by the same legal framework that guarantees the protection of human rights for all citizens.

RELIGION AND SPIRITUALITY

The two main religions in Tanzania are Islam and Christianity. Leaders and followers of these two faiths generally agree that homosexuality is against the will of God. Attempts by LGBT activists to protest have been met by stiff resistance and violence from followers of the two religions. For example, following the move by the Episcopal Church in the United States to accept gay priests, the Anglican Church in East Africa and Tanzania vocally condemned homosexuality.⁶ Christians have often used biblical verses to stir the public's anger against homosexuals. However, in the coastal regions of Tanzania, where the Islamic faith is more predominant, homosexuality is silently acknowledged, especially on

Pemba and Zanzibar islands, whose inhabitants are mostly Arabs from the Far East.⁷

VIOLENCE

LGBT people face violence at almost every level in Tanzania—in school, at work, and even at home. The patriarchal culture makes it virtually impossible for a gay person to come out openly. This situation has forced many LGBT people to live a double life in which one is officially married to a partner of the opposite sex but maintains a secret affair with a same-sex partner.

A practice known as bride price has become one of the major causes of violence against gay women. The family assumes that their daughter is ready to be married off to a willing suitor as soon as she turns 18. Poverty has been a contributing factor; parents are forced to marry their daughters in order to get a dowry payment. Parents may inflict violence on their daughters who refuse to get married, and in many cases evict them from the home. Likewise, gay men are scorned if they do not honor the family by bringing home a bride when they are expected to.

The police have fallen short of their duties by being un-cooperative when dealing with the LGBT community. Threats of arrest are used to force gay people to follow unwarranted demands by the police. Cases of rape committed against gay people in prison, though they may be reported, are never investigated.⁸

Most LGBT people suffer in silence because a majority has assumed, correctly, that LGBT people do not have legal grounds to challenge any abuse of their human rights.⁹ As such, many political leaders have taken advantage of this by giving hateful, gay bashing lectures, contributing to discrimination against gay people.

OUTLOOK FOR THE 21ST CENTURY

The gay movement in Tanzania is gaining strength and visibility due to the growth of membership in a number of established gay organizations in both the urban areas and rural regions. A foundation to challenge the cultural, religious, and legal framework that denies gay people in Tanzania a chance to fully express their identity and enjoy their sexuality has been established. This is being developed further through cooperation of the local gay movement with regional and international gay organizations in capacity building initiatives, facilitating research work, resource sharing, and participation in exchange programs and general support. This foundation is a first step toward achieving human rights for all Tanzanians, regardless of sexual orientation.

RESOURCE GUIDE

Suggested Reading

Peter Drucker, *Different Rainbows* (London: Millivres, 2000).

GALZ, *Understanding Human Sexuality and Gender* (Harare: Gays and Lesbians of Zimbabwe, 2005).

Jody Kollapen, *An ABC of LGBTI* (Johannesburg: Joint Working Group, 2004).

Ruth Morgan and Saskia Wieringa, *Female Same Sex Practices in Africa* (Johannesburg: Jacana Media, 2005).

Organizations

Community Peer Support Services (CPSS), cpss91@yahoo.com.

CPSS aims to provide health services to gay men in all regions of Tanzania.

Private Bag

Dar-es-Salaam, Tanzania

Talesa (Tanzania Lesbian Association), talesa2000@yahoo.com.

Talesa was founded by two young women who felt that Lesbian issues were not represented in mainstream women civil organizations. Lesbians in Tanzania are faced with even more challenges than those women in general face and TALESA has taken the task of reaching out to lesbians to help tackle issues affecting them.

P.O. Box 106178

Dar-es-salaam, Tanzania

NOTES

1. Ruth Morgan and Saskia Wieringa, *Female Same Sex Practices in Africa* (Johannesburg: Jacana Media, 2005).
2. TALESA (Tanzania Lesbian Association), "Project Reports 2001–2005."
3. Ibid.
4. CPSS, "Community Peer Support Services Newsletter," January 2004.
5. UNAIDS, "2003 HIV/AIDS Human Rights and Law Geneva," <http://www.unaids.org/en/default.asp>.
6. Nation Media Group, www.nationmedia.com.
7. Peter Drucker, ed., *Different Rainbows* (London: Millivres Ltd., 2000).
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TUNISIA

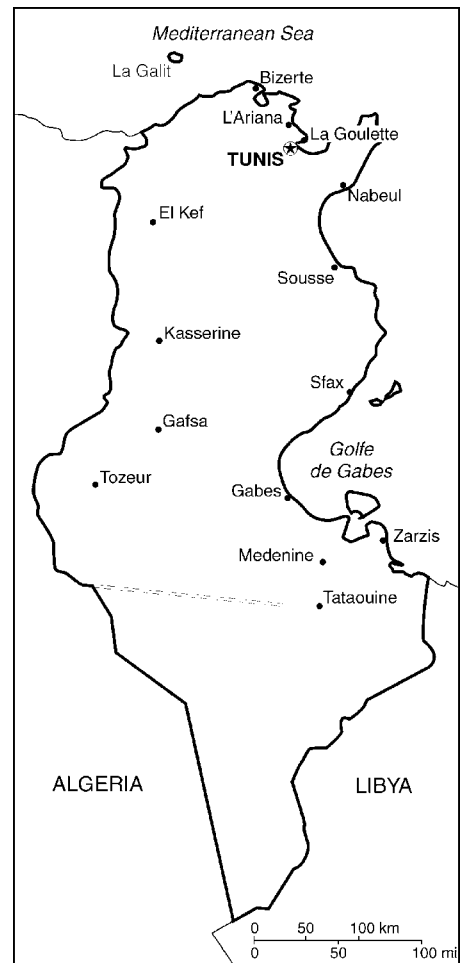
Benjamin de Lee

OVERVIEW

Tunisia, sandwiched between the much larger countries of Libya and Algeria, is the smallest country in North Africa. It is slightly larger than the U.S. state of Georgia. Tunisia was made a French protectorate in 1881, and became independent in 1956. Habib Bourguiba, the first president of Tunisia, ruled for 31 years in a strict one-party state. While political conformity was demanded, other civil liberties were granted. Complete equality was given to women, and a secular constitution and legal system, modeled on France, were adopted. Investments were made in infrastructure and education, and great advances in literacy and education were achieved. Zine el Abidine Ben Ali led a bloodless coup in November 1987 and continues to rule the country today. Ben Ali has continued Bourguiba's policies and still honors the now deceased former president as the father of the country.

Tunisia's constitution guarantees complete equality to all citizens and grants universal suffrage to citizens over the age of 18. Ninety-eight percent of the population is Muslim, while one-percent is Jewish, and another one-percent is Christian or other.¹ In spite of having a working constitution, the government of Tunisia has been accused of using threats of terrorism and Islamic fundamentalism to crush peaceful dissent.² President Ben Ali and his Constitutional Democratic Assembly dominate the political life of the country, although small opposition groups are tolerated if they do not support the overthrow of the government in favor of an Islamic regime. While there are independent media outlets in the country, criticism of the government, although not illegal, is unheard of in major outlets.

Tunisia has a healthy and diverse economy, though it lacks the oil wealth of its neighbors. It has a well-developed agricultural, mining, tourism, and manufacturing sectors, and it has paid particular attention to developing



its tourism industry. The country itself has enjoyed greater stability and economic growth than other countries in the region, in spite of its lack of petroleum resources like neighboring Libya. The gross domestic product in 2007 was over \$77 billion, with a 6.3 percent growth rate. Still, unemployment is high at 13.6 percent. France and Italy are Tunisia's two biggest trading partners. Tunisia has an army, navy, and an air force, although the military is relatively small. Military expenditures are only 1.4 percent of the GDP.³ Tunisia has avoided international conflicts, seeking mediation in a border dispute with Algeria in 1993. In the 1970s, relations with Libya were strained, but Tunisia avoided armed conflict then as well. The *gendarmerie* and police presence in Tunisia are more significant than the military.

OVERVIEW OF LGBT ISSUES

As in many Arab countries, one might say there are no LGBT issues, as homosexuality is largely invisible. Sodomy is still punishable with up to three years in prison under Article 230 of the Penal Code (est. 1913, revised in 1964); yet homosexual acts are common between men. Society turns a blind eye to homosexual acts, yet homosexuality as a concept or identity is thought to be repugnant, a Western vice and immoral. Thus, there is no discussion of sexual identity as such. HIV infection rates are some of the lowest in the world. There are no specifically gay or lesbian organizations. Gay and lesbian issues are not part of the national dialogue in any way. Efforts to address gay and lesbian issues, as in Nouri Bouzid's film *Bezness* (1992), have met with government censorship. This film is an indication that things may be changing in Tunisia. More and more gay Tunisian men and lesbian women are asserting a sexual identity. Pan-Arab gay and lesbian organizations like the Gay and Lesbian Arab Society (GLAS) provide resources for Tunisian gays and lesbians, although these resources are available mostly to an educated, urban population group with internet access.

EDUCATION

Tunisia has worked consistently to improve and expand its education system since gaining independence from France. The school system is based on the French model but has abandoned mandatory French for complete Arabicization, but with a focus on learning international languages like English and French. Primary school is now compulsory. The Ministry of Education oversees primary and secondary schools, while the Ministry of Higher Education oversees the university and advanced technical school system. There are no programs that address sexual or LGBT issues.

EMPLOYMENT AND ECONOMICS

Tunisia needs high rates of economic growth to accommodate its large population of young people, especially the increasing number of university graduates. Economic growth is healthy, but unemployment numbers are still high. Gay and lesbian Tunisians can be found in all areas of employment, but they are frequently found in the tourism industry. Gay men may work in the tourism industry directly or may work in tourist-frequented areas as sex workers.

SOCIAL/GOVERNMENT PROGRAMS

There are no government-funded or social programs for LGBT people. The Association Tunisienne de Lutte Contre le Sida (the Tunisian Association against AIDS) works to educate all members of the population about the risks of HIV transmission. It is a small organization that works to confront the taboos of Tunisian society.⁴

SEXUALITY/SEXUAL PRACTICES

Attitudes concerning sexuality and sexual practices in Tunisia are similar to those throughout the Islamic world. Although it is rare to see a veiled woman in Tunisia, sexual contact between unmarried heterosexual couples is quite rare. In contrast, sexual contact between unmarried young men is quite common, and such experiences are not considered part of a homosexual identity. Indeed, in particular, males who assert themselves as the dominant and penetrative role (top) are unlikely to consider themselves homosexual. Regardless of role, the vast majority of Tunisian men and women marry, although many married men continue to engage in homosexual practices.

HIV-AIDS has not become a major issue in Tunisia because there is a very low rate of infection, although as mentioned there is now an NGO that is attempting to confront the issue. However, Tunisia, like much of North Africa, has had something of a reputation as a gay travel destination. Tunisia is a popular tourist destination with a well-developed tourist infrastructure. Young single men often attach themselves to European travelers of either sex. While the young men would never consider themselves prostitutes, they function as a local guide and gigolo for the wealthier traveler. Safe-sex practices are not well known, discussed, or encouraged in Tunisia since it would mean a certain level of openness about sexuality and sexual practices. Thus, the population is potentially vulnerable if HIV infection rates begin to rise.

FAMILY

Tunisian families follow the traditional model of heterosexual marriage. Polygamy, although allowed in Shari'ah Law, is illegal. Gender roles are traditional, although a large number of Tunisian women in urban areas have careers. Marriage is a civil institution, with both partners having complete equality and the right to initiate divorce, although divorce rates are very low. Same-sex unions are not recognized. The extended family is still important, and in rural areas, especially in the south of the country, the rhythms of village life have scarcely changed.

Whether Tunisian families are supportive of their gay and lesbian children is hard to know. The upper classes of Tunisia tend to be very Westernized, and those that can afford to send their children to the West for education, usually France, do so. Such families often have Western views and attitudes. In Nouri Bouzid's film *Man of Ashes*, the protagonist, a gay man, feels pressured to marry by his family. Adult children tend to live with their parents until they marry, and marriage is expected of most adults at some point.

COMMUNITY

There is no identifiable gay and lesbian community in Tunisia.

HEALTH

Public health care in Tunisia is adequate but understaffed and underfunded. In more rural areas, facilities and resources are less available than in urban centers. AIDS cases are at less than 1,000, and no specialized treatment for HIV-AIDS exists, although there are large number of private hospitals and clinics with staff and resources comparable to those in the West.

POLITICS AND LAW

Article 230 of the 1913 Penal Code (revised in 1964) states that anal intercourse between men is illegal and carries an imprisonment up to three years. In reality, this law is rarely enforced, but there are no political movements seeking to overturn this law. In 1993, the Appeal Court of Tunis refused to grant a change in gender status for a transsexual. The court ruled that the surgery was voluntary, and therefore the government was not obliged to recognize the plaintiff's new gender. What limited political opposition exists in Tunisia, the political structure has never addressed gay and lesbian issues. Islamic parties would no doubt prefer a crack down, as has occurred in Egypt, while liberal parties are more interested in a completely free press and free elections.

RELIGION AND SPIRITUALITY

Tunisia's population is overwhelmingly Sunni, with very small Christian and Jewish minorities. Islamic law forbids anal intercourse between men, but Islamic society has a surprising history of toleration of homosexuality. However, in recent years fundamentalist movements have targeted gays as a sign of Western decadence. Tunisia is not a very religious country, and while almost everyone identifies him or herself as Muslim, it is unusual to see any overt religiosity in public.

VIOLENCE

There are no specific complaints of violence against gays and lesbians in Tunisia. On the whole, Tunisia has very low rates of violent crime. Reports of violence against tourists are rare. In recent years, there has been one terrorist attack against a synagogue (2002) on the island of Djerba. Tourists are targets for petty crime, usually theft, and gays and lesbians who are tourists are equal targets. Gay men who have sexual encounters with Tunisian men have reported that their sexual partner has threatened to call the police as a way to elicit money, but there have been no reports of violence or actual prosecution of a tourist.

OUTLOOK FOR THE 21ST CENTURY

The situation for gays and lesbians in Tunisia is unlikely to change in the near future. The government, while maintaining its pragmatic, secular stance, is unlikely to encourage any level of liberalization and openness, especially since that might provoke Islamic fundamentalists to become critical of the regime. At the same time, the crack-down on gays and lesbians, such as in Egypt in 2002 with the mass arrest of 52 gay men at a nightclub, appears unlikely as it might affect the tourism

industry and tarnish Tunisia's reputation as an appealing, laid-back, and liberal Mediterranean vacation destination.

However, there are signs that a sense of sexual identity is spreading. Web sites such as *www.gaydar.co.uk* show a growing number of personal profiles in Tunisia. Organizations like the Gay and Lesbian Arab Society and Web sites like *www.kelma.org* offer a forum to gay Arabs throughout North Africa and the Middle East. Films such as *Bezness* are also provoking a greater openness on the issue of sexuality. There are also gay couples in Tunisia who say that they are happy and content, but there are others who say they are a persecuted minority.⁵ It is hard to say what the 21st century will bring for gays and lesbians in Tunisia. Historically, Muslim societies have been tolerant, yet silent, about gays and lesbians. Many colonists and Europeans in the 19th and 20th centuries found North Africa to be a relative haven where sexual expression, which was repressed in Europe, was allowed. This local tradition of silent toleration, however, is coming under increasing pressure from Islamic fundamentalists who want to end all tolerance, as well as from gays and lesbians who want an end to the silence.

RESOURCE GUIDE

Suggested Reading

- Abdelwahab Bouhdiba, *Sexuality in Islam* (London: Routledge and Kegan Paul, 1985).
 Bruce W. Dunne, "Homosexuality in the Middle East: An Agenda for Historical Research," *Arab Studies Quarterly* 12, nos. 3/4 (1990): 55–82.
 Albert Memmi, *Pillar of Salt*, trans. Edouard Roditi (New York: Criterion Books, 1955).
 Stephen O'Murray and Will Roscoe, *Islamic Homosexualities: Culture, History, and Literature* (New York: New York University Press, 1997).
 Arno Schmitt and Jehoeda Sofer, eds., *Sexuality and Eroticism among Males in Moslem Societies* (London: Routledge, 1992).

Videos/Films

- Bezness*. DVD. Directed by Nouri Bouzid. Tunisia: CTF, 1992.
 A film about a Tunisian hustler in Sousse who is engaged to a Tunisian woman. Roufa, the hustler, seeks to go to Europe through a German client, while he demands that his fiancée remain a virgin until they are married.
Man of Ashes. DVD. Directed by Nouri Bouzid. Tunisia: CinéTéléfilms, 1986.
 The film follows the story of three boys who were molested in a Tunisian village. One immigrates to France, another is driven from home, and the third faces his own homosexual identity.

Web Sites

- Ahbab, <http://www.glas.org/ahbab/>.
 Web site of the Gay and Lesbian Arab Society. Another site for valuable news updates, HIV/AIDS awareness, and links to other gay and lesbian sites.
 Gay and Lesbian Arabs, <http://www.al-bab.com/arab/background/gay.htm>.
 A valuable database of resources for gay and lesbian Arabs. Includes links to films, literature, and Web sites.
 Kelma, <http://www.kelma.org/>.
 Includes links to social events in Paris, pornography, and personal ads. Also includes news stories, education, and culture. Significant because it is the only Web site devoted exclusively to gay francophone Arabs.

Middle East Research Institute (MEMRI), <http://www.memri.org/bin/articles.cgi?Page=countries&Area=northafrica&ID=SP117006>.

Includes a summary of various articles and interviews on homosexuality in Tunisia. Most of the links are to the Tunisian weekly *Réalités*.

NOTES

1. CIA, "Tunisia," *The World Factbook*, <https://www.cia.gov/library/publications/the-world-factbook/geos/ts.html>.
2. "Universal Periodic Review of Tunisia," *Human Rights Watch*, 2008, <http://hrw.org/english/docs/2008/04/11/global18514.htm>.
3. CIA, "Tunisia."
4. Alasdair Soussi, "Interview with Tunisian Association Against AIDS," *New Internationalist*, 2008, http://findarticles.com/p/articles/mi_m0JQP/is_408/ai_n24940314.
5. Sonia Ounissi, "HIV and Gay in Tunisia: A Twin Taboo," *Reuters*, March 7, 2008, <http://www.reuters.com/article/lifestyleMolt/idUSL077623120080307>.

UGANDA

James A. Wilson Jr.

OVERVIEW

Uganda is a landlocked equatorial country located west of Kenya, south of Sudan, north of Tanzania, and east of the Democratic Republic of the Congo. As of 2007, the population of Uganda was estimated at 30.9 million people living in a country roughly the size of Oregon. The capital city of Uganda is Kampala, which is located just seven miles from the great Lake Victoria. There are four other major cities in Uganda—Gulu, Jinja, Mbale, and Mbarara, but a majority of Uganda's population lives in rural developing communities.

Uganda, like many countries in Africa, is an amalgamation of different ethnic groups, cultures, religions, languages, and identities. There are three primary linguistic groups that make up most of the population: *Bantu*, *Nilotic*, and *Nilo-Hamitic*. The southern region of Uganda is the highest populated region and home to the *Baganda* people, who constitute the largest ethnic group in Uganda, representing 18 percent of the population. Other *Bantu* ethnic groups in the southern region include the *Bahima* and *Banyankole* people, who make up 10 percent of the population; the Bakiga people (8%); the Banyarwanda people (6%); the Bunyoro people (3%); and the Batoro people at three percent. The *Nilotic* and *Nilo-Hamitic* ethnic groups are located in the northern region of Uganda and they include the *Langi* people (6%); the Acholi people (4%); the *Lugbara* people (4%); and the *Karamojong* people, who largely occupy the driest pastoral section of the northeast Uganda.



In the eastern region of Uganda, two ethnic groups primarily occupy this region: the *Basoga* people, who make up 8 percent of the population, and the *Bagisu* people. In addition to the African citizens of Uganda, there are also Europeans, Asians, and Arabs—communities that make up roughly one percent of the Ugandan population.¹

The rich precolonial history of these well-established ethnic groups shaped the political and cultural structures in Ugandan societies for centuries. The southern region of present-day Uganda had centralized states with powerful kings, as well as established hierarchies of chiefs and laws that governed the relationships of the various communities. The northern and eastern regions of present-day Uganda, however, were not organized like the southern region because centralized states did not evolve. As a result, the north and eastern regions were more isolated from the political and cultural developments of the southern region. This stark contrast in development among the various ethnic groups played an important role in the amalgamation of different African cultural, social, and political traditions when the British declared its protectorate over Uganda in 1894. The British then immediately employed the classic divide and conquer method to increase division and disunity in Uganda by creating a Buganda state within a state. That is, the British encouraged European missionary societies to introduce Christianity to the *Baganda* people, who were indeed the largest and most powerful ethnic group, thus creating a mini-state within the protectorate. Of course, the other smaller ethnic groups did not receive the same type of political, cultural, economic, religious, or educational opportunities as the Baganda people, and over time this political division among ethnic groups in Uganda has created major problems for modern, postcolonial political development in Uganda.²

The evolution of modern African politics in Uganda began in 1952 with the first political party, the Uganda National Congress (UNC). With the guidance of both the British colonial state and the influences of the Church Missionary Society, the UNC was formed in Buganda with a majority of Baganda leadership. Moreover, all of the Baganda leaders were Protestant, which was a minority religious identity among the more popular Catholic majority throughout the country. Nonetheless, the Baganda Protestant leadership dominated the UNC and other political parties, creating a pattern of Baganda dominance over national and local institutions such as the press, local newspapers, educational leadership positions, religious agendas, and public discourses. Eventually, resentment and division was the reaction to Baganda leadership instead of unity and cooperation to form a united African party for all black Ugandans.³ Ten years later, on October 9, 1962, Uganda declared its independence from the British colonial government.

Many African countries emerged as newly independent states during the early 1960s. However, the political process and transformation of powers was not an easy transition. Uganda's postcolonial political evolution was no exception. By 1966, four years after receiving its independence, the Ugandan military supported a political activist, Milton Obote, who abrogated the 1962 Constitution of Uganda and placed himself as ruler and dictator of the state. In 1971, Obote's army commander, Idi Amin, overthrew him in a bloody coup d'état to declare the presidential throne for himself.⁴

From January of 1971 to April of 1979, Idi Amin ruled Uganda with the forceful tools of oppressive authority, harsh dictatorial governance, and physical cruelty to suppress any form of resistance, which ultimately restricted all expressions of

political freedoms, citizenship rights, or social and economic liberties. The British colonial government had recruited railroad workers from India to build the infrastructures in many African countries, and after two centuries, many of the Asian citizens were born in Uganda, Kenya, Tanzania, Zimbabwe, Zambia, and South Africa. Nonetheless, Idi Amin wanted all Asians out of Uganda. In 1972, Amin expelled the Asian population of Uganda from the country and denied them citizenship. He then targeted the Israelis living in Uganda and blamed them, alongside the Asians, for the deterioration of the Uganda economy. To counter any criticism from the West regarding his anti-Semitic decisions, Amin joined forces with Libya's Muammar Qaddafi to support "the struggle of the Arab people against Zionism and imperialism."⁵ As a result of Amin's radical positions to remove Asians and Jews from Uganda in 1973, the United States quietly decided to withdraw and evacuate all U.S. Peace Corps volunteers from their various grassroots projects in Uganda.⁶ The Peace Corps reestablished programs in Uganda in 1991 and continued to develop its programs until 1999 when it was suspended for political reasons and safety concerns. However, in 2000, the Peace Corps reestablished volunteers in Uganda once again, and the programs are all moving forward.

Uganda experienced many economic, social, political, and cultural hardships during Amin's political reign, and many Bugandan intellectuals were targeted and murdered because of their decisions to expose to the world the injustices of Amin's policies. With the uncertainty of safety and security, eventually many Ugandan intellectuals managed to cross the borders into Kenya and Tanzania to reestablish their lives. In April of 1979, Amin was removed from power by a combination of Tanzanian army members and exiled Ugandan political groups. However, the revolving political cycle continued with Yusufu Lule, who held on to the presidential power for only 68 days until the National Consultative Council removed him, supported by the Uganda National Liberation Army.⁷ The next several Presidents of Uganda all had military support to sustain their leaderships, and this particular type of governance has maintained a continual succession of fragmented leadership in Uganda. Ultimately, the never-ending political crises to create a sustainable governing body at the national and local levels have hindered Uganda's potential to develop economically, politically, and culturally.

OVERVIEW OF LGBT ISSUES

The issue of sex, sexually transmitted diseases, and sex education has recently emerged as part of a national discourse in Uganda because of the HIV/AIDS crisis. Like many African countries, the people of Uganda realized a radical change was needed to address the enormous death rates of Ugandans from AIDS. By 1995, Uganda's President Yoweri Museveni, local political leaders, Christian ministers, international NGOs, medical researchers, school teachers, local Ugandan women's groups, and concerned citizens throughout Uganda all began to organize a public campaign to talk about sex and HIV/AIDS. However, the issue of homosexuality was not included in the body of literature disseminated nationally to educate Ugandans about sexuality and sexual education. Because of the conservative influences of Christianity, first introduced by European and American missionaries in Uganda, many African religious leaders completely disregard the idea and existence of LGBT Ugandans.

According to a recent report on Health and Gay/Lesbian affairs in Uganda, “the national HIV/AIDS program [made] no provisions for sexual minorities, despite scientific evidence that gay men are more susceptible to HIV transmission than any other group.”⁸

The report illustrated the disconnect between the innocence of gay Ugandan men and the ignorance of HIV/AIDS health administrators responsible for addressing all issues related to sexual practices, transmissions, and identities related to the spread of HIV/AIDS in Uganda. The report acknowledged that, “many gay men in Uganda remain unaware of the risk of contracting sexually transmitted infections through unprotected sex.”⁹ This might seem difficult to imagine given Uganda’s overwhelming success with the (ABC) policy that called attention to the ideas of “Abstinence” for A, “Be Faithful” for B, and “Condoms” for C as a comprehensive strategy to reduce the spread of HIV/AIDS. However, this report also demonstrated just how invisible the LGBT community is by highlighting the experiences of one 20-year-old gay Kampala resident: “Joel said, ‘some boys believe that to sleep with a man is safe because all the billboards around town show heterosexual couples, with messages. Nothing is said about homosexual couples using a condom, so they think it is safer to sleep with each other than a girl.’”¹⁰

The LGBT community is small and responsible for organizing educational materials to correct much of the misinformation and mixed messages about HIV/AIDS for gay citizens in Uganda. The main objective of LGBT Uganda is to transform the sodomy laws and to protect gay and lesbian Ugandans from discrimination, violence, blackmail, and unlawful abuses of civil rights, harassments, and lengthy jail sentences. At present, a conviction for sodomy in Uganda carries a life sentence in prison. Additionally, legal support and assistance for gay, lesbian, bisexual, or transgender Ugandans is extremely difficult mainly because of the stigma associated with being constructed as different from the conventional heterosexual norms. Yet there is a need to address basic ignorance about terms and identities such as gay, homosexual, bisexual, lesbian, and transgendered. Often government ministers, religious leaders, and members of the Church Interfaith Family Culture Coalition Against Homosexuality use these terms incorrectly as part of their public antigay campaigns. With the help of the Internet there is a website entitled *Gay Uganda*, which provides an overview of definitions, history, legal rights, organizations, and other important links.¹¹ Without question, the most challenging issue the Ugandan LGBT community faced in 2005 was the antigay campaign led by President Museveni to constitutionally ban gay marriage.¹²

EDUCATION

Throughout Africa, formal education is a major priority for everyone; however, for many people the cost to obtain an education is very expensive and competitive. The Ministry of Education has improved the overall educational system to offer Ugandans more opportunities. The original blueprint and educational concepts, established by European missionaries, introduced a national curriculum that reflected the values of European history, religion, philosophy, and culture. However, the Ministry of Education in Uganda has consistently transformed the once European-focused educational system. One of the legacies of the colonial system is an emphasis on educating male students over female students; this is still a major

concern of Uganda's current educational program that must be improved. Gender equality is a significant problem in many African countries, and education is the best way to eliminate gender discrimination for future generations. Like its East African neighbors Kenya and Tanzania, Uganda has a long way to go to ensure that girls and women will have equal and abundant opportunities.

Today, the educational system in Uganda is based on a 7-4-2 system, which means seven years of primary education, four years of secondary schooling, and two years of high school before attending university. At present, Uganda has 13 universities, with Makerere University in Kampala as the oldest and most prestigious university in Uganda and East Africa respectively.¹³ The political inconsistency of Uganda's Presidency has created many years of closed universities, but President Museveni has supported the development of more universities with more degree plans. There are LGBT organizations on some of the university campuses in Uganda, but gay and lesbian students must maintain very discreet profiles because university administrators and professors support a more conservative, Christian climate for student activities on campus. Increasingly, LGBT organizations have appeared in student newspapers and in public discourses, but with little support these organizations struggle to exist as part of the university culture to assist gay students.

The issue of AIDS and increasing death rates is a major concern for educators in Uganda because of the number of orphaned children and dying teachers. Uganda's HIV/AIDS crisis, however, is relatively contained in comparison to other African counties. All the same, the Ugandan population has actively responded to the AIDS crisis as it relates to new educational initiatives to secure opportunities for orphans and families to attend all levels of education.

EMPLOYMENT AND ECONOMICS

Uganda's economy is one of the poorest performing financial systems in the world, primarily because of the erratic political system the country has endured for many years. However, since 1986 when President Museveni took office, Uganda's economy has slowly improved. The fragile infrastructure of the country is one of the priorities President Museveni has worked to expand. Both the IMF and the World Bank supported this necessary rebuilding in 1987 to allow Uganda opportunities to regenerate its local and foreign markets. One positive aspect of Uganda's economic growth is the production of agricultural exports such as coffee. Following the success of Kenya in coffee production, Uganda is the second largest producer of coffee in Africa.¹⁴

With regards to Uganda's external debts, for the past decade President Museveni has worked steadfastly with donor countries to postpone and/or cancel sizeable percentages of outstanding debts. One financial concern that has generated lots of support to Uganda is HIV/AIDS research. In 2002 the Uganda Virus Research Institute in Entebbe, Uganda was the second trial site in Africa to receive over \$94 million dollars from the International AIDS Vaccine Initiative or IAVI for two years to establish academic labs, clinical trails, and tests to produce an HIV vaccine. In addition to the IAVI program, in 2004 the Bill and Melinda Gates Foundation also invested in this partnership to research a possible vaccine.¹⁵

There was no inclusion of LGBT research issues as part of the IAVI partnership with the Uganda Virus Research Institute. In fact, the Uganda government and

economy benefited from establishing partnerships with the global AIDS medical community to come to Uganda to conduct research. On the other hand, in 2005 the issue of corruption regarding this mismanagement of research grants by three Ugandan ministers of health resulted in the suspension of more than \$200 million dollars from the Global Fund. Even worse, between \$400 to \$500 million dollars worth of antiretroviral medicines stored at the national medical stores in Entebbe, Uganda, were destroyed due to expired dates.¹⁶

Employment opportunities and a measurable development in the standard of living for Ugandan citizens have improved increasingly over a 20-year period. For example, in 1987, the inflation ran at 240 percent and in June of 1992 it was 42 percent. However, in 2003 inflation was 5.1 percent and it only recently increased to 7.7 percent in 2007 as a result of recent rising food prices.¹⁷ Indeed, employment in both local and foreign export industries has created jobs for Ugandans.

There are no antidiscrimination laws to protect LGBT Ugandans.

Under President Museveni's administration, the LGBT community has endured many homophobic attacks launched by religious and political leaders to forbid basic civil rights to gay and lesbian Ugandans. Overall, the work environment in Uganda does not provide LGBT workers, as well as women in general, with much legal recourse against sexual harassment, discrimination, and physical violence.

SOCIAL/GOVERNMENT PROGRAMS

There are no existing programs in support of the LGBT community in Uganda. In fact, the Ugandan government has consistently set a tone of disapproval for homosexuals and has supported public campaigns of harassment of gays and lesbians. In August of 2006, a tabloid newspaper entitled *Red Pepper* published a story about 45 alleged homosexuals and expressed concerns about the government's harsh and unfair treatment of LGBT Ugandans. In 2002, this same tabloid published a story about a lesbian couple's decision to get married. As a result of the story, the two women were later arrested and detained by the government.¹⁸

SEXUALITY/SEXUAL PRACTICES

In many African countries, Christianity and Islam are the formal institutions that set the cultural norms to express the limits of sexuality. According to these religions, marriage is the proper and legitimate social contract that allows people to express love and human sexuality. Hence, the idea of alternative sexual identities is simply not discussed or presented as an option. In Uganda, like many African countries, homosexuality is illegal, and the only acceptable sexual practice that is acknowledged and supported is heterosexuality. The evolution of women's sexuality is a very recent movement, and in many African cultures, women do not have many options to express their own sexual independence outside of getting married and producing children. Of course, prostitution is one obvious deviation from the normal sexual expectation for African women, but prostitutes are often regarded as immoral and dirty sinners who deserve no protection or respect. As a result of this limited expression of sexuality, there are no legal rights for homosexuals to fight discrimination, harassment, violence, or rape. Nonetheless, homosexuality has existed in African cultures for centuries, and the diversity of sexual identities will continue to emerge as human beings continue to express themselves sexually. Uganda is no exception to this reality.

FAMILY

The African family unit is the backbone of every African society and the important transmitting institution of traditions, cultures, languages, customs, laws, land tenure, food production, and local economies. All of these factors depend on the development of the family. In Uganda, like many African countries, the importance of marriage between a man and a woman, as well as the high expectation placed on procreation to create large families, is the general standard of normative behavior and morality.

Hence, the diversity of the Ugandan family unit might include a close network of extended family members, but the presence and celebration of gay and lesbian family units would not be openly accepted or encouraged. Divorce is also a relatively new option for African families mainly because of the inequality that African women face if they elect to divorce their husbands. As a result, the divorce rate in Uganda is comparatively lower than most western countries that award women property and resources as part of divorce settlements.

Unlike the newly constructed gay and lesbian family units in Europe and North America, Ugandans would view nontraditional gay family units with condemnation, and religious leaders alongside the powers of the Ugandan government would condemn such arrangements. In fact, in 2005 Uganda became the only country in the world to include in its constitution the meaning and limitations of what constitutes a legal marriage. Perhaps the recent HIV/AIDS crises in Africa have reconstructed the “normative construct” of the family unit because of the devastations caused by massive deaths. Nonetheless, the emergence of LGBT family constructs is still not acknowledged as an acceptable option.

COMMUNITY

The LGBT community in Uganda emerged publicly as organized groups began to demand their rights as equal citizens in 2003. The term *Kuchu* means a gay Ugandan, and members of the LGBT community and neighboring Kenya decided their voices and opinions needed to be heard loud and clear on issues involving the HIV/AIDS crisis, the dissemination of medicines and treatment, claims to family properties, adoption of orphans, demands to end discrimination and harassment, and their rights to organize and assemble. One LGBT group called Freedom and Roam, Uganda (FAR-Ug) is an alliance of lesbians in Uganda who formed their organization in 2003. FAR-Ug’s main objective is to function as the advocacy group for LGBT (*Kuchu*) rights. In 2004, another LGBT group called Sexual Minorities, Uganda (SMUG) emerged as an umbrella organization to unify and coordinate advocacy rights for the LGBT community. Both FAR-Ug and SMUG have worked with Rainbow Uganda, a gay men’s organization in Uganda that is registered as an NGO. All three organizations have received biting criticisms from Ugandan religious and political leaders, but increasingly, increasing numbers of gays and lesbians in Uganda have committed themselves to fight to end all forms of sexual discrimination, harassment, and exclusion.¹⁹

HEALTH

Uganda has made significant contributions in the fight against the spread of the HIV virus in Africa, and President Museveni’s strategy to mobilize both the Ugandan society and the global community to communicate effective methods

to reduce the death rates due to AIDS is one of the more positive outcomes of this health crises. Educating the public about sexual risk factors is a sure way to curve an epidemic, but there are additional issues such as providing a sense of national security and continuity to those affected by poverty and disease, as well as the empowerment of African women so they are not completely dependent on men economically and politically. Moreover, the educational and health sectors of Uganda had deteriorated for over 30 years as a result of political conflicts, and this environment has had to be corrected to stop the susceptibility to the spread of HIV/AIDS.²⁰

The positive health accomplishments achieved in Uganda have indeed served as a model for neighboring African countries Kenya, Tanzania, Rwanda, Burundi, and the Democratic Republic of the Congo, as well as other countries in Africa struggling to curb the AIDS crisis. However, many gay Ugandans continue to die of HIV/AIDS because doctors will not provide medical treatment to homosexuals. In a 2000 Global UNAIDS report, researchers concluded, "AIDS and men who have sex with men found that the risk of HIV transmission by unprotected anal sex was several times higher than the next most high risk category."²¹ This blatant disregard for human life and rights is a challenge the Ugandan government must address. As the ministers of health establish new health priorities and initiatives for Ugandans, a critical objective should focus on the health of sexual minorities.

POLITICS AND LAW

In 2005, the Ugandan constitution was amended to explicitly state that "marriage is lawful only if entered into between a man and a woman" and "it is unlawful for same-sex couples to marry."²² This specific amendment made Uganda the first and only country in the world to legally forbid homosexuals from marrying one another. This was the beginning of several public crackdowns on the LGBT community initiated by President Museveni. In 2007, the government denied LGBT representatives to speak before the Commonwealth Heads of Government Meeting in the capital city of Kampala, and this denial was met with resistance. As a result, Ugandan police beat and physically removed LGBT members who were trying to attend the meeting.²³ This confrontation only encouraged SMUG (Sexual Minorities of Uganda) members to work harder to organize demonstrations and to expose to the world the inhumane treatment of gays and lesbians in Uganda. For example, the legal punishment for sodomy or any sexual act between members of the same sex in Uganda is several years to life imprisonment for any practicing gays and lesbians.

RELIGION AND SPIRITUALITY

Religion in Uganda is an important part of the national culture. Both Christianity and Islam are the dominant religions followed throughout the country, but three out of every four Ugandans are believers of one denomination of Christianity. Religious leaders in Uganda, like in many African countries, are important figures in their communities, and often their conservative views about society play a part in influencing local and national politics.

In 2007, the Interfaith Rainbow Coalition against Homosexuality in Uganda launched their first antigay campaign to encourage the government to crack down

on the freedom of speech exercised by organized gay and lesbian groups. Without question, this antigay rally commended the attention of the entire country, and one summarized statement pronounced by one of the religious organizers captured a singular message for all to consider: “The Government should learn from the Church of Uganda, which has withstood international pressure and had to do without donor funds in order to uphold morality.”²⁴ The response to the rally created a public discourse about the evils of homosexuality and how “immoral” the practice of same-sex relationships are to the Ugandan family, the union of marriage, and to the future of innocent children. Religious interpretations about homosexuality, sin, and immorality are political bandwagon issues that the clergy have expressed directly to President Museveni’s administration, and because of the fear of sexuality diversity, religious leaders have become the primary antigay campaign organizers to criminalize members of the LGBT community in Uganda.

VIOLENCE

The political history of postcolonial Uganda involves multiple cycles of violence related to presidential election campaigns, the civil war conflicts in northern Uganda between citizens of southern Sudan, the Ugandan government, and the Lord’s Resistance Army (LRA) over land and settlement. In addition, there have been repeated reports of violence against refugees in Uganda, violence against women, and the physical harassment and ostracism of LGBT people in Uganda.²⁵ Amnesty International’s 2007 *Human Rights Report on Uganda* concluded that “attacks on freedom of expression and press freedom continue to be a problem, as well as the torture of detainees and the harassment of people on account of their sexual orientation.”²⁶

OUTLOOK FOR THE 21ST CENTURY

Uganda is a developing country with many internal challenges to overcome. It has been an independent country for only 45 years, and it is expected to take at least 100 years to fully recover from an unstable past. At present, the life expectancy of a Uganda citizen is roughly 45.3 years, and the HIV/AIDS crisis continues to shorten the lives of millions of Ugandans. On the other hand, there are promising signs that progress is ongoing to expand the life expectancy of HIV-positive Ugandans. Although President Museveni has played an active role in amassing international medical support to research and fight against the spread of HIV/AIDS, he has consistently orchestrated antigay campaigns against members of the LGBT community.

The future of gays and lesbians in Uganda will be a long, difficult fight because the combination of political and clergy antihomosexual public discourse will continue to alienate and harass the LGBT community until the international community decides to step in and expose this injustice. However, Uganda is no different from many African countries, and the intrusion of international pressure to address a loaded issue of homosexuality will only aggravate this political discourse even further. The key strategies to transform Uganda’s societal biases against gays and lesbians will require brave local and national leaders, an educational campaign to teach a new generation to value diversity and difference, and time for these transformations to develop.

RESOURCE GUIDE

Suggested Readings

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- Behind the Mask, <http://www.mask.org.za>.
- DATA: Debt, AIDS, Trade, Africa, www.data.org.
- Gay Uganda, <http://www.geocities.com/gayuganda/general/htm>.
- Global Fund to Fight AIDS, TB, and Malaria, www.theglobalfund.org.
- National AIDS Commission in Uganda, <http://www.aidsuganda.org>.

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5. Thomas and Margaret Melady, *Idi Amin Dada: Hitler in Africa* (Kansas City, KS: Sheed Andrews and McMeel, Inc., 1977), 59.
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ZIMBABWE

Derek Matyszak and Keith Goddard

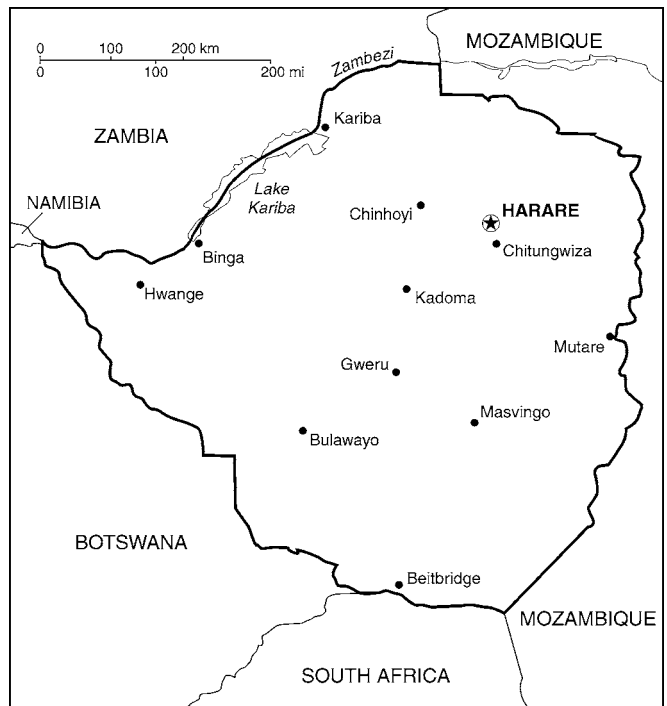
OVERVIEW

Zimbabwe is a landlocked country in central southern Africa occupying 150,871 square miles. The territory was occupied by the British in 1891 and named Southern Rhodesia after its founder, Cecil John Rhodes. In 1896, the local *Shona* and *Ndebele* inhabitants rebelled against the invaders in what became known as the First Chimurenga (struggle). The rebellion was crushed and the two spirit-medium leaders, Kaguvi and Nehanda were hanged.

Rhodesia became a self-governing colony in 1923 although, in 1953, the British government joined Southern Rhodesia to the territories of Northern Rhodesia (now Zambia) and Nyasaland (now Malawi) to form the Federation of Rhodesia and Nyasaland.

After World War II, Britain began to divest itself of its colonies in Africa. The Federation was dissolved in 1963, and Northern Rhodesia (Zambia) and Nyasaland (Malawi) attained independence and majority rule. Fearing that independence and majority rule might also be extended to what was now called Rhodesia, the then prime minister, Ian Smith, led the white minority in rebellion against the British crown and declared a Unilateral Declaration of Independence (UDI) from the United Kingdom in 1965.

UDI was a devastating blow to black nationalists who had hoped that the days of white minority rule were at an end. The result was a civil war known as the Second Chimurenga. The Zimbabwe African National Union (ZANU), representing the *Shona* people, formed an armed wing (ZANLA); the Zimbabwe



African Peoples Union (ZAPU), representing the *Ndebele* people, formed a separate military wing (ZIPRA).

The war ended in 1979 after the British brokered a peace agreement between the parties at Lancaster House in London. Independence was formally granted on April 18, 1980, with President Robert Mugabe as the first prime minister under a Westminster-style of government. Canaan Banana, who was subsequently tried in the Zimbabwean High Court for 11 counts of sodomy, became the first ceremonial president.

Although the 1980s were marked by growing prosperity and improvements in education and health services for the majority of Zimbabwe citizens, a series of attacks on farms in Matabeleland by groups dubbed by the government as dissidents, resulted in Operation Gukurahundi (or “drive out the chaff”). North Korean soldiers were brought in to command a brutal suppression of the Ndebele people, in which at least 20,000 civilians, including women and children were massacred. A unity agreement was finally signed with the Ndebele leader Joshua Nkomo in 1987. In the same year, the government amended the national constitution abolishing the office of prime minister and introducing an executive president. Mugabe was duly elected to this office in January 1988.

In 1990, Zimbabwe adopted an Economic Structural Adjustment Program inspired by the International Monetary Fund. Severe drought and other factors caused the program to flounder and inflation to rise. A series of disastrous policy decisions, including an enormous and unbudgeted payout to war veterans in November 1997 (which caused the Zimbabwe dollar to crash), an ill-advised and expensive military adventure into the Democratic Republic of Congo, and an even more economically catastrophic radical land redistribution policy have put Zimbabwe into a state of severe crisis. Since 2003, inflation in Zimbabwe has spiraled out of control and in July 2008 the Zimbabwe dollar collapsed and reached an all-time world record of 231 million percent. By the end of February 2009, the U.S. dollar, the South African rand, and the Botswana pula had entirely replaced the Zimbabwean dollar as units of currency. Unemployment now stands at over 80 percent¹ with most people eking out a living through informal trading. Foreign investment is minimal, and while other countries in the region are enjoying growth rates of around six percent annually, Zimbabwe’s growth has declined by the same percentage every year since 2000. As a result, an estimated three million people have sought employment outside of the country, leaving a depleted population of about 12 million.

Food riots in 1997, the formation of an effective opposition party, the Movement for Democratic Change (MDC) under Morgan Tsvangirai, and the rejection of the government’s proposed new national constitution in a referendum in February 2000 have led to increasing militarization of the state as the ruling party tries to cling on to power. The official Zimbabwean army has around 30,000 troops, with an additional an air force of around 5,000; but a militia of so-called war veterans, many of them too young to have fought in the liberation struggle, is estimated at over 20,000 and is the force most closely linked to the intimidation of the populace.

A 2005 census showed that life expectancy in the country had dropped dramatically from 67 years in 1990, to 37 years old (34 for women) making it the country with the lowest life expectancy in the world. In 2001, the HIV prevalence

rate was set at 26.5 percent, but by the end of 2007 it was said to have dropped to 15.6 percent.² This may explain the recent small increase in life expectancy to 39.7 years old.³

Zimbabweans place great value on education, although the system tends to be highly conservative and oriented towards the passing of examinations. Children go through seven grades of primary education and six forms of secondary education. ‘O’ (Ordinary) level and ‘A’ (Advanced) level national examinations are taken in November and are also offered in June.

Adult literacy is estimated at 90.7 percent,⁴ which is significantly higher than any other country in the region, with the exception of neighboring South Africa where it is 86.4 percent.⁵ School education was made free in 1980 but fees were reintroduced in 1988 and have now become unaffordable for many. Falling standards in education, as qualified teachers leave the country, have meant that parents who can afford it now send their children to the more expensive private (or independent) schools.

Zimbabwe is generally a conservative society. Around 75 percent of people are either purely Christian or practice a mixture of traditional beliefs rooted in the ancestral spirits and Christianity.⁶

OVERVIEW OF LGBT ISSUES

Virtually nothing is known about homosexual activity in ancient Zimbabwean society, although it has been suggested that a *San* (Bushman) painting of between 1,000 to 11,000 years old depicts the act of a sick man anally penetrating a healer.⁷

The view that homosexuality is a phenomenon alien to Africa, therefore, there are no grounds for homosexuals and lesbians to be defended against discrimination has prevailed through much of Africa until the Gays and Lesbians of Zimbabwe (GALZ) emerged, prompting harsh negative reaction from President Mugabe that was soon echoed by other African leaders including Sam Nujoma of Namibia, Yoweri Museveni of Uganda and others.

According to the Zimbabwe National AIDS Council (ZNAC), “the main mode of HIV transmission in Zimbabwe is heterosexual contact.” However, the denial of the existence of homosexuals in Zimbabwean culture, strong social disapproval of homosexuality that pushes LGBT people underground, and a lack of research mean that transmission rates among men who have sex with men (MSM) and women who have sex with women (WSW) remain largely unknown.

Zimbabwe inherited a Roman Dutch law from South Africa. Sexual relations between men were criminalized under common law. Sexual relations between women are not an offence. In 2006, Zimbabwe codified its common law replacing common law crimes with statutory ones. This has resulted in an increase in penalties for sexual acts between men.

The protection of freedom of speech is enshrined in the national constitution, but, in reality, oppressive legislation and extra-judicial practices severely limit the ability of Zimbabweans to meet in public space and to freely receive and impart information. Despite a High Court ruling in 1996 that the Gays and Lesbians of Zimbabwe (GALZ) had the right to exhibit at the Zimbabwe International Book Fair (ZIBF), the organization has systematically been prevented from doing so by unknown agents since 2005.

EDUCATION

The traditional roles of uncles and paternal aunts in educating children have been seriously diminished in modern Zimbabwe, and so many children receive little or no sex education within the family. There is no education around same-sex sexuality in schools, not even in HIV/AIDS education. There are reported cases of LGBT young people being expelled from school. For example, in 2003, 45 suspected lesbian pupils were expelled from Langham School.⁸

In the past, there was also little sex education in schools, but with the onset of HIV/AIDS children are now regularly taught basic life skills in the classroom, although homosexuality remains a taboo subject. *Aunty Stella*, a pack of discussion cards dealing with issues facing teenagers, is one initiative that has sought to fill this gap by including two cards on gay and lesbian issues.⁹

At the tertiary level there is limited but more balanced inclusion of homosexuality in certain degree courses, for example in the Bachelor of Science Degree in Counseling of the Zimbabwe Open University. GALZ (Gays and Lesbians of Zimbabwe) has also hosted internships to students doing research for courses at the Midlands State University and the School of Social Work.

EMPLOYMENT AND ECONOMICS

Zimbabwe had one of the most developed economies in Africa based largely on agriculture and mining. Even sanctions imposed by the United Nations against the white settler regime in 1966 did little damage to begin with and in fact encouraged diversification of the economy and the development of the manufacturing industry.

After independence in 1980, Zimbabwe was generally referred to as the *breadbasket of Africa*. However, overspending, general mismanagement, and disastrous policies of land reform have brought Zimbabwe's economy to a state of crisis.

The historical economic disparity between wealthier whites and poorer blacks is also reflected in the country's LGBT community. In the early years of GALZ, the membership was largely made up of both whites and blacks, most of whom were concerned primarily with attending recreational activities. From the mid-1990s, as the membership started to become predominantly black, many whites left and the focus of the GALZ, besides becoming more political, turned towards serving the needs of a community that was far less well resourced.

There has been no debate around LGBT people in the workplace. Although strict laws exist making it difficult to fire employees, with 80 percent or more unemployment, LGBT people are understandably concerned about losing their jobs if they are outed at work. That said, no case of dismissal on the grounds of an employee's sexual orientation has come to the attention of GALZ or the Zimbabwe Congress of Trade Unions. However, like many other Zimbabweans, a large number of LGBT people have fled the country to take up employment or seek asylum in South Africa, Canada, the United States, Britain or elsewhere.

SOCIAL/GOVERNMENT PROGRAMS

There are no government services targeting LGBT people in Zimbabwe. However, some voluntary testing and counseling centers are welcoming to nonheterosexuals,

and the Zimbabwe Institute for Systemic Therapy includes discussion on homosexual relationships as part of its training courses even though there is no specific mention of these relationships in any of its manuals.

GALZ is also well embedded within the HIV/AIDS network, but there are still very few AIDS Service Organizations (ASOs) that make any effort to include MSM and WSW in their programming. GALZ members have also received legal support from organizations such as the Legal Resources Foundation, The Zimbabwe Human Rights NGO Forum, and Zimbabwe Lawyers for Human Rights in cases of arrest, intimidation or extortion.

SEXUALITY/SEXUAL PRACTICES

In Zimbabwe, many taboos exist around sex and sexuality, in particular homosexuality. This is slowly beginning to change, however, as ASOs and others encourage people to be open about their HIV status and not to encourage stigma.

In general, Zimbabwean men have a reputation for holding extremely narrow, sexist views about gender and sexual roles. A small but significant research project among 1,688 men and women throughout the country indicated that the majority of Zimbabwean men and male youths believe that women are inferior to men and that “a woman’s thoughts, feelings, aspirations and needs must, uncompromisingly, serve those of the man.”¹⁰ The study also showed that 80 percent of men and 84.2 percent of women believe that “there is something wrong with a woman who does not want to marry and raise a family.”¹¹

In terms of sexual roles, there is a common belief that “if a man is penetrated, he is being used as a woman and is, therefore, demeaned.”¹² Even in homosexual prison relationships, gender roles are rigidly enforced in that “the bigger, stronger partner (*mbondoro*) provides protection to the often younger, weaker partner (*kapoto* or small-pot wife) in return for domestic duties and sex.”¹³

The lack of proper social education on issues of sexual orientation and gender identity has led to numerous confusions and misunderstandings, most of it based on the stigma encouraged by state-instigated propaganda that is the only source of information for many.

Many are also thought to believe that unprotected anal sex carries with it no risk of contracting HIV. This may have something to do with the focus of the Zimbabwe National AIDS Council on penis-to-vagina intercourse and the barring of GALZ from conducting any public education on safer-sex.

FAMILY

Before the arrival of Christianity, Zimbabweans practiced polygamy and many still do. In the past, families tended to be large but have tended to become smaller owing to the general downward trend in child mortality and the cost of supporting and educating children. There is also a growing trend towards the nuclear family system, especially in urban areas, although it is common for men to engage in extramarital relations.

There is heavy pressure on both men and women to marry and have children. This means that many gay men and lesbian women feel obliged to fulfill their social obligations to their families. Many also marry in order to disguise their

sexual orientation and, for this reason, it is commonly believed that there is probably a significant number of MSM and WSW who are hidden within the general population.

Many LGBT do not come out to their families for fear of being violently punished and/or evicted from home. There are even reports of families organizing curative rape of lesbian family members.

There is no possibility of gay marriage being legalized in Zimbabwe in the near future. In 2006, at a celebration in Mutare to mark Mugabe's 82 birthday, Mugabe threatened to have arrested any clergy who performed gay marriages.¹⁴ Despite this, there are a number of examples of lesbian and gay couples living together and bringing up children, in particular children who have been orphaned by AIDS.

COMMUNITY

Formed in 1990, GALZ is the only organization exclusively serving the needs of LGBT people in Zimbabwe, and since 1995 it has tended to draw its membership largely from black townships and peri-urban areas. GALZ operates from Harare but in 2007, opened a second office in the city of Bulawayo. An important function of GALZ is to provide safe spaces for its members to meet and socialize. It also organizes the annual Miss Jacaranda Queen Drag Pageant, which takes place in October. Legal support is also provided to members, in particular to victims of blackmail.

In recent years with the increasing economic meltdown, GALZ has offered sponsorship to members for vocational training through its Skills for Life and Women's Scholarship Programs. The motivation behind these initiatives is that "family members who are discovered to be lesbian, gay or bisexual, are less likely to be evicted from home if they are income generators. And should this happen, a person is more likely to have the means to be economically and socially independent. In addition, lesbian and gay people who are earning generally have a greater sense of self-esteem which motivates them to take better care of their health needs."¹⁵ An additional fund, the GALZ Safety Net, provides emergency relief to members who, for example, have been made homeless or need urgent medical attention.

The GALZ health department provides counseling and organizes activities around HIV/AIDS prevention and support. Under the Positive Image Health Scheme, all members living with HIV are guaranteed access to affordable health care, including antiretroviral drugs.

The gender department ensures the visibility of lesbian and bisexual women at all levels within the organization and has done much to include the voices of lesbian and bisexual women within the women's movement.

The organization produces a regular monthly magazine, *Whazzup*, and the quarterly *GALZETTE*, which contains more scholarly articles meant for wider distribution. A Web site, <http://www.galz.co.zw>, was launched in February 2005.

GALZ has done much to embed itself within the broader human rights network and is a member of a number of important coalitions, including the Women's Coalition and the Zimbabwe Human Rights NGO Forum to which GALZ sends reports on human rights violations against its members.

HEALTH

Although the health care system in Rhodesia was fairly adequate for blacks, there was dramatic improvement in postindependent Zimbabwe with the development

of policies to prioritize the provision of primary health care and build more clinics, especially in rural areas. However, with the economic meltdown and the strain put on the health care system by HIV/AIDS, the system has all but collapsed and many qualified doctors and nurses continue to leave the country.

The first Zimbabwean case of AIDS was identified in 1985 but, in line with many other African countries, the Zimbabwean government was relatively slow to respond to the epidemic. The National AIDS Co-ordination Program was launched in 1987, followed by the formation of the Zimbabwe National AIDS Council in 1990, but it was only in 1999 that a national HIV/AIDS policy was put in place.

The policy makes no mention of the LGBT community except to acknowledge that homosexual practices occur in prisons and that there is “consensual and forced sexual activity in crowded prisons.”¹⁶ The policy is entirely silent on the distribution of condoms to prisoners but suggests that prisoners have the right to counseling and information about HIV/AIDS.

The Zimbabwe Prison Service has consistently refused to distribute condoms to prisoners. In 1993, Edna Madzongwe suggested that prisoners be given condoms so as to curb HIV. The suggestion was rejected because it was seen as tantamount to legalizing homosexual acts in prisons.¹⁷ In November 2007, the Chief Prisons Officer, Gertrude Musango, told ZimOnline: “Homosexuality is an offence in Zimbabwe. ZPS [Zimbabwe Prison Service] would not consider providing inmates with condoms but would rather embark on more measures to stop inmates from engaging in these illicit activities.”¹⁸

Recently, the Zimbabwe National AIDS Council acknowledged men who have sex with men (MSM) as a vulnerable group in its Strategic Plan 2006–10,¹⁹ and also acknowledged that “adopting punitive approaches will only serve to drive MSM and reduce opportunities to dialogue with this group.”²⁰ At present, GALZ is the only organization in Zimbabwe exclusively performing HIV/AIDS intervention work among the LGBT population.

POLITICS AND LAW

Between 1892 and 1935, approximately 450 cases of male on male sexual crimes were processed in the colonial courts, of which only 39 involved whites,²¹ suggesting that homosexual activity is not as foreign to Africa as has been suggested. However, throughout the colonial period there was little mention of homosexuality in the media and it was never part of general public discourse.

The 1914 Immigration Act of Southern Rhodesia declared that “any persons convicted for sodomy or unnatural offenses” would be prohibited from immigrating to the country. In the 1954 Immigration Act and subsequent editions up to 1996, prohibition was extended to anyone engaging in prostitution or homosexuality.

Until the 1990s there was little organized activity around LGBT issues in Africa outside of South Africa. Government leaders were either silent on the issue or denied the existence of homosexuals in their countries.

This was certainly true in the first 15 years after Zimbabwean independence, where the 1990 formation of the Gays and Lesbians of Zimbabwe (GALZ) went unnoticed by the government, until 1994 when GALZ tried to advertise its counseling services in the press and on the radio.

In 1995, having been barred from the media and subjected to a barrage of antigay propaganda, GALZ decided to enter the Zimbabwe International Book Fair (ZIBF), which had as its theme that year, Human Rights and Justice. It applied for

and was granted permission to operate a small stand exhibiting materials on LGBT rights and its counseling services. When the government learned of GALZ's intention to be at the ZIBF, it placed enormous pressure on the trustees of the ZIBF and successfully coerced them into revoking GALZ's permission to exhibit. This solicited strong protest from writers, Wole Soyinka and Nadine Gordimer, who were present at the fair's *indaba* on freedom of expression. Mugabe reacted to the resultant furor, which received international coverage, with a series of extreme and homophobic statements. At a press conference during the ZIBF, he responded to a question on LGBT rights with the pronouncement that "I don't believe they should have any rights at all." Later, in a speech, he said: "[Homosexuality] degrades human dignity. It is unnatural and there is not a question ever of allowing these people to behave worse than dogs and pigs."²² Elsewhere he has stated: "Let the Americans keep their sodomy, bestiality, stupid and foolish ways to themselves, out of Zimbabwe. Let them be gay in the U.S., Europe, and elsewhere. They shall be sad people here." Further, on another occasion, he stated: "What we are being persuaded to accept is sub-animal behavior, and we will never allow it here. If you see people parading themselves as lesbians and gays, arrest them and hand them over to the police."

His homophobic statements were repeated in almost every public speech he delivered thereafter for the next few years. Mugabe's ministers competed with each other, hoping that their sycophant, homophobic statements would be rewarded by Mugabe in accordance with their extremity. One parliamentarian referred to homosexuality as a "festering finger" on the body of Zimbabwean society that needed to be cut off. The government-controlled press followed suit:

Painful experience reminds us Zimbabweans and other Africans on the continent of moves orchestrated by colonialists to wipe out anything that had to do with African culture as constituted mainly by customs and traditions... many years after decolonization, attempts to wipe out cultural values are still being made—and made with a vengeance in some cases. Witness the shrill outcries over the refusal by the Government of Zimbabwe to allow the Gays and Lesbians of Zimbabwe to peddle its ideas by exhibiting at the recent Zimbabwe International Book Fair in Harare in Harare—a refusal that all Africans who cherish their cultural identity—or what remains of it—should support unflinchingly.²³

In fact, as a number of recent books have shown, including *Unspoken Facts: A History of Homosexualities in Africa* that homosexuality was accommodated and tolerated in traditional precolonial society. The traditional values that were, and are still lauded as African, are, in reality, the values brought by Christian missionaries. The vast majority of Zimbabweans now identify themselves as Christian, and 62 percent are active churchgoers. When encountering Zimbabweans in public, be it the clerk in a building or government department, a bible is often open on the desk, a biblical quotation may be photocopied and stuck to the wall of the office, and gospel or religious music often plays in the background. Most public meetings begin with a Christian prayer.

In 1996, GALZ, undaunted, again applied to exhibit its publications at the ZIBF. Although the main state-owned daily newspaper carried a front-page headline proclaiming "GALZ banned from ZIBF," the trustees refused to bow to government pressure a second time. When the government sought to deploy the

Censorship Act to exclude GALZ from the ZIBF, GALZ successfully applied to the High Court for an order allowing it to exhibit. The GALZ exhibits generated a huge amount of attention at the ZIBF, but on the last day, after several hours, under threat of physical violence from a group that announced itself as the protectors of Zimbabwean culture, GALZ made a tactical retreat.

This event was important in the history of not only the LGBT struggle in Zimbabwe but for human rights in the country as a whole. For the very first time the Mugabe government had been successfully and publicly defied using the Bill of Rights within the Constitution. GALZ had initiated what is now a vibrant non-governmental organization (NGO) human rights advocacy movement in Zimbabwe and has gained the respect of other human rights organizations. GALZ has overcome the initial reluctance of most of these NGOs to embrace LGBT rights as human rights. Furthermore, Mugabe's vilification of the LGBT community had caused such outrage internationally that supportive funding poured in from around the world, helping to build GALZ into the established and well-respected organization it is today. The furor from Mugabe also awarded GALZ far more publicity than it could have achieved through being allowed to advertise in the small columns of the state-controlled media.

GALZ's outing and its raised profile were not without negative repercussions. Blackmailers proliferated, seeking to take advantage of the homophobic backlash, and GALZ began to deal with two to three cases of blackmail of its members monthly. Other LGBT people, intimidated by the homophobic hysteria, retreated back into the closet. Some African leaders, most notably Sam Nujoma of Namibia began to parrot Mugabe's homophobic statements.

In 1997, a second and important development for the LGBT community unfolded. Also seeking to take advantage of the homophobic climate was the former *aide de camp* of the erstwhile ceremonial president, Canaan Sodino Banana, Jeffa Dube, who shot and killed a person who had taunted him in public as being "Banana's wife." Seeking to mitigate the sentence after a conviction of murder, the aide pleaded posttraumatic stress consequent upon repeated nonconsensual sodomy by Banana while he was president (an allegation that sat rather awkwardly with Mugabe's pronouncements that homosexuality was un-African). As a result, Banana found himself facing several counts of sodomy. Although Banana's sexual orientation was openly known (at least to the LGBT community), he denounced homosexuality as un-African and denied all charges. He pleaded that if sodomy had taken place in regard to one count, then it was consensual. This opened the way for a challenge to the constitutionality of anti-LGBT legislation in Zimbabwe, and specifically the validity of the common law against sodomy. Counsel argued the matter without any reference to GALZ and thus without input from GALZ, which would have proved beneficial.

This was also precisely the wrong kind of case and the wrong moment to argue the point. Counsel first made the argument that the common law proscribing lesbian behavior had been "abrogated by disuse," there being no records of any prosecutions in this regard. The argument was accepted by the judges of the Supreme Court without comment. Same-sex sex for women was thus quietly decriminalized. The milestone was not immediately realized by the LGBT community, lost as it was in the media's lurid reporting. Nor was it appreciated by several blackmailers whose extortionate attempts on several women thereafter were coolly rebuffed. Acceptance of this point allowed the further argument that

it constituted discrimination on the grounds of sex or gender to allow same-sex sex for women but not for men. The court split three to two, with the majority upholding the validity of legislation criminalizing sodomy between consenting adult males. The minority essentially adopted the argument that had earlier been accepted in the South African courts. Justice McNally, a practicing Catholic, wrote the judgment for the majority. He determined that while laws proscribing consensual sex for adult males and not women were technically discrimination on the basis of sex, he held that this was “chop logic.” The real discrimination was against homosexual sex. It had to be assumed that, since Zimbabwe’s Constitution did not prohibit discrimination on the basis of sexual orientation, as did South Africa’s, this omission must be deemed to be deliberate and designed to permit such discrimination. As to whether such discrimination was “reasonably justifiable in a democratic society,” he glibly noted that America has similar sodomy laws in 25 states (using the figure in *Bowers v. Hardwick*), and since America is a democratic society such laws could not be regarded as being undemocratic. This judgment effectively precluded any further challenge within Zimbabwe to the validity of sodomy legislation.²⁴

In 1998, at the height of the Banana scandal, GALZ again became the center of a media frenzy when, at the invitation of the World Council of Churches (WCC), it applied to participate at the human rights and cultural forum (*Padare*) of the WCC’s 8th Assembly, which took place in December in Harare. Despite the resistance of the Zimbabwe Council of Churches, GALZ was required to obtain an endorsement from a local church in order to take part, which, naturally, it was unable to do. In the end, GALZ managed to slip in under the umbrella of a loose coalition of human rights organizations that had come together to create awareness around the 50th anniversary of the signing of the Universal Declaration of Human Rights.

In 1999, GALZ made a submission to the government-led Constitutional Commission calling for the inclusion of sexual orientation in the Bill of Rights, and again this became big news in the press. In the end, although the term *sexual orientation* did not specifically appear, the phrase *natural difference or condition* was widely believed to include LGBT people.

In 2000, the draft constitution was rejected in a national referendum, not because it provided protection to homosexuals but because it provided too much power to the Executive Branch.

In July 2006, Zimbabwe codified its criminal law, effectively replacing common law crimes with statutory ones. This has resulted in substantial changes to the laws affecting LGBT people. Most importantly, whereas previously consensual and non-consensual anal sex between men was regarded as sodomy, sodomy now only refers to consensual sex between men. In addition, sodomy previously only referred to anal sex. Other sexual acts aside from anal sex fell into a residual category called “unnatural offenses.” Sodomy now includes any sexual contact between men and is defined as:

Any male person who, with the consent of another male person, knowingly performs with that other person anal sexual intercourse, or any act involving physical contact other than anal sexual intercourse that would be regarded by a reasonable person to be an indecent act, shall be guilty of sodomy and liable to a fine up to or exceeding level 14 or imprisonment for a period not exceeding one year or both.²⁵

Due to rampant inflation in Zimbabwe, fines are now set at various levels, from one to fourteen, the monetary sum of which is then altered periodically by regulation. The fines stipulated for sodomy are the maximum possible and should only be imposed by the court for the gravest infringement of the legislation. In practice, a lesser sentence will likely be imposed. It has yet to be seen if the courts follow the precedent prior to codification of imposing fines in the region of level three or less for sodomy. Nonetheless, rather than simply codifying the common law, the penalties for consensual anal sex appear to have increased. Previously, offenses of this nature have tended to attract a small fine, whereas a term of imprisonment is now provided.²⁶ It is anomalous that nonconsensual sexual acts falling short of anal sex attract a lesser fine of level seven.

According to GALZ, most cases are reported to the police as being nonconsensual, which is usually contrary to the facts. The law relating to nonconsensual sexual acts is such that nonconsensual anal sex between men is now called “aggravated indecent assault,” which is defined as:

Any person who, being a male person, commits upon a male person anal sexual intercourse or any other act involving the penetration of any part of the other male person’s body or of his own body with indecent intent and knowing that the other person has not consented to it or realizing that there is a real risk or possibility that the other person may not have consented to it, shall be guilty of aggravated indecent assault and liable to the same penalty as is provided for rape.²⁷

The penalty provided for rape is a maximum of life imprisonment, though generally the sentence is usually between seven and ten years. Any other nonpenetrative, nonconsensual sexual act between men is now called “indecent assault,” which is defined as:

A person who, being a male person, commits upon a male person any act involving physical contact that would be regarded by a reasonable person to be an indecent act, other than anal sexual intercourse or other act involving the penetration of any part of the male person’s body or of his own body with indecent intent and knowing that the other person has not consented to it or realizing that there is a real risk or possibility that the other person may not have consented to it, shall be guilty of indecent assault and liable to a fine not exceeding level seven or imprisonment for a period not exceeding two years or both.²⁸

The Banana judgment effectively foreclosed the possibility of a further constitutional challenge to the legislation prohibiting consensual sex between two adult males. However, this does mean that the possibility of pursuing a similar challenge under the African Charter on Human and Peoples Rights (which requires that domestic remedies be exhausted first) is now an option.

The Africa Charter, drafted at a time when African nations were at pains to emphasize their difference from Western liberalism in the form of a communalism, is unusual as a human rights instrument in including “duties” as well as “rights.” Hence it contains clauses such as Article 17(3): “The promotion and protection of morals and traditional values recognized by the community shall be the duty of the State.” The Charter is replete with similar such clauses, indicating a different approach will be required under the African Charter than that adopted under Western liberal instruments.

Nevertheless, GALZ along with other African LGBT organizations, has cautiously started looking into working around the African Commission and was part of a 15-member LGBT delegation to the 38th session in Banjul, The Gambia in October 2005. The delegation was encouraged to find that there was no open hostility to its presence and it was able to make a statement before the Human Rights Forum protesting the imprisonment of homosexuals in Cameroon. In May 2009, GALZ was again part of an African LGBT delegation to the commission's 45th session where the NGO Forum preceding the main session divided into 14 groups to discuss human rights issues. Group 12 was devoted to gays and lesbians.

RELIGION AND SPIRITUALITY

The conservative and often religious views of many Zimbabweans mean that most disapprove of homosexuality and are shamed by the existence of any homosexuals in their families. There are a number of reports from GALZ members about families taking them to church to be prayed for or to traditional faith healers (*n'anga* or *sangoma*) since they believe that homosexuals are possessed by evil spirits (*ngozi*). Despite the homophobic rhetoric preached from many pulpits in Zimbabwe, many LGBT are practicing Christians. In an unpublished survey of its membership GALZ found that 64.7 percent of its membership identified as Christian, which is slightly higher than the national average. Although no church leaders are openly supportive of LGBT rights, some quietly try to understand and help their LGBT parishioners.

While some religious leaders, such as the Roman Catholic Archbishop Pius Ncube have been openly critical of the Zimbabwean government, others such as the former head of the Zimbabwe Council of Churches, Anglican Bishop of Harare Jonathan Siyachitema, have supported Mugabe especially in his antigay stance. Siyachitema's successor, Nolbert Kunonga, even called Mugabe a prophet.²⁹ Kunonga was dismissed and finally excommunicated from the Anglican Church in 2008 after trying to withdraw the Diocese of Harare from the regional synod on the grounds that the Anglican Church was too lenient towards homosexuals. His successor, Bishop Sebastian Bakare, showed a welcomingly tolerant attitude by calling for a church that is inclusive and accepts all people.³⁰

VIOLENCE

Although incidents of violence do take place against LGBT people, they tend to be sporadic and there are no systematic campaigns of gay-bashing. In terms of the state, antigay campaigns have taken the form of virulent hate-speech but this has not translated into any witch hunts. GALZ operates openly from its premises in the Milton Park suburb of Harare and in Bulawayo and has never been invaded or attacked by a militia.

OUTLOOK FOR THE 21ST CENTURY

Although there are a number of pressing human rights and humanitarian issues that urgently need to be addressed in Zimbabwe, and that LGBT people also face, it is clear that gradual progress is being made towards the normalization of LGBT people in society. With the restoration of democracy and the rule of law and the

drafting of a new constitution, GALZ will be better able to integrate itself into broader society and educate the broader public about LGBT issues.

At the end of 2009, a Government of National Unity (GNU) between ZANU-PF and the two factions of the MDC is in place after ZANU-PF heavily lost political ground in the 2008 parliamentary and presidential elections. A national constitutional review process is now underway, which GALZ is involved in.

RESOURCE GUIDE

Suggested Reading

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- R. Kilalea, "Mea Culpa," in *Writing Still* (Harare: Weaver Press, 2003).
- S. Long, *More Than a Name: State-sponsored Homophobia and its Consequences in Southern Africa* (New York: HRW and IGLHRC, 2003).
- D. Marechera, *Mindblast!* (Harare: College Press, 1984).
- C. Mungoshi, "Of Lovers and Wives," in *Walking Still* (Harare: Baobab, 1997).
- S.O. Murray and W. Roscoe, eds., *Boy Wives and Female Husbands: Studies in African Homosexualities* (New York: St. Martin's Press, 1998).
- O. Phillips, "The Invisible Presence of Homosexuality: Implications for HIV/AIDS and Rights in Southern Africa," in *HIV/AIDS in Africa: Beyond Epidemiology*, ed. E. Kalipeni (Cambridge, MA: Blackwell, 2004).

Web Sites

Behind the Mask, <http://www.mask.org.za>.

A source for information on LGBT activities throughout Africa.

GALZ, <http://www.galz.co.zw>.

The NGO Network Alliance Project, <http://www.kubatana.net>.

Internet hub for organizations working in the field of human rights in Zimbabwe, including GALZ.

NOTES

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3. "Zimbabwe Demographics Profile: 2008," Index Mundi, http://www.indexmundi.com/zimbabwe/demographics_profile.html.
4. "Zimbabwe Literacy," Index Mundi, <http://www.indexmundi.com/zimbabwe/literacy.html>.

5. "South Africa Literacy," Index Mundi, http://www.indexmundi.com/south_africa/literacy.html.
6. "Zimbabwe Demographics Profile: 2008," Index Mundi, http://www.indexmundi.com/zimbabwe/demographics_profile.html.
7. GALZ, *Unspoken Facts* (Harare: GALZ, 2008), 42.
8. GALZ statement, February 3, 2003.
9. *Aunty Stella: Teenagers Talk about Sex, Life and Relationships* (Harare: TARSC, 2005), cards 9 and 34.
10. P. Chiroro, et al., *The Zimbabwean Male Psyche with Respect to Reproductive Health, HIV, AIDS and Gender Issues* (Harare: Centre for Applied Psychology, University of Zimbabwe, 2002), viii.
11. P. Chiroro, et al., *The Zimbabwean Male Psyche*, 11.
12. *Understanding Human Sexuality and Gender* (Harare: GALZ, 2005), 21.
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22. This quote and those that follow appear in Dunton and Palmberg's article, "Human Rights and Homosexuality in Southern Africa," *Current African Issues* 19 (June 1996). This issue also contains a detailed account of the Book Fair furore.
23. See Dunton and Palmberg, footnote 1, *The Chronicle*, August 9, 1995.
24. See *S v. Banana* 2000 (1) ZLR 607 (S).
25. Criminal Law (Codification and Reform) Act 9:23 section 73(1).
26. See, for example, *S v Roffey* 1991(2) ZLR 47 HC.
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29. Ceclia Dugger, "Zimbabwe Unleashes Police on Anglicans," *The New York Times*, May 16, 2008, <http://akinolarepent.wordpress.com/2008/05/15/nyt-zimbabwe-unleashes-police-on-anglicans/>.
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THE MIDDLE EAST

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IRAN

Brandon L. H. Aultman

OVERVIEW

The Islamic Republic of Iran is a nation-state with a complex sociopolitical and religious history dating back roughly 2,500 years. Currently one of the largest Islamic states in the Middle East, Iran was traditionally ruled by a single executive, a shah, whose power was infinite, dictated only by the monarch's personal ambition. The Islamic Revolution of 1979 solidified the end of monarchical control that had existed in Iran for nearly 2,500 years, supplanting it with a system of religious leaders vested with constitutional power based on traditional law. Sexuality, however liberal throughout Persian history, became deeply shrouded with the inauguration of stricter, Sharia-based penal codes.

Between the late 18th and early 19th centuries, the Qajar Dynasty made major concessions to the invading British and Russian powers. Compounded by the loss of two wars with the latter that led to two separate treaties in the early 19th century, Iran's fiscal crises were solidified. With a strategic battle between Russia and Britain over access to Afghanistan and India, Iran was battleground for external hegemonic control. The tobacco and oil concessions granted to these powers at the close of the 19th century called the fiscal machinations of the Iranian ruling elite into question. An increased social awareness among the Iranian laity of the relative ease with which the Iranian elites laid down to foreign power led to a call for constitutional reform.

One major cultural shift occurred as a result of this rapid political change.



As clerical power was diminished during the period, so too did the moral underpinnings of the Iranian culture. This provided the basis of Ayatollah Ruhollah Khomeini's campaign for revolution: a major moral shift to reassert Islamic tradition. The outcome was the Islamic Revolution of 1979.

An incipient constitutional government was formed in the early 20th century, which sought to reassert popular sovereignty yet maintain certain vestiges of the monarchy, but it met its demise not long after creation. Due to a lack of an ideological core, Tehran's newly formed government fell victim to the overwhelming influence of the British and Russian political forces, whose sole concern rested on whether the newly formed Iranian government would disrupt their steady influence in the region. Along with the rise of Reza Shah, monarchical rule had been reinstated—this time with despotic force. For a period spanning nearly 20 years, Reza Shah worked to take power from foreign influence, industrialize Iran, and bring the nation into modernity.

Following the abdication of the despotic monarch in 1941 and the end of World War II (in which Iran remained neutral), the nationalist movement for free elections received a pendulum-like power swing once again. Party politics took root, but by the mid-20th century, Iranian nationalism hit its peak. After centuries of external influence on Iran's socioeconomic and political independence, the Islamic Revolution of 1979, led by Ayatollah Ruhollah Khomeini, cemented these deep feelings of nationalism, with Muslim culture at its core. As a result, Iran's legal structure heavily incorporated traditional Islamic Sharia Law. As a result, strictures pertaining to sexual relations permitted little deviance. Outside of heterosexual intercourse within the auspices of marriage, sex is strictly forbidden. Sexual acts between members of the same gender are punishable by death or prison time. Finding open LGBT people in Iran is a difficult task; however, many find avenues for socializing in an underground atmosphere, through cinemas, online access, and social gatherings.

Iran has a current population of nearly 70 million people, and a gross domestic product of \$852.6 billion as of 2007. As the second most populous country in the Middle East, boasting the second largest economy, Iran's major export is oil (nearly 80%). Although the Islamic Revolution was intended to strengthen the family and Iranian citizenry through a variety of human development programs, social protections, and a brand of social justice, sexual minorities often experienced the brunt of persecution.

OVERVIEW OF LGBT ISSUES

The antigay moral climate of Iran is directly related to the attention Islam pays to sexual behavior. The Qur'an, the holy document that enshrines the basic religious tenets of Islam, mentions homosexuality only briefly. In a number of scriptural references, homosexual acts are categorized as a sin. However, much like its Christian counterpart, the Bible, the Qur'an's interpretation is left up to the religious hierarchy's discretion. Traditionally in Iran, LGBT people have been persecuted as a result of conservative interpretations of these various references.

The prominent international LGBT organization, the International Lesbian and Gay Association (ILGA), stated in 2005 that homosexuality is considered a crime in Iran. ILGA refers to the traditional Iranian Islamic Penal Code that can

be used against sexual minorities. The offense can range from something as innocuous as two members of the same gender lying under the same sheet, to acts of physical intimacy. The accused, if found guilty, has the option of choosing the punishment—hanging, stoning, being halved by a blade, or plummeting from such a height as to render death. The judge presiding over the case has discretion—he may commute the sentence to a period of time in prison or enforce a specific death mechanism.

The LGBT Persian magazine, *MAHA* (distributed from within Iran via online subscription only) suggests that the situation for LGBT Iranians is not as terrible as international bodies report. There are many meeting grounds at which LGBT people congregate, like cinemas and parks—places that the majority of individuals recognize as gay hotspots. The regime, *MAHA* reports, does not persecute gays as readily as it would appear externally. Although Iranian law provides for the punishment of homosexual offenses, it is understood that the government seldom enforces this sanction on private activities. It takes particular umbrage to the reportage that exists concerning the deaths of two Iranian youths in 2005, as they were found guilty of rape, not purely homosexual conduct. Scholars agree, stating that the international community is quick to judge Iran for its overtly religious stance and fundamentalist attitudes. However, LGBT people choose to live quiet lives out of the public eye.¹

Critics of Iran's social landscape suggest that its policies toward LGBT peoples should not be underestimated. In response to many the assertions that gays and lesbians in Iran face limited persecution, a representative from the Iranian Queer Association stated that many gay men are continuously found guilty of sexual crimes in the obviously homophobic penal code. A police raid in late 2007 resulted in the arrest of 85 men who were privately consorting for *deviant purposes*.² From those afflicted with HIV/AIDS, openly gay men to preoperational transsexuals, many people still face a variety of political and legal obstacles and punishments. As being gay is seen as a crime, many seek out sex reassignment surgery as a means of overcoming the social hardship associated with being openly gay.

EDUCATION

Iran's traditional educational system was predicated on religious institutions. The clergy from both Shi'a and Sunni sects were charged with the responsibility of educating Iran's youth. As with most monarchical societies, the children of political and social elites tended to have access to the best education. Because of foreign influence during the late 18th century and throughout the 19th century, educational models became decidedly European. During the constitutional reforms on the early 20th century, a shift from religious-oriented schools to a secularized government-funded policy took place. A number of public schools opened, but a nationwide system was never fully realized.

By the inception of the Islamic Revolution, schools had become a secular institution. The Islamic Revolution saw to a de-secularization process. Revisions to, and removal of, textbooks that contained references to atheism or that were disparaging in any way to Islam became commonplace. Removal of teachers who did not demonstrate an adequate, and decidedly political, understanding of Islam was also a common practice. The revolution did not uproot the organization of the public

school system per se, but significant alternations to its core curriculum were made to ensure heightened religiosity.

The modern Iranian higher education system originated from initiatives in the 1920s. These universities have often been at the epicenter of conflict and controversy following the Islamic Revolution. Currently, intellectuals and students who participate in demonstrations against the Iranian regime fall victim to a variety of legal mechanisms seeking to limit expression that might deride the government. Professors and students at public universities in the 1980s, for instance, who were deemed to lack sufficient understanding of the state-endorsed precepts of Islamic code, were removed from the school. Moreover, student enrollment at the University of Tehran, in one account, dropped from 17,000 to little more than 4,000 by the mid-1980s.³ Because of the religious nature of schools and the strict moral interpretations of the Iranian government, LGBT students remain silent and meet in secret.

EMPLOYMENT AND ECONOMICS

Following the Islamic Revolution of 1979, Ayatollah Khomeini took to reforming his country. Included in his policies were various *jibads*, or religious calls to action, to fight illiteracy and to rebuild the country that, up to that point, was perceived to have been ravaged by foreign influence. Among his many policies were socialized medicine, low-income housing, and food subsidies. Upon his death a decade after the advent of the revolution, another political sea change took place. Khomeini's Islamic socialist stance disintegrated and Iran began a slow process of liberalization, cutting many of the programs that wove the revolution together. The 1990s put a particular crunch on the Iranian poor, as more and more social programs were cut.

A conservative upswing in the last decade has inaugurated a number of changes economically; however, the state itself is in control of most employment. The private sector is generally made up of small-scale workshops, with minimal agricultural activities. Iran has an unemployment rate of nearly 11 percent, as of 2007 estimates.⁴ Receiving most of its revenue from oil transactions (nearly 85%), Iran's \$70 billion in oil exchanges have reportedly done little to ease economic tension and high rates of inflation (17%). Iran has an estimated 18 percent of its citizenry living below the poverty line.

These figures do little to elucidate the continuous trials facing LGBT peoples in the workplace. There are currently no employment protections for LGBT people. Since homosexual conduct is a crime, and the state regime controls most access to employment, one could lose one's job on the sole basis of deviant sexual orientation.

SOCIAL/GOVERNMENT PROGRAMS

There are currently no public policies in explicit support of LGBT rights. However, there are nearly 20,000 documented Iranian transsexuals who underwent gender reassignment surgery. Iran offers roughly \$4,500 in government grants for the surgery and postsurgical hormone therapy.⁵ The *fatwa* authorizing this political stance toward transsexuals came from the religious leader Ayatollah Khomeini during the Islamic Revolution of 1979.

SEXUALITY/SEXUAL PRACTICES

The first reported case of HIV in Iran was identified in 1987. The Islamic clergy tends to perpetuate the image that Iran's citizenry engages in strictly heterosexual marital sexual relations, and the statistics seem to bolster this view. Nearly 57 percent of cases named intravenous drug use as the primary vector of transmission, whereas sexual contact accounted for only seven percent of reported cases (the remaining 34% is registered as "unknown").⁶ Even the state's HIV/AIDS prevention program is divorced from overt references to sex, including depictions of condoms. The World Health Organization places the number of registered cases of HIV infection at a ceiling of 30,000. However, these statistics do not reflect the totality of cases. Since premarital sex is frowned upon, large numbers may report drug abuse or remain silent altogether to avoid disgrace.

Iran is situated along a major narcotics transportation route (with neighboring Afghanistan, a leading producer of narcotics) and there are high levels of intravenous drug use. Furthermore, neighboring countries are experiencing increased rates of HIV/AIDS infections, contributing to Iran's number of infections through immigration. HIV/AIDS infections are also quite prevalent in the prison population. Iran has taken several steps to combat these rates; however, social stigma applied to infected individuals still keeps many from seeking help. Iran currently offers information and educational material concerning HIV, ongoing HIV surveillance, voluntary testing and access to counseling, and HIV care and treatment.

Although LGBT peoples find it difficult to lead open lives in Iran, those afflicted with HIV/AIDS carry on even more isolated lives. Fearful that they will be further driven from their families, not to mention from their jobs, HIV-positive Iranians may choose to remain silent, and actual numbers of HIV-positive Iranians may be as high as 70,000, which is much larger than the reported statistic of 12,000. Other critics have suggested that the government has traditionally done little to ease the pains of those afflicted with AIDS, who are mostly turned away by hospital administrators who refuse to treat them.⁷

FAMILY

The concept of family is intrinsic to the foundations of Islam and the Islamic Revolution. Moral pretexts, especially sexual, are based on the notion of committed marriages, solemnized by the clergy. Sexual behavior is therefore monopolized by religious institutions. Marriage is strictly defined as a union between a man and a woman in the eyes of Allah and as a means of procreation. Infertility can be grounds for divorce. Shi'a Islam, the predominant religion in Iran, allows for a fixed period of marriage, in which those involved may be wed for several days or for decades.⁸ The move emanated from a policy desire to encourage youths to marry and not live in sin (i.e., premarital sex).

The Iranian Queer Organization (IRQO), formerly the Persian Gay and Lesbian Association, reports that honor killings, often filicides initiated by the father of an alleged homosexual son, occur to prevent disgrace on the family. Reports of teen suicides, drug use, and prostitution are often linked to LGBT youths who have found nothing but persecution in their homes, places of work, and other social spheres of their lives.⁹

To avoid these hardships, many gay men and women have turned to sex reassignment surgery as a means of being with those whom they love. Indeed, transsexuals are more welcomed than overt homosexuals.

COMMUNITY

Because of the rigidity of the Iranian legal system with regard to sexual conduct, a cohesive LGBT community is difficult to locate. Reports of a flourishing LGBT underground are common, with many stating that numerous traditional laws pertaining to homosexuality are rarely, if ever, enforced. Conflicting accounts of how often these laws are executed occur frequently. For instance, scholars have gone on record to indicate that the LGBT community simply does not want a social movement for political change. They simply want international and national politics out of their lives, choosing to lead a quiet existence instead.¹⁰

Gay men and women mostly converse online, attend parties, or congregate at local cinemas. However, it is reported that government monitoring has stifled most avenues for social interaction.¹¹ Gay men may find that the other person responding to their e-mails is actually an agent of the Department of Intelligence enforcing the various aspects of Iranian Penal Code that criminalizes sodomy. Because students receive a disproportionate share of surveillance, LGBT university life is not always as openly flourishing as in many other contemporary university systems.

HEALTH

Iran offers its citizens substantial access to health care, with a large percentage of its GDP going toward that effort. HIV/AIDS programs have been reported to be among the most effective in the world, according to many sources.¹² Although references to sexual transmissions are missing from many of the state-sponsored pamphlets distributed to individuals regarding HIV/AIDS, references to intravenous drug use (with drawings of syringes) are explicit. In 2006, the Iranian government allocated nearly \$30 million to HIV/AIDS-related programs to increase awareness. Within Iranian prisons, inmates are receiving condoms and syringes in an effort to promote safer sexual and drug practices.¹³ Iran is among only six or seven countries promoting these efforts in the world.

Two brothers, Arash and Kamiar Alaei, after having obtained their medical degrees, began conducting research and shedding light on the HIV/AIDS crisis affecting small groups of Iranians.¹⁴ HIV/AIDS is often considered a Western disease, and many believe that Iranians simply do not contract the disease. Most often, prisoners contract the disease through unprotected sexual practices and intravenous drug use. It took years before the Iranian government became comfortable with the notion of sexual education. However, President Ahmadinejad condones the practice of disseminating syringes, condoms, and methadone for heroine addicts. Iran has set up Triangular Clinics to address the growing heroin problem among its citizenry and to treat individuals suffering from HIV/AIDS, should these individuals come forward for treatment.

POLITICS AND LAW

A theocratic republic, Iran has three distinct branches of government. The 1979 Constitution defines both popular sovereignty and the supreme rule of sectarian

authority. The highest authority is an elected figure, the Supreme Leader, chosen by an Assembly of Experts. This leader oversees the three divisions of state: a popularly elected executive, a legislature, and an appointed judiciary. The Assembly of Experts is generally comprised of learned scholars of Islam. Thus, Islamic moral code is infused throughout the structure of governance. Generally finding homosexuality a sin, Iranian officials have voiced their opinion concerning homosexuality. For instance, Iran's chief executive, President Mahmud Ahmadinejad, appeared at New York's Columbia University in 2007. When asked about the current situation of LGBT people in Iran, the Iranian President responded that, "In Iran, we don't have homosexuals, like in [the U.S.]." He later suggested that homosexuality is a phenomenon that Iran does not experience.

Much of Iran's legal framework is guided by the monotheistic religion, Islam. Following the end of Reza Shah's despotic rule, Iran's push for nationalism (one that stemmed from the early 20th century but was quashed) reached its apogee in 1979, when the Islamic Revolution instigated a sea change of policy strictly guided by moral absolutes. As a result, explicit condemnation of homosexuality (and sodomy) is evident in Iran's penal code, specifically in Articles 108 through 140, in which direct references to homosexuality are made and provisions of proper punishment are elucidated. Some of these punishments include 74 lashes (Articles 108 to 113) and, depending on the extent of physical contact, duration, and repetition, can include death. Since criminal proceedings are overseen by a single member of the judiciary, who prosecutes, investigates, and eventually decides the case, further discriminatory action is ineluctable. Most of these laws are predicated on the concept of Sharia Law, the traditional code that has been passed down through centuries of scholarly interpretation. Literally translated, Sharia means "path" or "way." The adoption of Sharia Law is, in most cases throughout Islamic states, mandatory.

Freedom of Expression

There are no overt constitutional protections for expression in Iran. The Press Law, passed in 2000, for example, has tight restrictions on the expressive content of the press. Articles 6, 24, and 32 of the Press Law expressly forbid the publication of atheistic articles or other missives that might be critical of Islam. On more individual, less journalistic grounds, Articles 498 and 499 of the Penal Code prescribe punishment of up to 10 years for individuals who seek to associate with groups that would disrupt the republic or form propaganda against the state. Those who publish falsehoods, defamation, and other materials deemed to incite a negative reaction to the state may be held criminally accountable and sentenced to a set prison term.

As a result, a variety of journalists and intellectuals have been prosecuted according to some stipulation of the Press Law and Penal Codes, creating a climate of anxiety and fear.¹⁵ Students also bear the brunt of investigations, as student activities are monitored invidiously. In July 1999 and again in 2003, a number of students were attacked, arrested, and prosecuted for having participated in demonstrations that called for a variety of reforms to the republic. In 2003, photojournalist Zahra Kazemi was arrested, detained for four days without access to council, and eventually taken to the hospital unconscious, where she later died. Her crime was taking pictures of protests outside Evin Prison in Tehran.

In 1987, Iran's embassy wrote that "homosexuality in Iran, treated according to Islamic law, is a sin before the eyes of God and a crime for society."¹⁶ However,

transsexuals are treated differently under Iranian law than are homosexuals. Considered to have a mental disorder that can be potentially cured through an operation—contrary to homosexuality’s criminalization without “cure”—transsexuals are actually encouraged to undergo gender reassignment surgery. Reports suggest that Iran has the second highest number of such operations in the world, next to Thailand. Estimates place the number of transsexuals residing in Iran to be between 15,000 and 20,000.¹⁷

International Human Rights Obligations and Constitutional Protections

Iran is a signatory to several human rights conventions, some of which enshrine basic tenets protecting LGBT political freedoms. One of these conventions is the International Covenant on Economic, Social, and Cultural Rights (est. 1975) and the International Covenant on Civil and Political Rights (1975). Yet, the Iranian Constitution states that, “all citizens of the country, both men and women, equally enjoy the protection of the law and enjoy all human, political, economic, social, and cultural rights, in conformity with *Islamic criteria*.” As homosexuality is deemed a crime under Iranian law, LGBT groups are not viewed as a suspect class meeting equal protections criteria. Furthermore, although the class explicitly protects gender rights, discrimination on the basis of gender is still widespread. Only recently have there been major shifts, as a result of globalization, in the nature of the patriarchal system that has historically subverted political rights of sexual minorities.

RELIGION AND SPIRITUALITY

Religion is a guiding principle in nearly all industrialized nation-states. Iran’s religious background is varied, but spirituality often dictates its legal structure. Before Arab occupation, Zoroastrianism pervaded Iranian culture and the core set of beliefs are still held today by less than two percent of the population. However, Islam is the dominant religious force impacting the sociopolitical structure of modern Iran.

Iran’s adoption of Shi’a Islam seems to run contrary to the more popular Sunni sect among most Arab nations. With 89 percent of the population adhering to its beliefs, Shi’a Islam has guided the basic legal frameworks of Iran, especially following the Revolution of 1979. However, aside from their divergence regarding who constitutes the heir apparent of Muhammad, Sunni and Shi’a Islam’s tenets often blur. Islamic scholars throughout the centuries created various interpretations of the Qur’an by which Muslims should live. After centuries of such interpretations, numbering nearly 600,000, it was only natural that many of these contradicted. The Hadith, as it is known, has many contradictory accounts concerning what is to be done with perpetrators of homosexual acts. However, final determinations as to punishments are left to the single judge presiding over the case.

VIOLENCE

Iran has a long history of gender-related violence, as gender inequality is an inherent aspect of Iranian culture. Violence typically takes place in the form of

domestic abuse, where the victim rarely reports the assault.¹⁸ Familial violence is ingrained in a culture that has historically viewed women as a subservient class in many respects. Deemed honor killings, women are often brutalized at the hands of their husbands, fathers, or brothers for a variety of social infractions. The death penalty, the most extreme form of judicable retribution, and ardently held as a violation of basic human rights norms by a number of international bodies, is a mainstay for a variety of offenses. Permutations of violence exceed gender boundaries as LGBT people are subject to a variety of brutal punishments.

Most notably, in July 2005, two Iranian youths were executed over the alleged rape of a 13-year-old boy. The conviction, and the news coverage surrounding the execution, left many human rights organizations skeptical. Many headlines covering the executions read, “Lavāt beh onf.” Literally translated, this statement means, “sodomy by coercion.” The two boys were reportedly tortured until a confession was rendered from them. The boys were unaware of the penal code’s prohibition against homosexual conduct, claiming that many boys their age are engaging in such activity. Although many sources, including contemporary LGBT groups, reported that the deaths of these two boys were predicated on their committing rape, many others remained skeptical. According to one source, over 4,000 separate executions of homosexuals have been reported since 1979.¹⁹

The executions caused an international outcry. European LGBT organizations, especially Outrage!, published stories that worked to immediately shed light on the executions and place valuations behind the convictions and sentencing. Assertions were immediately made that, although other LGBT and human rights organizations were urging individuals not to count the executions as a strictly gay issue, the charges of rape were insidious. Reiterating that the penal code makes explicit the “crime” of homosexuality, Outrage!, noted that the confession of these boys was rendered through torture and that the executions were carried out as a means of removing homosexuals from the population.²⁰ Although blogs and other online sources of information described the executions as hate-motivated, Iran’s official response was that these two boys were not homosexuals, but rather they were rapists who were tried and convicted accordingly.

However, another execution in 2007 may have more overtly considered sexuality in the adjudication of the case. On June 11, 2007, days after a U.N. tribunal on human rights asked Iran to place a moratorium on the death penalty, local officials at the Kermanshah Central Prison hanged Makvan Moulloodzadeh. Found guilty of sodomy in a district court, the decision was later upheld in an appellate court. Moulloodzadeh appealed to the Iranian Chief Justice, who commuted his sentence. The decision held that the death penalty was antithetical to Islamic teaching, but the decision itself was later ultimately disregarded.

OUTLOOK FOR THE 21ST CENTURY

Iranian LGBT culture exists in secret, through preordained meeting places like private parties and online interaction. However, homosexuality is still not overtly tolerated. Although there are conflicting accounts concerning the extent to which sodomy laws are enforced, the consensus from the IRQO is that numerous arrests are still made with the intent to punish sexual deviance.

International jurists and Iranian nationals entreat countries and individuals alike to avoid quickly judging Iranian law. However, human rights abuses, arbitrary

arrests, and police entrapment are nothing new, even in 2008. With President Ahmadinejad's statements at Columbia University last year, the outlook for LGBT people moving forward seems uncertain, at best. Law enforcement is disproportionately carried out depending upon the crime and gender of the assailant, and the United Nations has continuously called Iran's administration of justice arbitrary and in violation of numerous international standards of legal conduct and accepted human rights norms. As a result, Persian gays and lesbians find themselves caught in a culture of silence, where "coming out" can lead to imprisonment or death. The 2009 presidential elections in Iran declared Ahmadinejad the "people's choice," but not without high levels of civil violence contesting the results. The re-elected president's statements promising "change" may certainly not apply to the LGBT population, which he claims does not exist.

RESOURCE GUIDE

Suggested Reading

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- Keyan Keihani, "A Brief History of Male Homosexuality in the Qur'an, Saudi Arabia, Iran, and Arab-Islamic Culture," *Middle Eastern Studies* (2005): 150.
- Michael Luongo, *Gay Travels in the Muslim World* (New York: Harrington Park Press, 2007).
- Will Roscoe and Stephen Murray, *Islamic Homosexualities: Culture, History, and Literature* (New York: New York University Press, 1997).
- Brian Whitaker, *Unspeakable Love: Gay and Lesbian Life in the Middle East* (Berkeley: University of California Press, 2006).

Videos/Film

A Jihad for Love. DVD. Directed by Parvez Sharma. New York: First Run Features, 2008.

Web Sites

Gay Middle East, www.gaymiddleeast.com.

Gay Middle East is a leading forum of discussion and media for LGBT youth in the Middle East. Includes access to a variety of materials ranging from video screening to locations of lectures and news conferences; highlights Middle Eastern countries and policies affecting the LGBT community.

International Lesbian and Gay Association, www.ilga.org.

A leading international organization dedicated to the dissemination of materials highlighting the various LGBT-policies of specific countries worldwide.

Iranian Queer Organization, www.irqo.net.

A leading resource for Persian LGBT peoples offering a variety of links to personal resources, press releases, and news coverage of Middle East LGBT activity.

The Middle East Gay Journal (gay Middle East blog), www.gaymiddleeast.blogspot.com.

A site dedicated to the free marketplace and exchange of ideas concerning the ongoing battles of LGBT people in the Middle East.

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5. Robert Tait, "Sex Change Funding Undermines No Gays Claim," *The Guardian*, September 26, 2007, <http://www.guardian.co.uk/world/2007/sep/26/iran.gender>.
6. You and AIDS Online AIDS Encyclopedia, "Iran at a Glance," <http://www.unaids.org/en/KnowledgeCentre/HIVData/CountryProgress/2007CountryProgressAllCountries.asp>. See also <http://hivinsite.ucsf.edu/global?page=cr08-ir-00>.
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10. Fitzpatrick, "Gay Rights in Iran a Complex Battle."
11. Ireland, "Gay and Underground in Iran."
12. You and AIDS Online Encyclopedia, "Iran at a Glance," <http://www.unaids.org/en/KnowledgeCentre/HIVData/CountryProgress/2007CountryProgressAllCountries.asp>. See also <http://hivinsite.ucsf.edu/global?page=cr08-ir-00>.
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14. Radio Free Europe Web site, "Iran: Brothers Change The Face Of HIV, Drug-Addiction Treatment," (October 2006), http://www.rferl.org/features/features_Article.aspx?m=10&y=2006&cid=7A8CEB97-4FB8-4B22-B87C-AD2D304720CB.
15. Ambeyi Ligabo, "Civil and Political Rights, Including the Question of Freedom of Expression," UN Commission on Human Rights, January 12, 2004.
16. See Keihani, "A Brief History of Male Homosexuality in the Qur'an."
17. Robert Tait, "Sex Change Funding Undermines No Gays Claim," *The Guardian*, September 26, 2007, <http://www.guardian.co.uk/world/2007/sep/26/iran.gender>.
18. Yakin Erturk, "Integration of the Human Rights of Women and a Gender Perspective: Violence against Women," UN Commission on Human Rights (January 2006).
19. See Keihani, "A Brief History of Male Homosexuality in the Qur'an."
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LEBANON

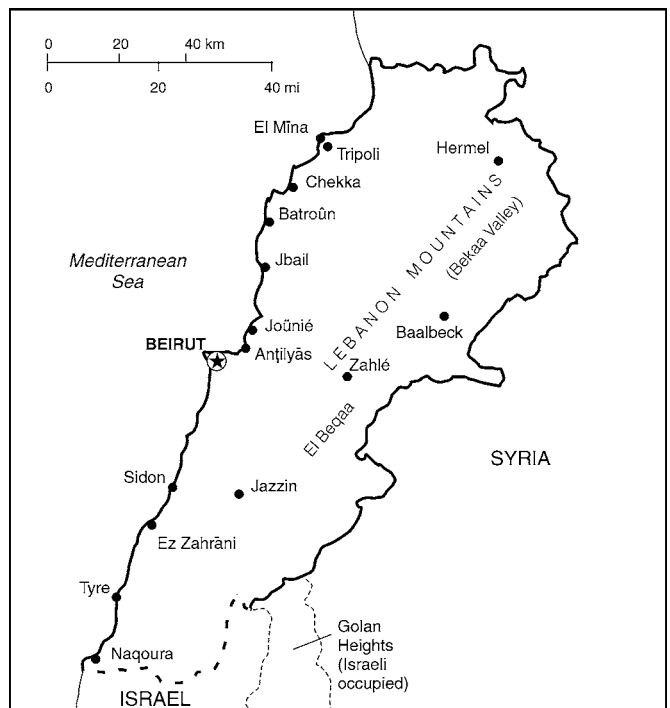
Alexandra Sandels and Nadine Moawad

OVERVIEW

Lebanon is a country of 4,035 square miles located in western Asia on the Mediterranean Sea. It borders Syria to the east and north, and Israel to the south. Lebanon has a typical Mediterranean climate, with cool, rainy winters and hot, humid summers. In the country's more elevated areas, temperatures often drop below freezing during the winter with frequent snowfall, while the summers are warm and dry. Lebanon comprises mostly mountainous terrain, except for the country's 140-mile long coastline and the Beqaa Valley in the east.

Lebanon has a population of nearly four million people, of which 95 percent are of Arab origin. Four percent are of Armenian descent. The country is also host to approximately 400,000 Palestinian refugees, and 20,000 to 40,000 Iraqi refugees. It is estimated that seventeen thousand people were displaced during Lebanon's Civil War (1975 to 1990) and the Israeli invasions. During Lebanon's July 2006 war with Israel, more than 200,000 people were reportedly displaced. Today, nearly 18 million people of Lebanese origin are living around the world, approximately 90 percent of them being Christian. Brazil constitutes the world's largest Lebanese community outside of Lebanon, with eight million of the country's citizens being of Lebanese descent. Many Lebanese also reside in Argentina, Canada, and Australia.

Lebanon's official language is Arabic, as stipulated by Article 11 of the National Constitution, although French is considered an administrative



and national language. The majority of Lebanese speak Arabic and either French or English fluently, or both. It is not uncommon to hear Beirut residents use a mixture of Arabic, French, and English, often in the same sentence. In the country's Christian communities, it was previously seen as a mark of status among many to not speak Arabic up until Lebanon's Civil War. Some attribute the reason for this phenomenon to the fact that Christians were generally educated in the country's French school institutions, resulting in the emergence of a Francophone society. In the past two decades, however, English has made headway in the country and has replaced French to a certain extent.

Lebanon is a religiously diverse country comprised of 18 recognized religious sects. Approximately 60 percent adhere to the Muslim faith and belong to either the Shi'a, Sunni, Isma'ili, Alawite, or Nusayri schools. A minority of Lebanese adhere to the Druze faith, which branched out of Islam. Thirty-nine percent are Christian (Maronite Catholic, Greek Orthodox, Melkite Catholic, Armenian Orthodox, Syrian Catholic, Armenian Catholic, Syrian Orthodox, Roman Catholic, Chaldean, Assyrian, Copt, and Protestant). Lebanon also recognizes the Jewish faith in its personal rights laws, and a very small Lebanese Jewish community is reported to have lived in the south. That community perished and left the country following the eruption of the Lebanese-Israeli War in the late 1970s. A number of religious groups do not enjoy official recognition, such as Bahá'ís, Buddhists, Hindus, and some unregistered Protestant Christian groups. They are disadvantaged under the law in that their adherents do not qualify for certain government positions, but they are permitted to practice their religion freely. All Lebanese citizens were previously required to list their religion on their government documents, but a February 2009 decree has allowed Lebanese citizens to remove their religious affiliation from the identity cards.

Lebanon's military branch, the Lebanese Armed Forces (LAF), is headed by Chief of Staff Jean Qahwaji, and consists of approximately 72,100 active personnel. The Lebanese military is known as highly trained and effective, but suffers from a lack of modern equipment due to the continuous presence of foreign forces, shortage of funds, and political infighting. At the end of Lebanon's Civil War, LAF decided to repair much of its equipment with financial help from other nations. About 85 percent of the LAF's equipment is U.S.-made, with the remaining built by the British, French, and Soviets. The country allocates around 3.1 percent of its \$22.01 billion GDP (2006 est.) to military expenditures.

Lebanon was a part of the Ottoman Empire for more than 400 years, in the area of Greater Syria. At the fall of the Ottoman Empire in 1918, Syria was taken over by Anglo-French forces and France received a mandate over the territory of what constitutes current-day Lebanon. In 1920, France formed the State of Greater Lebanon as one of the numerous ethnic enclaves within the Syrian territory. On September 1, 1926, France proclaimed the Lebanese Republic. Lebanon became an independent state in 1943 while French troops remained in the country until the end of World War II. The unwritten National Pact of 1943, between Lebanon and France, stipulated that the country's president needed to be a Christian Maronite, that the prime minister needed to be a Sunni Muslim, and that the head of parliament be a Shi'ite Muslim. Since gaining independence, Lebanon has experienced shifting periods of stability and political and military unrest while thriving as a regional hub for finance and trade. Lebanon joined the Arab League a few years after its independence but did not participate in the 1948 Arab-Israeli War. The

first Palestinian refugees, around 100,000 of them, were living in Lebanon in 1949 as a result of the creation of Israel and the subsequent war.

In 1975, Lebanon underwent a ferocious, multifaceted civil war that ravaged the country for nearly two decades. The conflict became greatly exacerbated by Lebanon's diverse demography, such as the Palestinian refugee influx between 1948 and 1982, inter-religious strife among Christians and Muslims, and the involvement of Syria, Israel, and the Palestine Liberation Organization (PLO) in the war. The 15-year-long conflict resulted in massive human loss and property damage, as well as the complete devastation of Lebanon's economy. More than 150,000 people are believed to have perished in the conflict, and around 200,000 were injured. Thousands of people were displaced and millions of Lebanese emigrated due to the volatile security situation. The war came to an end in 1990 with the signing of a National Reconciliation Accord, known as the Taif Agreement, which was ratified in November 1989. The document, signed in Taif, Saudi Arabia, sought to put an end to the civil war and accommodate a demographic shift to a Muslim majority in Lebanese politics, legitimize deployment of Syrian troops to Lebanon, and reinforce Lebanese authority in the southern parts of the country, which were then occupied by Israel. Israeli troops withdrew from southern Lebanon in May 2000. The passing of UN resolution UNSCR 1559 in October 2004 called for an end to Syrian interference in Lebanese affairs and spurred some Lebanese groups to demand that Syria withdraw its 16,000 troops as well. Following the end of the civil war in 1990, Lebanon enjoyed a period of relative political stability and economic prosperity.

The assassination of former Prime Minister Rafiq Hariri by a car bomb in February 2005 plunged Lebanon into renewed turmoil. The event triggered a chain of mass demonstrations against Syrian's presence in Lebanon, demanding an international commission to investigate the assassination of Hariri and the organization of free parliamentary elections. The uprising became known as the Cedar Revolution. The most notable rally was held in Beirut on March 14, 2005, which attracted 1.5 million people. Syria withdrew its military forces two months later in April 2005. Lebanon held its first legislative elections since the end of the civil war in June 2005, in which the Future Movement Party, led by Saad Hariri, the son of the assassinated prime minister, won a majority. Lebanon's current political arena is comprised of two major blocs, the first being the March 14 Alliance, a group comprised of numerous anti-Syrian and independent political parties, led by Saad Hariri, Samir Geagea of the Lebanese Forces, former president, Amin Gemayel, and Walid Jumblatt of the Progressive Socialist Party. The group's name, March 14, comes from the date of the Cedar Revolution. On the other end of the political spectrum is the March 8 Alliance, a coalition of various sectarian Lebanese political parties in Lebanon. The bloc is considered to be in favor of a Syrian presence in Lebanon. The name, March 8, stems from March 8, 2005, when a number of parties called for a demonstration to thank Syria for its help in bringing the Lebanese Civil War to an end and for supporting Lebanese resistance forces against Israeli occupation. The main parties of the March 8 bloc are Hezbollah, led by Hassan Nasrallah, the Amal Movement led by Nabih Berri, the Free Patriotic Movement led by General Michel Aoun, and the Syrian Social Nationalist Party.

Since the murder of Prime Minister Hariri, Lebanon has witnessed several other politically motivated assassinations, including that of parliamentarian and publisher of the popular *An-Nahar* newspaper, Gebran Tueni, the prominent left-wing

journalist and professor Samir Qassir, and the Operations Chief of the Lebanese Army, General Francois Hajj. Despite the establishment of several investigations into the assassinations, no one was charged in any of the cases. Many of the victims were outspoken critics of the Syrian presence in Lebanon.

In the summer of 2006, Lebanon once again became subject to violence. The kidnapping of two Israeli soldiers in July 2006 by the Shiite militant political party Hezbollah produced a 34-day conflict with Israel that resulted in the death of over 1,000 people, mostly civilians, and the displacement of hundreds of thousands. On May 9, 2008, Hezbollah and allying groups seized West Beirut in armed attacks following a number of decisions taken by the government that would curtail the powers of the party. The U.S.-backed government coalition and media reports have referred to the incident as an attempted coup d'état. At least 65 people died and 200 were wounded in the clashes between progovernment and opposition supporters. The conflicts were referred to as the worst sectarian street fighting since the end of the Civil War in 1990.

In May 2008, former LAF Commander Michel Sleiman was elected President of Lebanon, ending a six-month long political vacuum following the step down of Emile Lahoud from the presidential post in November 2007.¹ In June 2009, the March 14 bloc won the Lebanese parliamentary elections, securing 71 out of the 128 seats in Parliament.

OVERVIEW OF LGBT ISSUES

The beginning of an organized LGBT movement in Lebanon started with the advent of the Internet in 1998. An online mailing list was started on Yahoo Groups and its membership quickly grew to over 300 people within a year. In 1999, a Web site called www.gaylebanon.com (the site is no longer active) was started by the first gay activist in Lebanon, and included information on meeting places, a demand for equality, and a mailing list.

Following the virtual community was the founding of ClubFree, an underground LGBT group headed by a committee of eight gay men and women with the mission of providing community support and social activities. ClubFree would rent out an apartment in Beirut with donations from members and use it as a meeting space for discussions, movie screenings, and meetings for LGBT people. It was in ClubFree meetings that the first ideas for lobbying and advocacy for gay rights in Lebanon took place. Discussion meetings took place to brainstorm strategies for lobbying with the government, including sending anonymous letters to members of parliament and the media, as well as international contacts with ILGA and other international bodies.

In 2002, a small group of LGBT activists registered a nongovernmental organization called *Hurriyyat Khassa* ("Private Liberties"), which aimed at tackling LGBT issues, namely the reform of Article 534 of the Lebanese Penal Code, within and under the umbrella of a larger scope of private liberties. Article 534 criminalizes "sexual acts against nature" with up to a year in prison, and is commonly used to target homosexual activity.

In 2004, a group of activists involved in *Hurriyyat Khassa* decided it was time to register a gay and lesbian organization, and thus was born HELEM (an acronym of the Arabic *Himaya Lubnaniya lil Mithliyyeen*, meaning "Lebanese Protection for LGBT"). HELEM was first registered in Montreal in 2004 and the members

in Lebanon filed an official notification of assembly to the Ministry of Interior in August 2004. The Lebanese rules governing the registration of NGOs decree that a group of five people who have assembled to start an organization must notify the concerned ministry by filling out an application of notification with the objectives and mission of the organization. If the ministry does not reject the application within a period of two months, then the organization is considered officially registered and has the right to meet and develop its projects. Therefore, HELEM became the first officially registered LGBT organization in the Arab world. The government still withholds, however, the license number, which is required to open an official bank account and perform other minor administrative tasks.

HELEM's main programs include work on HIV awareness, testing, and advocacy in Lebanon, in addition to legal and media lobbying for the rights of the LGBT community. HELEM also runs a community center in Beirut open to the public. Every year, HELEM organizes the International Day Against Homophobia in Lebanon and gets increased media coverage every year, attracting more attendees. The program usually involves a discussion panel, film screenings, art exhibits, and publications.

Throughout the history of the LGBT movement, the invisibility of lesbians has always been noticeable. This has been attributed to many social factors, mainly, the oppression of women in general in Lebanon. Lesbians have had less freedom, fewer rights, and harsher economic conditions than gay men, and were therefore, with a few exceptions, marginalized in the activist history.

In September 2006, three women members of HELEM started a women-only mailing list for LBTQ women, and in December 2006, they held the first lesbian-only meeting in a private home in Beirut with 28 women attending. From this meeting was born a new lesbian activism that followed with a few meetings in the first half of 2007 and the creation of Meem (the letter "m" in Arabic that stands for *majmouaat mou'azarat al mar'a al mithliyya*, or "support group for lesbian women") on August 4, 2007. The vision of Meem is a better quality of life for LBTQ women in Lebanon, and the group works with a low-profile strategy to provide support and services, aiming to create a strong grassroots movement where women are empowered and can, in five years, become more visible in their advocacy work. Meem today has 243 members and runs the Womyn House in Beirut, which is an apartment that houses all of Meem's activities and meetings. The Womyn House is open only to members. In March 2009, a group referring to itself as "a bunch of citizens concerned with the escalating level of hatred and ignorance towards homosexuality" formed the people's movement The Gay-Straight Alliance in an effort to spread more awareness and foster understanding of LGBTIQ issues in Lebanon. Spring 2009 also saw the birth of the Feminist Collective, a group concerned with enhancing women's rights and feminism in Lebanon. Included on the group's list of causes is acceptance and tolerance of nonheterosexual women.

Media

Recent years have witnessed an upsurge in media coverage of homosexuality in Lebanon. While some reports provide a more balanced view, many still bear negative connotations against LGBT people. Gay-rights organizations and activists across the Arab world have continuously lobbied Arab media to stop the use

of the word “shazz”—a demeaning term still often used by Arabic mass media to describe homosexuals. Literally, shazz translates as “pervert” or “deviant.” Instead of shazz, LGBT activists have sought to introduce the term “mithly,” which loosely translates as “same,” and pushed for media adoption of this less disparaging term. In contrast to pan-Arab media, which has appeared reluctant to apply neutral terminology when referring to homosexuals and still demonizes gays to a large extent, Lebanese media outlets have increasingly started to abandon shazz for less demeaning terms such as mithly. But in July 2009, the Lebanese publishing house Arab Diffusion translated the book *Gay Travels in the Muslim World* into the Arabic equivalent of *Pervert Travels in the Muslim World*, using the word shazz to describe gay. It is the first gay-themed book to be translated from English to Arabic. Considering the success story with the Lebanese media, the fact that *Pervert Travels in the Muslim World* was the prodigy of a Lebanese publishing house came as a particularly hard blow to gay rights activists in the country. It is unknown at the end of 2009 whether the translation will be revised and HELEM made a complaint with the publisher.

During the course of 2005 and 2006, an array of media outlets started portraying Beirut as the gay paradise of the Arab world. *Agence France Presse* featured a news report entitled “Welcome to Beirut, Sin City of the Arab World,” on June 23, 2006, describing it as an oasis for Arab homosexuals. In its Winter 2006 issue, the U.S. LGBT travel magazine *Out Travel* featured an article about Beirut, titled “Arab World’s Most Gay-Friendly City Glitters Anew,” The BBC ran the report “Landmark Meeting for Gay Lebanese” on a three-day-long event organized by HELEM marking International Day Against Homophobia in 2006. In 2005, France’s *La Liberation* published an article on gay life in Beirut entitled “Les gays sortent du placard” (“the gays come out of the closet”). Also in summer 2006, the first Arab adaptation of the renowned theatre play *The Vagina Monologues*, titled *Hakeb Neswan* (“Women’s Talk”) took stage in Beirut in front of sold-out audiences after fierce battles with the censors. Fall 2007 saw the birth of a new game show on the Lebanese TV channel LBC, led by popular Lebanese comedian and drag queen Bassem Feghali. HELEM currently publishes the quarterly online magazine *Barra* (“Out” in English) for persons in the Arab world identifying as LGBTIQ. In summer 2008, a number of members from *Meem* launched the online publication *Bekhsos* (“Concerning” in English) for LBTQ women in the Arab world. Half a year later, in January 2009, the Lebanese LGBT community slammed a talk show on homosexuality in the Middle East that was aired on Lebanon’s satellite LBC channel, claiming it was biased and provided a distorted picture about gays in the Arab world. Angered members of Lebanon’s LGBT community complained that the show only brought up stereotypical pop-psychology explanations for homosexuality, including abuse, prostitution, lack of a father figure, and a strong mother figure that overpowers the masculine figure in the household. Spring 2009 also saw the birth of the Feminist Collective’s new magazine *Sawt el Niswa* (*Women’s Voices*). In late May 2009 Meem published the book *Bareed Mista3jil* (*Urgent Mail*), featuring the experiences and life stories of over 40 queer and transgendered women in Lebanon. The book was made available for purchase in Beirut bookstores and over the Internet. The book received substantive media coverage in Lebanon and was also covered by some foreign news outlets.

EDUCATION

Lebanon boasts an internationally renowned private educational system at both the school and university levels. The majority of private schools have a long religious heritage and were founded by different (mostly French) missionaries at the beginning of the 20th century. The public school system, however, lacks organization and standards, and has a high dropout rate and few services for students. Both private and public schools are unsafe for gay and lesbian youth, with high rates of homophobic behavior from fellow students, teachers, counselors, and administrators.

Lebanon's private universities are ranked as some of the best in the Middle East and in the world, particularly the American University of Beirut, founded in 1866, and the Université Saint-Joseph, founded in 1875. Most private universities tackle the subject of homosexuality openly and academically in philosophy, sociology, and psychology classes. At the American University of Beirut, for example, every student is required to take an introduction to ethics course that explains the Natural Law Theory and its failure to deem homosexuality as unnatural or immoral. The same university also offers a sociology course in sexuality that is sometimes called queer theory.

Regarding student life outside of academics, homosexuality started to be discussed on campuses since 2006, with student-organized debates and panels. Private universities are generally considered to be safe spaces for homosexual expression. Lebanon's public university, the Lebanese University, suffers from mismanagement, overcrowding, lack of funding, and politicization. There have been, to date, no initiatives to tackle homosexuality or to report homophobic incidents on campuses.

EMPLOYMENT AND ECONOMICS

The Lebanese economy has undergone shifting periods of prosperity and instability due to the repeated political and military unrest in the country. Lebanon's economy marked by private and liberal economic activity with a *laissez-faire* commercial tradition. Lebanon's economy is largely a service-oriented economy that relies on banking and tourism. The country has strict bank secrecy, and there are no restrictions on foreign exchange, foreign investment, or capital movement. The banking sector is equivalent to more than 2.5 times the economic sector.

The Lebanese labor force is made up of around 1.5 million workers (2005 est.). It is estimated that around one million foreign workers are currently employed in the country (2005 est.). Among them are around 200,000 migrant domestic workers, mainly coming from Sri Lanka, the Philippines, and Ethiopia. A significant number of domestic workers do not possess legal status in Lebanon.

Lebanon's Labor Code of 1946 regulates employment in the country's private sector and prohibits differentiating "between male and female workers in relation to the nature of work, salary paid, employment opportunities, promotion, and technical training." Several working groups are, however, excluded from this law, including domestic workers employed in private houses. The code has been amended numerous times, most recently in May 2000 when modifications to articles concerning equal employment opportunities were introduced. Lebanon does

not recognize LGBT employees and therefore there is no law protecting their rights. There are no statistics or data available on homophobia in Lebanese workplaces. LGBT people working in Lebanon have said that civil society groups and creative environments, such as advertising agencies, art studios, and media groups, are usually more open to and accepting of LGBT employees. Lebanon's thriving fashion and film industries are also known to host a significant number of LGBT employees. Hair salons remain a popular workplace among gay men. Some argue that there is less homophobia in workplaces that feature a high number of foreigners or Lebanese employees who have worked abroad. There is no law protecting LGBT people serving in the military.²

SOCIAL/GOVERNMENT PROGRAMS

The Lebanese government does not provide funding for any programs for lesbians, gay men, or transsexuals. The groups are, however, recognized by some social health programs. In terms of HIV/AIDS education and treatment, LGBT people are considered a vulnerable group. An increased number of Lebanese NGOs are now featuring sections on the LGBT community in their annual reports. LGBT activist groups tend to receive most of their program funding from international foundations in the United States or in Europe.

SEXUALITY/SEXUAL PRACTICES

Since Lebanon reported its first case of HIV/AIDS in 1984, the country has witnessed a significant surge in both local and international organizations dedicated to prevention, awareness, and education of HIV/AIDS. Despite the HIV programs and the Ministry of Education introducing a section on reproductive health in the national school curriculum, health officials still voice concern over the alleged lack of robust sexual education programs. According to health officials, sexual education programs are not implemented in all school institutions, especially in the country's numerous private religious schools.³ Following pressure from religious groups, particularly Hezbollah and the Druze Association of the Al-Orfan Al-Tawhidiyyah, the Presidential Decree 2066 ruled in 2000 that the new reproductive health sections should be pulled out from the national curriculum, due to fears that sexual education would lead to promiscuity among Lebanese youth. Religious community groups often stress that reproductive health should be taught by the family and the religious community. The decision sparked outcry among doctors and academics. The lack of functioning sexual education programs has allegedly resulted in young Lebanese consulting the Internet, media, and friends for advice about sexual practices and sexually transmitted diseases (STDs). There are, however, a number of groups teaching sexual education. The Standing Committee on Reproductive Health Including AIDS (SCORA), a group affiliated with the Lebanese Medical Students' International Committee, has reportedly given school talks across Lebanon in an effort to raise awareness about reproductive health, including HIV/AIDS, homosexuality, rape, and abortion. The National Evangelical Institute for Girls and Boys in Sidon provides lessons on HIV/AIDS and STDs for high school students. Many secular schools, including the American Community School of Beirut, have made sexual education a part of their curricula.⁴

FAMILY

Family ties in Lebanon remain the most important social tradition today. This is strongly tied to religious values. The Lebanese family structure is very rigid: a husband, a wife, and their children. Stereotypical gender roles are also just as rigid. Fathers are the breadwinners and mothers stay at home to take care of housework and raise the children. Marriages within families (first or second cousins), as well as within the same village or county, are also very common. Divorce is strongly frowned upon, and no statistics are available on the divorce rates, although it is estimated that the numbers are on the rise in the recent years. Unlike Western traditions, children are not expected to move out of their parents' home when they become adults. On the contrary, it is quite common for men and women to continue to live with their parents until they get married, even throughout their 30s, 40s, and even 50s.

Family pressure and the threat of being ostracized remain the biggest fears facing the LGBT community in Lebanon. Hundreds of cases of LGBT people have reportedly been ostracized from their families in the last 10 years. This form of homophobia is manifested in different ways: gay men commonly get kicked out of their homes, denied inheritance, or in rarer cases sent out of the country by their parents. Lesbians face different problems with their family and are more likely to get put under house arrest or forced into a marriage with a man, but in rarer cases they do get kicked out of their homes as well.

Honor killings, which are murders committed by family members against their own relatives for the sake of saving and purifying family pride and honor, are very rare in Lebanon. A small number of gay men belonging to ultra-conservative families have reported receiving death threats from their brothers and fathers. In 2005, HELEM protected a young man from his family's death threats by flying him to another country for a few weeks, until his family calmed down and he was able to return to Lebanon and move to a different city.

Families who learn about their children's homosexuality also prefer to hide the shame of the news in their communities and villages, so in many cases they refrain from actively expelling their children, and tighten their restrictions on them instead.

COMMUNITY

Lebanon is heavily split into communities based on religion and social class, and the LGBT community is no different. The most visible gay community belongs to a wealthy social class that mainly works in art, graphic design, fashion, or the entertainment industry. They enjoy a certain freedom and public acceptance associated with their involvement in the arts. Internet access, financial ability to travel, and the English language, also limited to upper and middle classes, are components of the formation of communities of LGBT, with less information and reports available on the poorer communities. There is also a noticeable visibility and freedom among the younger generations, who find more acceptance among friends than do LGBT people over 40.

When discussing the situation of LGBT people in Lebanon, it is important to take into consideration those who practice nonheterosexual sex or pursue same-sex relationships without conforming to LGBT labels. While this phenomenon

exists throughout Lebanon, it is perhaps most prevalent in less urban areas outside the capital Beirut. HELEM and Meem provide support services to LGBT people across Lebanon.

Gay Men

Gay men living in Beirut can maintain somewhat of a comfortable life style, especially those not residing with their families. Those living outside Beirut tend to maintain a low profile. The government appears to have adopted a policy of tolerance towards LGBT people, and gay men maintain a strong visibility in the capital, frequenting a number of coffee houses, bars, and restaurants known to cater to a gay clientele. Acid, the Arab world's premier gay club, is located in Sin el Fil on the outskirts of Beirut. Other popular hangouts include the restaurant-bars Bardo and Wolf in the Hamra District of Beirut, as well as BO18 and Milk. Additionally, a few gay-owned and gay-oriented businesses operate in Beirut, including the gay-tourism company LebTour.

Lesbians

Lesbianism is generally seen to be more tolerable in Lebanon than male homosexuality, partly because of the eroticism surrounding the idea of two women together and partly because women are simply so marginalized that lesbians are dismissed as sexually frustrated women who want to maintain their virginity and therefore practice sexual play with other women. This tolerance, however, masks multiple layers of discrimination that lesbian and bisexual women face in Lebanon.

Butch women are seen as imitating male behavior, attire, and ambitions because it is natural for one to want to be like men. The term *ikbt el rjel* ("the sister of men") is commonly used to describe a woman with a strong personality, strong physique, or butch qualities, and is considered a compliment. The term *Hassan sabi* ("Hassan boy") is the Arabic equivalent of the term *tomboy*, similarly not a derogatory term, and used to describe young girls who have short hair, dress like boys, play sports, or behave in other ways traditionally attributed to the male gender. Lesbians generally follow gay men in frequenting gay-friendly pubs and night-clubs in the Beirut districts of Hamra and Gemmayze.

HEALTH

The Lebanese Ministry of Health runs a National Social Security program that provides free or discounted health care to all employed citizens. In contrast to other Arab countries, Lebanon pursues an open discussion about HIV/AIDS, although health officials stipulate that misinformation about the virus is still prevalent. In recent years, there has been a large influx of organizations concerned with HIV/AIDS issues, following the increase in HIV/AIDS cases after the civil war. In the late 1990s, HIV/AIDS organizations in Lebanon began considering the LGBT community as a vulnerable group.

The United Nations agency UNAIDS estimates that approximately 2,900 people are currently living with HIV/AIDS in Lebanon. There are no reliable statistics on HIV infections in men who have sex with men (MSM) or sex workers in Lebanon. The Lebanese government reports a significantly lower number of HIV cases than UNAIDS, putting the total cases at 756. Health workers believe

that the number is considerably higher, perhaps in the range of several thousands. They raise concerns over low condom use among gay men in Lebanon, saying that the easiness to access sex in Lebanon's LGBT community, combined with the low rate of condom use, spur the prevalence of HIV and other STDs in the country. Many HIV patients from the LGBT community contract AIDS along with another STD.

HELEM has an indirect partnership with the Ministry of Health through the subsidiary organization SIDC, with whom HELEM has run a successful prevention program for MSMs. HELEM provides free anonymous HIV testing, and the center is listed in the Ministry of Health's HIV/AIDS information pamphlets.

According to health officials, the Lebanese Ministry of Health buys HIV drugs once a year and distributes them to HIV/AIDS patients for free through the country's Central Drug Warehouse (CDW) and the Drug Distribution Center (DDC) every month. In 1996, Lebanon became the first country in the Arab world to introduce this service. The treatment program involves a combination of three drugs. Among current HIV medicines available in Lebanon are AZT, DDI, and Kaletra. Shortages of at least one of these drugs have been reported several times in recent years. During Lebanon's July 2006 war with Israel, aid convoys carrying medicines apparently had difficulties delivering drugs. It is estimated that approximately 260 people are currently on the governmental treatment program.

There is very little data available on the prevalence of STDs in Lebanon. Specialists in infectious diseases believe that the scarcity of data stems from the taboo status of sex in Lebanese society. To the specialists, STDs are a direct result of the taboo. STD patients usually consult private clinics, pharmacists, or perhaps close friends instead of taking the matter to a public clinic. Those STD cases reported to public clinics are only a fraction of the real number. HELEM refers patients to doctors who are sympathetic to gay patients. Health officials claim that Chlamydia is the most prevalent STD in Lebanon. Warts and herpes constitute the most common STDs among gay men. A recent increase in cases of gonorrhea suggests that the disease is on the rise in Lebanon. Lesbian advocates have raised concern over the lack of gynecologists specialized in treating patients who have sex with other women.⁵

There are no records or studies on lesbian health in Lebanon, and the common misconception is that lesbians are immune to AIDS and other diseases. Women who have sex with women face stigmatization by gynecologists, and efforts are currently being undertaken to create a network of lesbian-friendly gynecologists. Female condoms and dental dams are unavailable in Lebanese pharmacies.

Sex toys including dildos, strap-ons, and vibrators are considered pornographic material and are therefore illegal in Lebanon. Women attempt at times to bring sex toys in their luggage from other countries, and in a few cases have been caught, the items confiscated, and the women released with a warning.

Lebanon's booming psychology field has recently taken a more professional attitude toward the teaching and practice of counseling for homosexuals. While in the past homosexuality was viewed as a condition that needed to be deconstructed and cured, psychologists today have become strong advocates of the normalcy of homosexuality. However, the lack of a union or centralized monitoring institution has led to discrepancies in standards and the opening of many clinics by unqualified therapists. Additionally, little work has been done to study the specific needs of the mental health of LGBT people. Both HELEM and Meem currently offer counseling programs to their members.

POLITICS AND LAW

Gay rights has never been placed on any political agenda nor brought up by politicians or members of parliament. It is generally not seen as a human rights priority in any political context. As politics and religious sectarianism are extremely intertwined, most politicians refrain from approaching the matter because they see it (or their constituents see it) as immoral and against God's will.

Similarly, political parties have not made any statements about homosexuality, although many of them include the Universal Declaration of Human Rights and other articles concerning human dignity in their mission and core values. Almost every political party is run by a religious sect.

Legally, homosexuality is mainly targeted using articles concerning morality in the Lebanese Penal Code, but there have been no legal cases in recent years because of Lebanon's political instability and constant wars since 2005.

Article 534 of the Lebanese Penal Code criminalizes sexual relations that are "against nature" and are punishable by up to a year in prison. This prohibits male homosexuality, along with adultery, sodomy (heterosexual or homosexual), and fornication outside of marriage. Lesbian sexual activities are not illegal in the eyes of the Lebanese law, because they do not involve a penis or penetration. In 2002, local newspapers ran a story about two women who were arrested for having unnatural sex, but they were not charged under Article 534. They were, however, imprisoned for an unrelated incident of theft. In spring 2009, an online petition was launched in an effort to collect 10,000 signatures in support of the scrapping of the law. HELEM is using the summer 2009 parliamentary elections as a spring board for its campaign for the removal of Article 534.

Antidiscrimination Statutes

There are no existing antidiscrimination statutes protecting the rights of LGBT people in Lebanon. Lebanon has, however, signed the Universal Declaration of Human Rights and ratified, with reservations, the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) in 1996. Lesbian activists in Lebanon have been lobbying the country's women's rights organizations and governmental institutions for the inclusion of the rights of LBTQ women in their programs.

Marriage

Same-sex marriage is illegal in Lebanon. The first chapter of the *Qanun al Ahwal alShakhsiyah* (the "Personal Status Law") mandates that marriage can only occur between two people of opposite sexes. The topic of same-sex marriage has never been addressed in Lebanon by activist groups.

Speech and Association

In contrast to other Arab countries, Lebanon enjoys a high level of free speech and association. Perhaps the main reason why the Lebanese authorities have not shut down HELEM is because of the respect of freedom of association in the country. The highly active Lebanese civil society is divided over the right of gay people to assemble, but the dominant opinion is supportive of this right. In 2006,

a member of the Beirut Municipality attacked HELEM in local newspapers, condemning the existence of an organization with the objective of ruining and perverting Lebanese youth. An official complaint was filed against HELEM but was later dismissed on the basis of insufficient evidence.

Lebanese television has featured a few debates on homosexuality, the most important of which happened in 1996 on a show called “El Haki Baynetna” with prominent talk show host Dr. Ziad Njeim. The episode was the last ever of the show and featured gay men behind masks and distorted voices, in addition to Muslim and Christian figures, psychologists, and sociologists. The debate was mostly negative toward homosexuality, but included a few positive responses and made history at the time. Since then, other talk shows have mostly tackled the topic in a sensationalist manner. A major problem is the usage of the term *shaz*, which means perverted, to describe homosexuality in the media. Activist lobbying promotes the usage of the term *mithli*, which is the proper Arabic word for homosexual. This term has been adopted by more progressive newspapers and media outlets, although *shaz* remains more common in translations.

In 2005, HELEM published *Barra*, which means “Out” in English, the first Arab gay magazine. The magazine was mainly in Arabic, with some English and French sections, entirely run by volunteers, and made available in different gay-friendly places in Beirut. HELEM also published a book entitled, *Rihab Al Mithliya: Mawaqef wa Shahadat (Homophobia: Attitudes and Testimonies)* in May 2006. The book includes chapters by prominent Lebanese writers discussing homophobia from legal, psychological, and social angles, in addition to personal testimonies and stories. Both HELEM and Meem produce and distribute monthly newsletters containing news on LGBT issues in Lebanon.

Asylum Cases

There have been numerous cases of Lebanese LGBT people, especially gay men, seeking asylum in Europe and North America due to their sexual orientation. In 2005, a number of Lebanese gay men sought asylum in the Netherlands for fears of repercussions and jail sentences. Also in 2005, a U.S. court ruled that Nasser Karouni, a Lebanese HIV-positive gay man from the Shiite-dominated Tyre region fearing persecution from Hezbollah, was to be considered for asylum in the United States.⁶ The same year, a man from the northern city of Tripoli sought asylum in Belgium. He said he faced persecution by his work and family due to his sexual orientation. A 34-year-old gay Palestinian man known as “H.C.” living in a refugee camp in the outskirts of Sidon fled to Britain in 1998 and subsequently applied for asylum after the video shop he worked in was blown up. “H.C.” argued that the shop was attacked because he was gay. In 2001, the *New York Times* reported that a Lebanese lesbian woman was granted asylum in the United States after her family threatened to report her to the police in Beirut.⁷ Emigration remains common among Lebanese homosexuals. Meem has emphasized that emigration is very high in Lebanon’s lesbian community, especially among women in their mid-20s.

Bisexuals

The ability of bisexuals to enter into relationships with both sexes proves confusing to many people in Lebanon, whether straight or gay. At times, bisexuals

face perhaps even more stigma than homosexuals due to their versatile sexuality. When a bisexual forms a relationship with a person of the opposite sex, they are considered heterosexual. When they form same-sex relationships, they are viewed as homosexuals. Some even consider their sexuality as promiscuous. When bisexuals are married to a person of the opposite sex, they receive the benefits provided to married heterosexual couples. When in a relationship with someone of the same sex, they're subject to discrimination from both heterosexuals and homosexuals. Bisexuals remain outcasts of Lebanese society in most aspects.

Transsexuals

Sex changes are permitted in Lebanon and a handful of cases have been reported. The procedure is a long process that requires recommendations from at least three psychiatrists and one doctor specializing in hormone treatment before permission is granted from the court. Once a patient has been granted permission, he or she is entitled to a new identity. Transsexuals who have changed their status legally can maintain a certain level of normalcy in life, while those who do not wish to conduct a sex change face severe hardships in Lebanon. Many are often forced into prostitution due to the difficulty of finding employment. Lebanese employers are required to register the identity cards of their employees after a three-month trial period. Transsexuals often end up losing their employment during this process. Many transsexuals apply for asylum. HELEM is reportedly starting a new support group for transsexuals during the summer of 2008.⁸

Intersexed

Intersexed people are mostly unheard of in Lebanon, as they are born with either partially or fully developed genitalia that are a combination of both male and female genitalia. They face severe, lifelong problems due to their complicated physical situation. For example, they have to note on a form, such as a birth certificate, whether they are male or a female. There have been no reported lawsuits concerning intersexed individuals in Lebanon to date.

RELIGION AND SPIRITUALITY

Religion is very closely intertwined with Lebanese politics, geography, communities, and family structures. Every neighborhood has at least one church or mosque, and the government recognizes all Muslim and Christian celebrations and holidays.

In Lebanon, the age requirement for marriage is 18 years for men and 17 for women. With guardian permission, the ages are 17 for males and 9 years old for women. For Shiites, with judicial permission, it is 15 for males, and 9 for females. For Druze, with judicial permission, the ages are 16 for males and 15 for females.

Interfaith marriages between Muslims and Christians are prohibited. However, if a mixed faith couple marries in another country, their marriage will be recognized as valid in Lebanon. Therefore, most Lebanese couples from different religions get a civil marriage in Cyprus and return to Lebanon, or one of them converts to the other spouse's religion and then they get married.

All 18 religious sects in Lebanon view homosexuality as an abomination and perversion, and call on homosexuals to resist these unnatural tendencies or seek medical treatment and shock therapy from psychiatrists.

VIOLENCE

Not much has been reported about hate crimes in Lebanon outside of the context of civil war and sectarian feuds. No hate crimes against homosexuals have been reported in Lebanon. There are many cases of suicide during the 1990s that were rumored to be gay-related, but these rumors were not confirmed.

Violence against homosexuals is normally manifested in physical abuse, rape, blackmail, verbal abuse, job loss, eviction, and other forms. This happens on the street, in restaurants or coffee shops, at work, in schools and colleges, and other public places. Several incidents of violence against LGBT people have been reported inside the community. Lesbians commonly face verbal abuse and sexual harassment on the street based on their attire, mannerisms, and in case of any minimal public display of affection. However, it is quite common in Lebanon, as in most of the Arab world, for women to walk on the street holding hands or intertwining arms. For men, this is not as common but can still be seen, especially among non-Lebanese Arabs. Common insults for lesbians include *dakar* (“male”) or *sharmouta* (“whore”), or a gesture of the tongue.

Gay men, however, especially effeminate men, face much harsher abuse. On the street, they will very probably have *louti* or *foufou* (“faggot”) yelled at them, or they will be profanely propositioned for sexual acts. In a few incidents, effeminate men have been beaten up or slapped on the street. They also get fired from their jobs or not hired at all. In schools and colleges, they face strong bullying. Such forms of violence are considered macho behavior by Arab men.

Gay cruising is popular in Lebanon and some areas are well-known to be cruising locations, such as Ramlet El Bayda, a stretch of beach in Beirut. More often than not, gay men who go cruising there are picked up by other men who then steal their money by threatening (with or without weapons) to report them to the police. Gay personals Web sites such as *Gaydar* or *Manjam* are also very popular ways of meeting people online, mostly for sex. These encounters are often highly unsafe and lead to gay men being beaten up and robbed.

The police have made vast improvements in terms of dealing with cases of homosexuality. In the near past, it was very common for police to similarly abuse or blackmail gay men who report cases of robbery or abuse and dismiss them as perverts. In recent years, largely thanks to the work of HELEM, the morality police department, known as the Hobeich police station, has become more aware of violence facing gay men, although it still happens today. In February 2009, however, a publicized gay bashing took place near Sassine square in Beirut’s Ashrafiyeh district in which two men allegedly engaging in sexual conduct in the entrance of a building were dragged out onto the Square and severely beaten. Conflicting reports surfaced over the incident and an initial report by the French-language Lebanese daily *L’Orient Le Jour* had it that the beating was carried out by security personnel, while others, including HELEM, claimed the men were assaulted by civilians. A few weeks later, HELEM, along with a number of other Lebanese NGOs, organized the Arab world’s first sit-in against violence targeting homosexuals and

other minority groups in Beirut's Sodeco square. The demonstration was a direct response to the February beatings at Sassine square.

OUTLOOK FOR THE 21ST CENTURY

While Lebanon constitutes the only country in the Arab world, along with the Occupied Palestinian Territories, that has organizations and groups serving the LGBT community, it will take a long time before LGBT people will become accepted and integrated into Lebanese society and enjoy full rights equal to those of other Lebanese. They lack formal recognition, and although there is certainly space for LGBT people in Lebanon, they are still considered pariahs by many. However, the country's active LGBT organizations, combined with the somewhat-free press and freedom of association, are promising factors for the next generation. The government appears to have implemented an unwritten policy of tolerance toward Lebanon's sprawling LGBT community, but it is important to take into consideration that the state remains weakened and often straddles pressures from religious and liberal groups. The continuous civil unrest and unpredictable political environment stall the legal battles for LGBT groups but leave room for outreach and advocacy. Lebanon's LGBT community can enjoy a certain kind of freedom in Beirut, but they remain behind closed doors in the rest of the country.

RESOURCE GUIDE

Suggested Reading

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 Arno Schmitt, *Sexuality and Eroticism Among Males in Moslem Societies* (London: Routledge, 1992).
 Brian Whitaker, *Unspeakable Love: Gay and Lesbian Life in the Middle East* (Los Angeles: University of California Press, 2005).
 J. W. Wright, *Homoeroticism in Classical Arabic* (New York: Columbia University Press, 1997).

Videos/Films

- A Jihad for Love* DVD. Directed by Parvez Sharma. New York: Halal Films, 2007. Filmed in 12 different countries and in nine languages, it is the first feature-length documentary to explore the complex global intersections of Islam and homosexuality.
- Caramel (Sukkar Banat)*. Directed by Nadine Labaki. Paris: Films des Tournelles and Roissy Films, 2007. (El Haddad, Rodney, Jihad Hojeily, and Nadine Labaki.) Caramel

portrays the everyday life and struggle of five Lebanese women working together in a hair salon. One of the characters is a lesbian.

Organizations

HELEM, www.helem.net.

Beirut-based organization that works on issues pertaining to LGBTIQ people in Lebanon.

Lebanese AIDS Society, E-Mail ab00@aub.edu.lb (Telephone +961 03 300811).

Organization that offers education for the prevention of HIV and medical assistance to those living with HIV/AIDS and conducts research on the disease among other activities.

Meem Group, <http://www.meemgroup.org/>.

Community group that provides support services to LGBTQ women in Lebanon.

National AIDS Control Program, E-mail: wholeb_nap@inco.com.lb (Tel: (961-1) 566100/1).

Lebanon's state-run HIV/AIDS program that provides medical treatment for patients living with the virus and conducts research on the disease.

Web Sites

Bekhsoos, www.bekhsoos.com.

Beirut-based online magazine for LBTQ women in the Arab world.

The Feminist Collective, <http://www.feministcollective.com/>.

Beirut-based feminist group

Gay Lebanon, <http://www.gaylebanon.info/>.

Information source on LGBT life in Lebanon

Gay Middle East, <http://www.gaymiddleeast.com/>.

Resource and news Web site on LGBT in the Middle East

The Gay Straight Alliance, <http://www.g-sail.org/drupal/?q=node/1>.

Lebanese gay-straight alliance

HELEM, <http://www.helem.net>.

Support organization for LGBTIQ people in Lebanon

Lebtour, <http://www.lebtour.com/>.

Web site offering travel services to Lebanon and the rest of the Arab world for LGBT people

Meem Group, <http://www.meemgroup.org/>.

Community for LGBTQ women in Lebanon

Sawt el-Niswa, <http://www.feministcollective.com/?q=category/5/13>.

The magazine published by The Feminist Collective

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3. Interview with Jaques Mokhbat, specialist of infectious diseases and director of the Lebanese AIDS Society, April 29, 2008.

4. Zahra Hankir, "Sex in the Classroom," *Now Lebanon*, October 20, 2007, <http://www.nowlebanon.com/NewsArticleDetails.aspx?ID=16836>.

5. Interviews with health worker Raja Farah on April 20, 2008, and Jaques Mokhbat on April 29, 2008.

6. Robert Dekoven, "Beyond the Briefs: Sex, Politics, and Law," *Gay and Lesbian Times*, May 31, 2005, <http://www.gaylesbiantimes.com/?id=4722&issue=901>.

7. John Leland, "Gays Seeking Asylum Find Familiar Prejudices in the U.S.," *The New York Times*, August 1, 2001, [http://query.nytimes.com/gst/fullpage.html?res=9806E6D81F3DF932A3575BC0A9679C8B63&fta = y](http://query.nytimes.com/gst/fullpage.html?res=9806E6D81F3DF932A3575BC0A9679C8B63&fta=y).

8. Interview with HELEM director Georges Azzi on May 5, 2008.

SAUDI ARABIA

Shivali Shah

The Kingdom of Saudi Arabia borders the Persian Gulf to the northeast and the Red Sea to the west. Slightly more than one-fifth the size of the United States, it is the largest country in the Arabian Peninsula spanning 830,000 square miles. The Kingdom's population is approximately 24 to 27 million.¹ The capital city of Riyadh is the largest city with a population of 4,700,000.² Saudi Arabia shares borders with Jordan, Iraq, Kuwait, Qatar, United Arab Emirates, Oman, and Yemen. In 1982, a land bridge, the King Fahd Causeway, was built across the Persian Gulf to connect Saudi Arabia to the island country Bahrain.

In 1992, the Kingdom of Saudi Arabia took the lead in forming the Gulf Cooperation Council (GCC), a regional collective security and economic organization. The GCC includes fellow monarchies and sheikhdoms of Bahrain, Kuwait, Oman, Qatar, and the United Arab Emirates. With the King Fahd Causeway, Saudi Arabia is now geographically connected to all the other countries in the GCC.

The modern Saudi state was founded in 1902 by Abdul Al-Aziz bin Abd al-Rahman Al Saud, a member of the "Saud" family. In 1932, after a 30-year campaign to unify the Arabian Peninsula, Ibn Saud forcibly formed a unified state from the disparate tribes. Abdul-Aziz bin Saud captured the Al-Saud's ancestral home of Riyadh and, in 1932, the modern Kingdom of Saudi Arabia was established. The leading members of the royal family choose the king from among their family, with the subsequent approval of the *ulema*.³ Today, as required by Saudi Arabia's 1992 Basic Law, a male descendent of Ibn Saud, rules the country.

The modern day nation-state of Saudi Arabia is the birthplace of Islam. It is home to the two holiest places in Islam: Mecca and



Medina, and is often referred to as The Land of the Two Holy Mosques. Islam is the national religion and religious institutions receive government support. There is virtually no separation of religion and government. The king's official title is Custodian of the Two Holy Mosques.

All Saudi citizens are Arab by ethnicity and Muslim by religion. Arabic is the national language. The vast majority of the Saudi citizens are Sunni Muslims, with a Shiite minority. In the kingdom's southwest, Shiites comprise the majority. They are resistant to the religious oppression and pressure of the official policies intended to convert Shiites to Wahhabism.

Saudi Arabia is the world's leading exporter of petroleum. Saudi's main industries include the production of crude oil and petrochemicals. The export of petroleum and petroleum derived products, including oil, accounts for more than 90 percent of Saudi exports and almost 75 percent of Saudi government revenues. Saudi is a leading producer of oil and natural gas, containing approximately 25 percent of the world's oil reserves. Though most famous for its oil exports, Saudi's industries also include cement, construction, fertilizer, and plastics.

The currency is the Saudi Riyal, which is fixed to the U.S. dollar. Since Saudi Arabia's entry into the World Trade Organization in December 2005, the Kingdom has been pursuing a path of economic reform and diversification, including the promotion of foreign investment. Long-term economic concerns include a booming population with fewer jobs, the depletion of aquifers and oil reserves, global fluctuation of oil prices, and a welfare-state economy largely dependent on its output of depleting petroleum reserves.

The Saudi military has six branches: Army, Navy, Air Force, Air Defense Force, National Guard, and a paramilitary Ministry of Interior Forces. The government spends approximately 12 percent of its GDP on military. The Minister of Defense and Aviation supervises the six branches of the Saudi military while exercising operational control. The National Security Council, or the High Defense Council, is responsible for establishing the country's defense policy. The members of the council include the king, the Ministers of Defense and Aviation, of the Interior, of Foreign Affairs, of Finance and National Economy, and the Chief of Staff of the Armed Forces. As commander in chief, the king makes all final decisions.

OVERVIEW OF LGBT ISSUES

LGBT rights in Saudi Arabia are not recognized. Homosexuality and cross-dressing are widely seen as immoral acts and are treated as serious crimes. In recent decades, there have been numerous reports of an underground LGBT community. While the government has faced criticism from human rights organizations, it insists that it is acting in accordance with Sunni Islamic morality, particularly its Wahhabi influences.

Homosexuality, cross-dressing, and sodomy are considered immoral and illegal acts. Punishment for those convicted of these acts is severe, including stoning, hanging, whipping, and capital punishment. Even those merely suspected of having committed homosexual acts are treated harshly.

Despite the persecution of the gay community, there is a vibrant underground LGBT community. Gay weddings, drag shows, gay beauty pageants, and gay cruising are all activities that many outside the Kingdom are surprised to hear take place within Saudi Arabia's borders. Areas known as stomping grounds for the LGBT

community, such as certain streets, Internet cafes, university buildings, and night clubs offer physical spaces for interaction. The sex-segregated country offers many opportunities for same-sex couples to spend time together in public as long as they maintain a platonic appearance. Technology has provided a certain freedom of information and interaction inconceivable 30 years ago.

EDUCATION

When the modern state of Saudi Arabia was established in 1932, only boys from elite families were permitted to receive religious instruction at schools in mosques, or *madrassas*, located in urban areas. Since its founding in 1953, the Ministry of Education has established thousands of primary and secondary schools, as well as colleges, institutes, and universities.⁴ Today, public education through high school is free for every Saudi citizen, both male and female. The government offers financial assistance and free housing for university-level education and subsidizes some of the related expenses such as books, transportation and meals. Female university students receive free transportation.

The Saudi government places a high value on the quality of education of its citizens and as such has increased its education spending over the years. In 2004, Saudi Arabia spent 6.8 percent of its GDP on education placing, the Kingdom 28th in the world in terms of percent spent on education.⁵ In 2006, 27.6 percent of the government's spending went towards the education of its citizens,⁶ placing Saudi Arabia fifth in the world in public spending on education as a percentage of total government expenditure.⁷

Between 1969 and 1996, the number of students at all levels of education increased from 600,000 to approximately four million.⁸ Between 1969 and 1995, the number of university level graduates rose from 808 students to 23,074 students.⁹ Saudi Arabia has a ratio of 15 students to each teacher, making it one of the lowest student/teacher ratios in the world.¹⁰

By the 2003–2004 academic year, the Ministry of Education reported that there were approximately 200,000 students attending Saudi universities and colleges, as compared to only 7,000 in 1970.¹¹ In 2006, 84.3 percent of Saudi adults were literate and 96.6 percent of Saudi youth were literate.¹² In addition to domestic education, the government provides scholarships to Saudi students to pursue graduate and postgraduate education abroad. Thousands of Saudi students are enrolled in universities worldwide, primarily in the United States.

Islam is the foundation of Saudi education and school curriculum must fully comply with Sharia Law. Within Islam, the conservative teachings of the Wahhabi movement¹³ are the basis of not only Saudi education but all other aspects of life in the Kingdom. According to Abdulla Muhammad Al-Zaid, the former Director General of Education for the western province of Saudi Arabia, spreading Islam is one of the cornerstones of the Saudi education system: “The purpose of education is to understand Islam in a proper and complete manner, to implement and spread the Muslim faith, to provide a student with Islamic values and teachings.”¹⁴ A book published by the Saudi Cultural Mission to the United States underscores the emphasis on the conservative Wahhabi movement in Saudi education, calling for a return to the fundamentals of Islam taught by the Prophet Mohammed.¹⁵

The government has been making a strong effort to increase female education levels across all levels of education, and over the decades, the education of

Saudi women has been on the rise. According to the Saudi Ministry of Education, today there are approximately an equal number of boys and girls of all age groups enrolled in schools.¹⁶ At the college level, women study among the five universities that now accept both male and female students as well as other colleges that were established exclusively for women. Women made up over half of the 200,000 students attending colleges and universities reported in 2003–2004.¹⁷ The Kingdom's commitment to education for girls is confirmed by UNESCO statistics that show female literacy rates improved over a 14-year period. Between 1992 and 2006, adult literacy for males increased from 80 to 88.6 percent, an 11 percent improvement, as compared to adult literacy for females, which increased from 57.3 to 78.4 percent, a 37 percent improvement.¹⁸ Despite the great strides made by women in education, Saudi women still lag behind other developed nations in comparison. Enrollment in secondary school for males was 70 percent, as compared to 65 percent for females in 2006.¹⁹ In 2006, 88.6 percent of adult males were literate as compared to 78.4 percent literacy among adult females. However, the statistics are higher for the younger generation: among Saudi youth, literacy is 97.7 percent among Saudi boys, versus 95.5 percent literacy among Saudi girls.²⁰ Despite the progress made, Amnesty International still finds that Saudi Arabia lags behind international standards, stating in 2001 that women are still discriminated against and are routinely denied equal educational and vocational opportunities.²¹

Traditional gender roles in Saudi Arabia also continue to limit women's educational opportunities. Women do not have access to certain subjects in school. While a Saudi man may travel abroad to pursue further studies, a Saudi woman must generally be accompanied by her husband or a male relative. In the case of a single woman, the cost of sending her abroad is compounded by the cost of sending her male chaperone, making such an option prohibitively expensive for all but the wealthiest citizens. Attending school is not a requirement and as a result, over the years, a disproportionate number of girls have been pulled out of school. In 1996, an estimated 61 percent of Saudi children attended school.

Some critics believe that the conservative religious establishment's role in forming school curriculum is not conducive to a modern Saudi workforce. According to Arab News journalist Maha Akeel, "We cannot have 80 percent of our college students graduating in history, geography, Arabic literature, and Islamic studies and we barely have enough students graduating in science, engineering or from the medical schools."²² Such critics believe that, despite oil wealth, the government is not investing money in the kinds of industries that produce jobs to employ a growing population. Others believe Saudi attitudes towards certain kinds of technical jobs are the primary culprit and the government should work on changing cultural mores. However, others state that it is Saudi Arabia's duty as conservators of the Islamic faith to teach subsequent generations the same form of Islamic lifestyle and to minimize the insinuation of Western culture. Nevertheless, the Kingdom has increased spending on training adult members of the workforce in technical and administrative areas to support the country's growing economic and social needs. The government is paying special attention to providing technical training to its citizens to address the country's shortage of highly skilled workers in technical fields. Similar to many blue-collar jobs, such white-collar job opportunities are currently filled by foreign labor as well.

Although educational researcher Dr. Al Salloom states that the Saudi curriculum undergoes regular reviews to keep up with the changing needs of Saudi society

and improves as necessary to keep Saudi students abreast of global technology, it is unlikely that changes will affect its view on homosexuality. As long as homosexuality is banned under Islam, the Saudi curriculum will not recognize homosexuality nor will Saudi universities recognize LGBT student groups. Because homosexuality is a crime punishable by death in Saudi Arabia, there are no protections for LGBT students or even LGBT student groups at the secondary school or university level. Students do not participate in LGBT-related activities in the organized fashion that their Western counterparts would.

These official restrictions, however, do not mean that there is not a gay community among Saudi students. Though there is no visible LGBT activity, there are many reports that gay and lesbian students clandestinely enjoy an active social life. Because all secondary schooling and much of university level schooling is sex segregated, men and women spend all the time they are not among family members, with members of the same sex. Some argue that so much time spent with members of the same sex facilitates gay and lesbian exploration. *Okaz*, a Jeddah-based Arabic-language newspaper, reported that lesbianism was endemic among school-age girls. The article revealed accounts of lesbian sex in the girls' bathroom, with some girls stigmatized for refusing the lesbian advances of other female students, and teachers expressing displeasure that the students involved were unwilling to change behavior.²³

Such activities are even more prevalent at the university level where students are older, more mature, and are living in the dormitories. It is unusual for Saudi women to live outside the home of their father or husband. As a result, female dormitories are heavily secured, with the movements of the women extremely restricted. Saudi blogger Sabria S. Jawhar reports of unsafe and bleak conditions in Saudi dormitories. From Thursday night to Saturday morning,²⁴ Jawhar reports, "we would be locked up in our dormitories as prisoners. . . The steel doors at the bottom of the stairwell that led outdoors were padlocked and an elderly man would guard it in case a crook wanted to break in and attack us."²⁵

While ostensibly such measures are to protect the women's virtue and isolate them from the opposite sex, it also leaves them with little to do. A Saudi woman interviewed gave accounts of lesbian activities in the dormitories, as she said, just to explore their sexuality. Farrah,²⁶ remembers that she and her room partner would sometimes engage in what she understands now to be lesbian activities for lack of other activities and other outlets for their sexual energy. Though happily married to her childhood sweetheart, she says that she was fortunate to have had the opportunity to explore her lesbian tendencies during the one time in her life that she was not living with family members. "If I did not have that chance, I would have always wondered if I would like women better," Farrah said. Farrah also recalls that the girls who lived in the dorms had code words for different sexual activities that they would engage in with one another, and only those considered open-minded enough would be let in on their meanings, whether that person was gay or not.

In *The Atlantic's* magazine article, "Kingdom in the Closet," by Nadya Labi, several students reveal a gay community in their schools that helped them explore their blooming sexuality:

When Yasser hit puberty, he grew attracted to his male cousins. Like many gay and lesbian teenagers everywhere, he felt isolated. "I used to have the feeling that I was the queerest in the country," he recalled. "But then I went to high school and discovered there are others like me. Then I find out, it's a whole society."²⁷

Labi's only source that would openly speak of her lesbian relations was Yasmin,²⁸ a 21-year-old student, who had briefly had a lesbian sexual relationship with a girlfriend. She recounted how one of the buildings at her college was well-known as a lesbian enclave:

The building has large bathroom stalls, which provide privacy, and walls covered with graffiti offering romantic and religious advice; tips include "she doesn't really love you no matter what she tells you" and "before you engage in anything with [her] remember: God is watching you." In Saudi Arabia, "It's easier to be a lesbian [than a heterosexual]. There's an overwhelming number of people who turn to lesbianism," Yasmin said, adding that the number of men in the kingdom who turn to gay sex is even greater. "They're not really homosexual," she said. "They're like cell mates in prison."²⁹

Despite reports of an underground gay scene at the university level and some forms of acceptance at the secondary school level, the majority of gay students in Saudi Arabia live in silence. As long as public behavior remains platonic, they are left alone, mostly because they are invisible. For students who seek to express transgender or transvestite tendencies, however, there is no public outlet. Any behavior that subverts the conventional male/female dichotomy in appearance, manner, or dress is prohibited and therefore, only done in private.

EMPLOYMENT AND ECONOMICS

Saudi Arabia is the world's largest exporter of petroleum possessing approximately 25 percent of the world's petroleum reserves. The government controls most aspects of this oil-based economy. Their economy is centrally planned with a limited number of tightly regulated private companies, including some multinational corporations. In addition to oil, Saudi Arabia also has a strong natural gas industry. In 2007, the Saudi budget recorded a surplus of approximately US\$47 billion.

Though oil was discovered in the 1930s, Saudi Arabia did not begin large-scale extraction and production until the 1950s and 1960s. Economic development was funded by accelerated influx of wealth from oil exports in the 1960s and 1970s that converted a country of nomads and small-scale farmers to international businessmen in the span of several decades. Income from oil export comprises over 90 percent of the Kingdom's exports and over 75 percent of the government's GDP.

Prior to the discovery of oil, Saudi Arabia traditionally relied on income from agriculture and fishing. Today, these industries employ less than 10 percent of the population.³⁰ Though it must import most of its food and other consumables, Saudi Arabia has an export surplus exceeding 100 percent. Government revenues from the oil trade fund economic development within its own borders, as well as provide aid to other Arab and Islamic countries. The majority of food and other consumer items are imported from other countries. Though Saudi Arabia heavily relies on trade, their role in OPEC and vast oil reserves makes them a desirable trade ally.

The Organization of Petroleum Exporting Countries (OPEC) was founded in 1960 to unify the major producers of oil in the international arena. Currently OPEC is comprised of 12 countries: Algeria, Angola, Ecuador, Iran, Iraq, Kuwait,

Libya, Nigeria, Qatar, Saudi Arabia, the United Arab Emirates, and Venezuela. Saudi Arabia has always played a leading role in setting and leading campaigns within OPEC and enforcing OPEC policy. As a result, Saudi Arabia has always been viewed as a desirable trade ally, despite its perceived human rights violations.

The government of Saudi Arabia will not release the numbers regarding their oil reserves. There are a certain number of proven petroleum reserves, but the actual number is kept a government secret, but is acknowledged to be a finite amount. As a result, in recent years, the government has been encouraging diversification of its economy through expanding into nonenergy sectors such as light manufacturing industry, telecommunications, natural gas exploration, and petrochemicals. In 2005, Saudi Arabia became party to the World Trade Organization in an effort to draw in foreign investment and diversify its economy.

Between 2005 and 2007, King Abdullah bin Abdulaziz Al Saud has funded the creation of six new economic cities. These cities, to be created from the ground up in otherwise unused desert lands, and will offer diverse investment opportunities for foreign and domestic corporations. The cities will offer investment opportunities not only in the petrochemical sector, but also in steel, plastic, glass, ceramic, transportation, and even education industries.³¹ Amr Dabbagh, Governor and Chairman of the Board of Directors of the Saudi Arabian General Investment Authority (SAGIA) stated that “[t]he impact of these six economic cities by 2020 is \$150 billion in contribution to GDP growth, 1.3 million jobs to be created, and to accommodate 4.8 million of the total population.”³²

Despite Saudi Arabia’s fast economic growth, the high unemployment rate is of great concern to the government.³³ At the end of 2006, Minister of Labour Ghazi Al-Gosaibi announced that Saudi Arabia’s official unemployment rate was nine percent for men and 22 percent for women.³⁴ In 2008, Saudi male unemployment was at 12 percent, according to local bank estimates, with others placing it as high as 25 percent.³⁵ The economic cities, along with other government ventures, anticipated foreign investment, and growth in the private sector will create employment for a swelling population. The current population generally lacks the education and technical skills the private sector needs, and the private sector goes to foreign workers to meet its labor needs. With approximately 40 percent of its population under 15 years old, the Kingdom faces a situation in 10 years of having a large, well-educated, but unemployable fleet of Saudi men with nothing to occupy their time. In addition to unemployment creating economic instability, there is an increasing concern that a growing population of unemployable Saudi men will create fertile ground for the rise of religious fundamentalism. Approaching large groups of disaffected, unemployed, and bored youth is a common recruitment strategy for terrorist organizations.

Saudization is another plan to combat unemployment by reserving certain jobs for Saudi nationals. Saudi’s Ministry of Labour and Social Affairs has placed a restriction on about forty kinds of positions to Saudi nationals. These jobs include taxi drivers, training and purchasing managers, public relations officers, administrative assistants, secretaries, operators, debt collectors, customer service accountants, tellers, postmen, data handlers, librarians, booksellers, ticket kiosk keepers, auto salesmen, janitors, internal mail handlers and tour guides. Such plans have met with mixed results in other Gulf countries that have tried to implement their own plans favoring their citizens. The private sector in the Kingdom is very resistant to Saudization since it is widely believed by employers that “Saudis are more expensive

and less productive than non-Saudis.”³⁶ A combination of cultural attitudes, as well as lack of appropriate skills in its local workforce, make Saudization an unattractive prospect for employers who can find a hard working skilled worker from another country rather than having to train a local citizen.

Many employers skirt the law by paying Saudi nationals to be on the employer’s payroll to meet their quota and then by requesting them to remain at home so as not to lower the work ethic at the worksite. There are numerous penalties for subverting this law including fines and bans from applying for government loans and services, however, the financial disincentives are still very high.

The government has increased spending on job training, infrastructure development, and government salaries. It is also working to change attitudes about the kinds of professions Saudis find culturally suitable. Many of the growing industries that require skilled labor are considered appropriate only for foreign workers. Organizations such as ALJ Group are working to change popular attitudes about Saudis performing manual labor and blue collar jobs.

Both the government and private sector prohibit the interaction of men and women in the workplace. Because of the sex-based segregation, even those women allowed to work outside the home are extremely limited in the fields in which they may take up employment. Saudi women primarily work either for the government in clerical positions, work in health care as nurses, lab technicians, and a very few become doctors or teachers. In all cases, they are interacting only with other females.

In 2008, Deputy Labor Minister Abdul Wahid Al-Humaid stated that the high unemployment among college educated Saudi women is due to social factors and the fear of employers that employing women is expensive.³⁷ Social factors include the fear that having women in the workplace will have a negative impact on the morality, not only of the female workers but the male workers as well. Despite sex-segregated workplaces, the fear of immorality still remains as more women travel outside the home and have opportunities to interact with men to whom they are not related. Recently, the Ministry of Labor enacted regulations allowing women and men to interact in government offices. It is possible that the private sector will follow.

The Saudi government has set aside a large budget for the establishment of advanced vocational academies with the aim of developing Saudi human resources, including training women for vocational occupations. Organizations such as ALJ Group based in Jeddah offer loans to women-run enterprises, opening up avenues that were inconceivable to entrepreneurial women 10 years ago. In 2008, the Public Institution for Vocational Education announced that it would train more than 120,000 women in car mechanics during the next seven years, among other vocations. Such programs, in addition to employing women, help to change cultural attitudes.

Though there are few Saudi women in the workplace, the Shura Council is committed to enacting sexual harassment laws to protect women in the workplace. The Shura Council was created, in part, to address gaps in legislation facing an ever-changing social climate in the country. It is “an institution intended to allow citizens to participate directly in the country policies administration, planning for them, and following up the performance of its agencies. The Shura Council is the place to exercise the multiplicity of opinion, through practicing its tasks and duties with greater openness, objectivity in debate, and aiming at the general welfare of

the country and the citizen.”³⁸ There was much excitement in the Arab and international media in 2008 and 2009 with the announcement of a possibility of legally mandated protection for women against workplace harassment.³⁹

A wide range of jobs along the socioeconomic ladder are occupied by foreign workers. Professions range from blue-collar work, such as manual labor, construction and domestic work to skilled tradesmen to doctors, nurses, and corporate executives.

The largest sub-population hails from South Asian countries, with an estimated 1.5 million Indians, 1.5 million Bangladeshis, 1 million Pakistanis, 350,000 Sri Lankans, and 400,000 Nepalese. Coming from eastern and southeastern countries are 1.2 million Filipinos, 600,000 Indonesians, as well as Thais and assorted others. Other Middle Eastern countries and North African countries provide a sizeable population with estimates of 1 million Egyptians, 250,000 Palestinians, 150,000 Lebanese, and 100,000 Eritreans, among others. Western Europeans, Canadians, and Americans make up the smallest percentage and typically occupy white-collar professions. There are an approximate 30,000 Americans in Saudi Arabia, with many working for Aramco.

While there is no official protection from workplace harassment for persons who present a nonheterosexual gender identity, the one place where there have been reports of de facto acceptance is among Filipino men in the beauty industry. Hairdressing and related beauty treatments such as facials and massage are considered inappropriate professions for Saudis in general.⁴⁰ Because it is perceived as a feminine trade, Saudi men generally steer away from beauty and related care professions. Because it is considered low-skilled work, it is considered inappropriate for Saudi women. Most professions in the beauty industry are practiced by foreign workers. There have been reports that Filipino feminine-leaning men, whether gay, bisexual, transsexual, transvestite or straight, have been generally left alone as long as perceived deviant sexual behavior is not apparent. Because of the perceived feminine nature of hairdressing and related professions in the Arab world, gay Filipino men in these fields are not seen as threatening and are the most visibly gay of any members of the LGBT community in the Kingdom.

Because homosexuality is illegal in Saudi Arabia, there are no figures on the LGBT population within the workplace or their role in the economy. There are currently no protections for members of the LGBT community who are fired, paid less, or looked over for advancement on the basis of their sexual orientation. An employer is not only allowed to fire a gay employee, but can later subject them to extortion and blackmail. Same-sex unions, domestic partnerships or civil unions officiated in other parts of the world do not have legal standing in Saudi Arabia. In fact, evidence of such unions can be used as the basis for criminal proceedings.

While there is a movement towards protecting women from harassment in the workplace by men, it is unlikely that such laws will ever extend either as written or in their application to protect men, whether homosexual, bisexual, transsexual, transvestite or otherwise, from harassment by men on the basis of sexual or gender orientation. At best, such cases could be prosecuted as pure assault and battery. It is equally unlikely that future workplace harassment laws would extend in application to protect women who are being harassed for apparently flouting gender norms from similar type of harassment from other women. However, individual members of the LGBT community will be unlikely to pursue prosecution of perpetrators of gender based hate crimes at work for fear that their own sexual orientation would

come into question. The consequences for being labeled queer of any form, whether real or merely perceived are very severe in the Kingdom.

SOCIAL/GOVERNMENT PROGRAMS

The various ministries, as well as the royal family of Saudi Arabia, are working hard to take the Kingdom into the 21st century. The Shura Council, for example, was created, in part, to address gaps in legislation facing an ever-changing social climate in the country. The Shura Council has been a modernizing force in the Kingdom with respect to women's rights.⁴¹ Apart from women, other social groups, including members of the LGBT community, are not served by social or government programs. Current penalties for perceived homosexual activities range from imprisonment, fines, corporal punishment, and execution. As a result, there are no government programs specifically for members of the LGBT community in Saudi Arabia.

HIV/AIDS has only recently been recognized as a problem in the Kingdom. Saudi citizens infected with HIV/AIDS are provided free medical care, including expensive antiretroviral drugs that cost approximately 10,000 Saudi Riyals or US\$2,700 per month.⁴² Until the late 1990s, information on HIV/AIDS was not widely available to the public, but this has started to change in the last 10 years.

Starting in the late 1990s, Saudi Arabia began to recognize World AIDS Day. The government permitted hospitals and newspapers to disseminate information about the disease. Condoms are available in hospitals and pharmacies, and in some supermarkets as well. According to the Ministry of Health Spokesman, Khaled Marghalani, the Ministry's National AIDS Control Program promotes awareness of HIV/AIDS with approximately 2,000 health centers throughout Saudi Arabia by distributing flyers, putting up posters and educating people.⁴³ The Saudi government also passed legislation that protects the privacy of Saudi citizens who are ill and furthermore, guarantees their right to work.

While these measures provide some relief and protection for Saudi patients infected with HIV/AIDS, most public and private hospitals will refuse to treat infected patients. Many hospitals and health care workers also refuse to distribute information published by the government about the disease, mainly because of the social stigma attached to the virus.⁴⁴ The Saudi Arabia Country Office of the United Nations Development Programme (UNDP-SA) engages in a wide range of activities to help curb the spread and treat those already infected with HIV/AIDS. UNDP-SA has three specialized centers for HIV/AIDS treatment located in the capital Riyadh, as well as in Jeddah and Dammam.⁴⁵ It also assists the HIV/AIDS Regional Programme in the Arab States (UNDP-HARPAS) in its work in the Arab region. Activities include awareness workshops and conferences. The Riyadh office has also conducted AIDS workshops for teenagers.⁴⁶

Currently, the UNDP-SA supports the Kingdom's programs to keep accurate records of reported cases and promote health education and awareness. A range of information programs disseminates information about HIV/AIDS, methods of transmission, and preventive measures. The UNDP-KoSA sponsors public service announcements that are broadcast across television stations in the Arab region, including in Saudi Arabia.⁴⁷ The preventive programs also include surveying at-risk groups, ensuring safe blood transfusions, and testing of foreign workers.⁴⁸ Though members of the LGBT community are considered to be at-risk for contracting

HIV/AIDS, because homosexuality is forbidden in Saudi Arabia, homosexuals are not being surveyed or specifically targeted for preventive programs.

Provisions that protect or treat HIV/AIDS patients only apply to Saudi citizens. To prevent the spread of the virus and to curb the country's health care budget, foreign workers are required to undergo a government-controlled medical examination prior to being issued residency and work permits. In addition to a general health check to flag serious infectious diseases and infirmities, the exam is particularly given to check for HIV and AIDS. The test must be retaken at the time of a visa renewal, usually on a three-year cycle. If a foreigner is found to be positive for the HIV virus or AIDS, entry and visa applications are denied.⁴⁹ Foreign nationals already living in Saudi Arabia discovered to be infected with HIV or AIDS are soon deported to their country of origin, sometimes preceded by a period of imprisonment.⁵⁰

SEXUALITY/SEXUAL PRACTICES

Islam, and consequently Saudi society, strictly prohibits nonmarital sex, premarital sex, extramarital sex, and homosexuality.

Chastity, as well as modesty, are highly prized virtues for men and women in Saudi Arabia. While Western media tends to focus on the government enforced veiling of women in public, there is less attention on the fact that even men are to be covered in public. When male children enter puberty, parents teach them to wear the traditional three-piece head covering as a sign for entering manhood. Both men and boys are taught to wear the *thawb*, a loose-fitting ankle-length robe that is typically white and nearly covers the entire body. Young Saudi men are taught to wear loose fitting clothing, whether the traditional Saudi style or Western. They are discouraged from wearing clothing that is too revealing of their physical form including jeans that are too tight or shirts that are low cut, too tight, or otherwise too revealing. Saudi's religious police does not, however, pursue men not adequately covered as rigorously and the requirements are not as all encompassing for men as they are for women.

Veiling women and maintaining sex segregation outside the home are both mechanisms to reinforce and ensure chastity. The only place that sexuality is to be expressed is within the confines of a heterosexual marriage. Because homosexuality is not recognized as a context in which to express sexuality, same-sex sexual relations are also prohibited as being an expression of sexuality outside of marriage.

Women are required to be kept separate from unrelated men. As a result, whenever a woman travels outside the home, she must be accompanied by a male relative or male servant to mediate her interactions outside the home. As an extension of this principle, women are not allowed to drive in Saudi Arabia, though this is mostly enforced in the urban areas. A Saudi woman's dependence on the men in her life to be the intermediaries between her and the outside world continues to perpetuate the patriarchal nature of Saudi society, which places a higher value on her chastity than on the man's chastity.

Arabic literature has a long history with homoerotic poetry as well as prose.⁵¹ Many Islamic jurists have devoted ink to the condemnation, regulation, and prescription of punishment for male homosexuality in the Muslim world.⁵² However, the Saudi government, as well as its clergy, denies the presence of homosexuality in the Kingdom. They promote the perception that Saudis only engage in

heterosexual sex and only in the context of marriage. As a result, it is difficult to obtain statistics on sexual practices among the LGBT community in Saudi Arabia as distinct from other parts of the Muslim world.

Ironically, the Kingdom's narrowly construed separation of the sexes, allows homosexuals more freedom than heterosexuals. Some report that because Saudi Arabia is sex-segregated, "It's a lot easier to be gay than straight here."⁵³ It is forbidden for a man and woman who are not related to be traveling alone or even spending time together in one of Saudi Arabia's many modern urban oases: the mall. The religious police will harass or even take in for questioning two people of the opposite sex for spending time together. Two people of the same sex spending hours at a time in public will raise no eyebrows as long as their relationship appears platonic.

Labi reports a phenomenon among homosexual Saudis common in communities as well. Many of the men who have sex with another man do not consider themselves homosexual or gay. As long as they are the one in the dominant position "giving," the gender of the person on whom they are performing is immaterial.⁵⁴ In this definition of homosexual, the importance is on the relative position of the actor, not on the orientation of the actors.

Some say that the strict gendered segregation even encourages homosexuality. A gay man told John R. Bradley, author of *Saudi Arabia Exposed: Inside a Kingdom in Crisis* (2005), that he feels quite free to express his homosexuality in public: "We have more freedom here than straight couples. After all, they can't kiss in public like we can, or stroll down the street holding one another's hands."⁵⁵ Similarly, because women are confined to interacting mostly with women or male relatives, two women spending hours together and even sleeping in the same room or same bed in a home would not attract as much attention as, for example, an unmarried heterosexual couple.

Most Saudi men are not allowed contact with females outside their families, even after marriage. Even the yet to be married men who identify as heterosexual may engage in gay sex as a way to explore their sexuality without risking a woman's purity, jail, pregnancy, and his family's honor.

"Tariq," a 24-year-old in the travel industry, explains that "many 'tops' are simply hard up for sex, looking to break their abstinence in whatever way they can."⁵⁶ Labi's report confirms a practice in Saudi Arabia that is common in other parts of the world, where a heterosexual man engages a homosexual man, transvestite, or transsexual, for sex during the times when his wife cannot provide sex: Francis, a 34-year-old beauty queen from the Philippines, reported that he's had sex with Saudi men whose wives were pregnant or menstruating; when those circumstances changed, most of the men stopped calling. "If they can't use their wives," Francis said, "they have this option with gays."⁵⁷

Often heterosexual Saudi men will engage in such temporary relations to meet a short-term sexual need or sexual exploration with expatriates to insulate themselves from gossip. Western men will be approached for their apparent open mindedness and experience. Asian men may be approached for the perceived stereotype of their submissiveness or effeminate nature, relative economic disempowerment, and discreetness. In situations where two Saudi men engage in homosexual relations, it is more likely that they are in a relationship offering other relationship benefits such as companionship and emotional support rather than a purely utilitarian relationship.

There are a variety of forums in Saudi Arabia in which Saudi gay youth express their sexuality. The Internet offers the modern Saudi young adult a wide array of information in a private setting. Saudi youth, similar to youth the world over, rely on media and communicating with friends and family members to learn about sexual practices, both heterosexual and homosexual. The university has been a typical site of sexual learning and exploration for youth everywhere and Saudi universities are no exception.

FAMILY

According to the Saudi Constitution, “the family is the kernel of Saudi society, and its members shall be brought up on the basis of the Islamic faith, and loyalty and obedience to God, His Messenger, and to guardians; respect for and implementation of the law, and love of and pride in the homeland and its glorious history as the Islamic faith stipulates.”⁵⁸

Being a Muslim, a family member, and a Saudi are the three most important conceptualizations of the self for a Saudi citizen. Family is essential in transmitting and preserving culture and values in Islam.

Despite trends towards modernization, the family, both nuclear and extended, is still the core of Saudi society. Unlike Western families where the role of the nuclear family has become dominant with limited interactions with the extended family, Saudis enjoy a vibrant extended family life. The extended family for many Muslim communities, including Saudi, usually includes aunts, uncles, nieces, nephews, grandparents, great grandparents, in-laws, and cousins. Individuals are often identified through their relationships with family members. One’s individual identity can hardly be divested from their place in their extended family. These relationships are reinforced through a combination of social mechanisms. More traditional families live in close proximity or share a family compound or a single house. The Muslim lifestyle provides for frequent meetings at religious ceremonies such as weddings and funerals and related social gatherings such as the breaking of the fast during Ramadan. Extended family relationships are vibrant and part of the fabric of daily life, rather than reserved for special occasion, as evidenced by a small child scarcely perceiving a distinction between her own sibling and a cousin. Oil wealth and Westernization has lessened the centrality of the extended family to an extent. Though social patterns and behaviors may change with time, the fundamental strength of Islamic social values will continue to keep the concept of family as a core value in Saudi life.

In the tribal days of the Arabian Peninsula as well as today, Saudi families are patrilineal, with membership in a family derived from lines of male descendants. While relationships with maternal relatives are important, family identity is established through the father.

Marriages are still mostly arranged. Dating is discouraged, as socializing with unrelated members of the opposite sex is not permitted. The more modern semi-arranged marriage allows the young groom or bride-to-be the freedom to select among a discrete set of choices preapproved by the family.

Marriage is a civil contract, which is signed by witnesses, and for which a stipulated amount of money, called the *mahr*, is paid by the husband to the wife. Divorce is typically initiated by the husband. The marriage contract could also include other stipulations such as the wife’s right of divorce if the husband were to take on a second wife or an additional amount to be paid in the event of divorce.

The wife usually keeps her maiden name as well as maintains control over her personal property as per Islamic law. In Saudi Arabia, such provisions in the law were an indication of a woman's independence within the marriage. If a woman were to divorce, her closest male relative, often her father or eldest brother, would be responsible for financially supporting her.

Under Islamic law, men are allowed to marry up to four wives. Polygamy is more common among more the religiously conservative, those from the more rural areas, among the tribal or tribal-leaning communities, as well as the royal family. Though polygamy is legal and practiced in Saudi Arabia, it is a thing of the past among the educated, more Western-oriented elite.

Consanguinity, marrying within one's extended family, has been a common practice in the pre-Islamic Middle East for centuries. Intermarrying was primarily a mechanism to preserve family resources by keeping dowries and inheritances within the same bloodline. Even Mohammed's daughter married her first cousin, a well-respected imam. Its practice in the time of the Prophet has reinforced its place in Saudi society. Saudi Arabia has the highest rate of intermarriage with an approximate 55 to 70 percent of Saudis marrying their first or second cousin.⁵⁹ Some medical researchers posit consanguinity as the primary reason for certain genetic diseases occurring in rates almost 20 times higher than in other populations in which consanguinity is not practiced.⁶⁰ As a result, some Wahhabi clerics and Saudi government programs have begun to dissuade citizens from intermarrying by educating on the potential health risks as well as encouraging premarital blood tests.

Under Islam, the definition of marriage is limited to a union between a man and a woman. As homosexuality is forbidden under Islam and Saudi law, Saudi Arabia does not recognize same-sex marriages, including ones formed legally in other countries. Because of the strict sex segregation, same-sex couples sometimes find it easy to live together under the radar of the religious police and their own family members.

However, marriage is such an important institution in Saudi society, that a man or woman who is single for too long may also raise inquiries. Saudi society places a premium on having children and grandchildren that the pressure to marry for young gay men and women is immense. Some members of the LGBT community will comply with a family request to marry and start a family, while keeping a same sex liaison on the side. Because of the strict sex segregation in Saudi Arabia and the denial of homosexuality among Muslims, same-sex extramarital affairs are often easier to keep secret for years than heterosexual affairs. Others will enter a heterosexual marriage and give up the chance to express that side of themselves.

A society so conservative as to be slow to change consanguinity practices, despite recorded health risks, will not embrace a union between two members of the same sex for the foreseeable future.

COMMUNITY

Despite the rigid strictures and high cost for being caught, there are still reports that gay life in Saudi Arabia is vibrant. In "The Kingdom in the Closet," Nadya Labi reports that "the kingdom leaves considerable space for homosexual behavior. As long as gays and lesbians maintain a public front of obeisance to Wahhabist norms, they are left to do what they want in private."⁶¹ In the more modern cities of Riyadh and Jeddah, individuals report that one can be picked up any time of the day.⁶²

There are various manners in which homosexual activity takes place within the strict conservative lifestyle in the Kingdom. In addition to such interactions taking place through one's existing networks, there are clubs in the larger cities, particularly in Riyadh and Jeddah, which very discreetly have an unadvertised gay night. Information on such activities is highly exclusive because of the danger to the attendees as well as the club owners. Certain nightclubs are known for being exclusively gay or gay-friendly. Because of the sex segregation, some clubs will have all women disco nights to which some of the more conservative families will feel comfortable allowing their daughters to attend. These are often perfect covers for lesbian activity, without raising the suspicion of the religious police.

With the prevalence of the Internet and the relatively high standard of living among Saudi nationals, many gay Saudi nationals are able to find a queer community on the Internet. Students use the Internet to find friendship and opportunities for discussion and in-person meetings.

In past decades, a Saudi looking for a gay community had to be fluent in English to access the Western LGBT community. Now, the plethora of Arab and Muslim Web sites, online chat rooms, and listservs allows Saudi gays to find a community closer to home, and in Arabic. Many of these sites do not specifically divide themselves by geographic borders, but Saudi students participate in these just as students and other young people from other conservative Muslim countries. Though still behind hipper neighboring countries such as the United Arab Emirates, Egypt, and Jordan, in recent years, there has been an increase in gay Saudi Web sites. Some of these Saudi-based sites are specifically designed to help gay Saudis find each other and enable in-person meetings. Internet cafes dot the cities, with some Internet cafes themselves achieving notoriety as locations for singles in the LGBT community to meet.

Government censorship is commonplace. Web sites with content considered un-Islamic are blocked to those accessing the Internet from within the Kingdom. Not limited to homosexual content, there are a wide range of Web sites that are blocked by the government. The censors block these sites within Saudi borders, but software to bypass the government blocks online is easy to procure. Additionally, there are reports that the blocks on some gay Web sites in Saudi Arabia have been lifted by the government amid an international uproar over the 2002 public beheading of three men convicted of homosexuality, rape, and sodomy.⁶³

While there are no university clubs that sponsor LGBT activities, some of the Saudi universities are hot spots for gay activity. Whether the student lives in the dormitory or commutes from home, the relatively open environment of campus life affords many young Saudis, both homosexual and heterosexual, a preliminary opportunity to interact with peers without heavy parental or teacher supervision. The universities are also sex-segregated, which again offers opportunity for same sex relationships to go unnoticed.

HEALTH

Saudi Arabia has a national health care system that provides health care free-of-charge to all its citizens. Approximately 11 percent of the Saudi budget is spent on public health care. The government's contribution constitutes 80 percent of all health spending in the Kingdom. The Ministry of Health and increasingly private industry provide a wide range of preventative, rehabilitative, and curative forms

of care. The Red Crescent Society provides emergency services all year round and takes on the task of providing emergency health care services for pilgrims during the *Hajj* and *Umrab* at the holy cities of Mecca and Medina.

Employers sponsoring the work visas of foreign workers are required to cover their necessary health care costs. Approximately 70 percent of expatriate health care costs are covered by the employers, with the balance paid for by the employee out-of-pocket.

For many years, the Saudi government has treated the country's number of HIV/AIDS cases as though it were a shameful national secret. In 2003, the Saudi Ministry of Health finally began releasing numbers, reporting that there were 6,700 people infected with the HIV virus or AIDS. In 2004, the Ministry reported 7,800 cases. In 2006, the number of HIV/AIDS patients rose to more than 10,000 cases. This number includes approximately 600 children.⁶⁴ Officials account for this increase by better reporting practices. Other doctors, however, state that the actual number is likely to be significantly higher in a country with a population of over 27 million. One physician who regularly treats HIV/AIDS patients estimates the real number to be closer to 80,000 cases in Saudi Arabia.⁶⁵

Because of Islam's ban on nonmarital sex and intravenous drug use and because of Saudi citizenry's relative adherence to the tenets of Islam, the prevalence of HIV and other sexually transmitted diseases is expected to be low. In mosques, imams warn their congregations that AIDS is the "wrath of God" brought upon those who commit sexual deviancy.⁶⁶ Consequently, public education on HIV/AIDS and sexually transmitted diseases only focuses on contracting diseases by heterosexual methods or through blood transfusions.

According to the United Nations Development Programme, 78 percent of HIV/AIDS patients are infected through sexual intercourse. Approximately 22 percent contracted the infection through blood transfusions, sharing of needles, and mother-to-child transmission. Men represent three quarters of the cases. Almost four out of five patients are between 15 and 49 years old.⁶⁷ Approximately four out of five heterosexual women infected in the Arab world in general are infected by their husbands.⁶⁸

Approximately three-quarters of those infected with HIV/AIDS in Saudi Arabia are foreign workers.⁶⁹ Foreigners are not eligible for the government sponsored free health care and once found to have contracted the virus, are deported from the country. The harsh deportation policy of foreign HIV/AIDS patients decreases reporting by foreign workers and strengthens the cloak of silence around the disease.

Though the government has recently begun to implement programs to educate the public about HIV/AIDS, the social stigma and religious taboos around sex and sexuality depresses efforts to curb its spread. The stigma attached to the transmission of the disease contributes to the fact that few public and private hospitals do not offer the free health care services to HIV/AIDS patients paid for by the government. In the government sponsored public education campaign, there is no mention of safe homosexual practices in the prevention of the spread of AIDS. Furthermore, many Saudis view HIV/AIDS as a foreign disease and thus feel less vulnerable to it.

Because of the fear of persecution, there are no available statistics on what percentage of the LGBT population is infected with HIV/AIDS in Saudi Arabia or what percentage of the HIV/AIDS population is gay.

POLITICS AND LAW

The political history of Saudi Arabia is an integral part of the history of the Middle East. By the middle of the 18th century, the House of Saud had joined the Wahhabi sect. In the 1700s, the Wahhabis were a militant and puritanical branch of Sunni Islam. In the early 1900s, with Wahhabism as a catalyzing force, the members of the Al-Saud Dynasty conquered the provinces on the Arabian Peninsula by military force. In 1932, the modern-day Kingdom of Saudi Arabia was established by King Abdulaziz bin Abdulrahman Al-Saud. The Kingdom was built and the provinces unified with Wahhabism as a fundamental pillar.⁷⁰ Though today Wahhabism is not as strictly practiced as it was in the 18th and 19th centuries, the Wahhabi doctrine still has considerable influence on modern Saudi life.

The Saudi Constitution provides that the Qur'an and the Sunnah comprise the substantive constitution of the country.⁷¹ Sharia Law is the basis of governance. Article 3 of the Constitution provides that "The Allegiance Institution will abide by the teachings of the Qur'an and the Sunnah. It will also preserve the state's entity, protect the Royal Family's unity and cooperation as well as the national unity and the interests of the people."⁷²

Saudi Arabia's central political institution is its monarchy. In 2006, the Allegiance Institution was established allowing a committee of princes to vote on the eligibility of future kings and crown princes.⁷³ The committee is comprised of the sons and grandsons of King Abdul Aziz. The committee members vote for one of three princes who are nominated by the acting king.

No political, social, religious, or civic group could openly support LGBT rights or the LGBT community in any form without fear of persecution. The Green Party of Saudi Arabia, which promotes the worldwide Green Movement, is the only political group in the Kingdom that has defended LGBT rights. They have also called for the emancipation of women and a greater awareness of gender identity and sexual orientation that goes beyond the binary male/female conceptualization. Because political parties are forbidden, the Green Party of Saudi Arabia is an underground organization functioning outside the bounds of the law. It includes Saudi residents as well as expatriates. Their Web site, including their position papers, is blocked from Internet users in Saudi Arabia.

Sharia Law

The Prophet Mohammed taught Islam as a way of life, governing all aspects of spiritual, interpersonal, and political interactions. As a result, traditional Islam does not recognize a separation between religion and politics, nor does it make a distinction between religious law and secular politics. Sharia dictates rules on one's spiritual and ritual duties, as well as rules of a social, political, and judicial nature, including family law and criminal law. It is divinely ordained and cannot be mutated by the will or intelligence of its followers.

Sharia Law was developed in the first 400 years of Islam by recognized Islamic scholars and clergy to serve as a comprehensive system of laws and principles by which Muslims are to lead their lives. Common sources to all countries' version of Sharia is the Qur'an and the Sunnah.⁷⁴ Certain laws are then developed by Islamic scholars, lawyers, and well-established imams. Some laws are considered divine, universal, and timeless, for example, the restriction on drinking alcohol.

Sources of Sharia Law vary among Muslim countries and among sects within Islam. For Sunni Muslims, Sharia can also include popular consensus within a community or state as a secondary source where permitted by the primary sources. In instances where there is no established rule for a particular situation, Islamic scholars use *qiyā*, a system of logical reasoning, including by analogy, to come to a decision. Shi'a Muslims, however, have a different approach, for example, rejecting the validity of reasoning by analogy and community will in determining Sharia Law. Local customs and pre- and post-Islamic cultural norms within a particular country often determine Sharia Law. Though some strict constructionist Islamic scholars will debate the validity of this source, more often than not, well-established cultural practices in a community enjoy institutional support regardless of its mention in the Qur'an or Sunnah.

While commonly accepted cultural practices within subcultures of Islam have the opportunity to be incorporated into the Sharia over time, specific practices that are unique to the LGBT community will not be included in the foreseeable future. Because homosexuality is banned in Islam, recognition of practices particular to the LGBT community cannot rise to the level of commonly accepted practices.

Most countries in the Middle East, Asia, and North Africa with majority or significant Muslim populations maintain a secular court system as well as a religious court system. Saudi Arabia, among a few others including Iran, however, has one religious court system that regulates all areas of jurisprudence under Sharia.

Freedom of Speech and Press

Freedom of the press and freedom of speech are not available in Saudi Arabia. All forms of media, as well as private speech, are regulated. Individuals have even been known to be imprisoned for statements made in small private gatherings. Internet, satellite television, radio, and other forms of communication from the outside world are strictly censored. Access to content considered un-Islamic is restricted. Even wire-tapping of phone lines, which are government controlled, is a common concern for human rights activists in the Kingdom.

Saudi and foreign media is replete with articles on the Saudi police and the Mutaween's pursuit of squelching all signs of gay activity in the Kingdom. Other articles report in brief the sentencing or execution of those convicted of homosexuality. Information or material promoting, supporting or even appearing to support homosexuality is prohibited in Saudi Arabia.⁷⁵ Stories with in-depth, critical coverage, offering differing view points are found only in foreign media outlets. The Saudi media walks a fine line in reporting such crimes, giving some of the facts, but not providing balanced coverage. Often what is left out of the Saudi media reports are firsthand interviews with the arrested or any statements that contradict official government reports of the events in question. Relevant human rights organizations are not interviewed nor are statistics or any information on the gay community in Saudi Arabia cited. As a result, the Saudi news stories end up serving as iterative cautionary tales for those who might be thinking about engaging in such activities.

Freedom to Assemble

In 2005, the Saudi police raided a hotel that was to be the site of a gay beauty pageant organized by four foreigners and one Saudi national on the occasion of

Eid.⁷⁶ The disbanding of many gay weddings by police or the Mutaween are frequently reported. Participants who do not get away in time are arrested and sometimes convicted on a variety of charges. Not only is being party to a gay wedding banned, but merely attending a gay wedding can bring legal trouble to guests. In 2004, 50 persons were held for questioning for “allegedly attending a gay wedding” in holy city of Medina.⁷⁷ When the event was raided, guests fled the scene for fear of coming under the scrutiny of the Commission for the Promotion of Virtue and Prevention of Vice. Reports of gay parties being broken up are also commonplace. In 2005, police arrested 92 people in a raid on a gay party in al-Qatif. Many were wearing women’s clothes and make-up, and some wore wigs. So far none of them have been sentenced in court.⁷⁸ There was little follow up coverage on this case in the media, and little is known about what became of this group.

Legal Restrictions and Sodomy

Homosexuality, though illegal, is not clearly defined in Sharia Law, instead leaving it to local enforcers to make ad hoc assessments often based on spurious evidence and vaguely worded indictments. Not only is homosexuality illegal in Saudi Arabia, but the penalties for being convicted of homosexuality are among the most severe in the world. The Kingdom is one of seven countries in the world that still utilizes capital punishment for convicted homosexuals.⁷⁹ Other punishments include imprisonment and flogging.

Under Sharia Law, sodomy is considered a form of adultery and is punished by stoning to death if the convicted is married and 100 lashes and banishment if the convicted is unmarried. To obtain a conviction, Saudi law requires that either four confessions are required on four different occasions or four male witnesses must attest to having witnessed the event.

There are conflicting reports on how often alleged homosexuals are convicted for homosexual acts as opposed to other crimes such as rape, assault, blackmail, and pornography. Other reports conflict on whether Saudi citizens are pursued for their apparent homosexuality: “Some gay foreigners were deported in the 1990s, but no Saudi has ever been prosecuted for being a homosexual.”⁸⁰ There seems to be no doubt, however, that the laws are applied more harshly towards foreigner laborers from Asia and Africa than Saudi citizens or Western executives.

To enforce Wahhabi rules of behavior, the government established the Commission for the Promotion of Virtue and Prevention of Vice (CPVPV). The Mutaween, or religious police, are the enforcement arm of the CPVPV. The Mutaween are entrusted with enforcing Sharia and have the power to arrest, with force if necessary, unrelated males and females found socializing with one another as well as anyone suspected of violating the sex segregation ban, Muslim dietary restrictions, or the ban on homosexuality, prostitution, and drinking alcohol. They can seize consumer products and media items considered un-Islamic including CDs, DVDs, books, or non-Muslim religious paraphernalia.

Their activities have been widely criticized both by foreign as well as Saudi entities for use of excessive force, creating a KGB-like atmosphere of fear and mistrust, harassing individuals and businesses, and extorting favors and bribes. The gay community particularly lives in fear of persecution. Raids on gay and alleged gay events are routinely conducted, with only a smattering reported in the government controlled media.

Punishment under Sharia has come under heightened scrutiny in the press and by international human rights organization, particularly in cases of extreme physical punishment such as death by stoning, flogging, lashing, and dismemberment. The media particularly focuses on cases in which women and members of the LGBT community, or those suspected of being part of the same, have been subject to harsh punishments.

Saudi Arabia became a signatory to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 1997. However the practice of flogging of convicted criminals, including those convicted of crimes related to homosexuality, continues. According to Human Rights Watch and the International Commission of Jurists: "Saudi Arabia has advertised its contempt for the basic rights to privacy, fair trials, and freedom from torture."⁸¹ In 1996, Saudi Arabia ratified the United Nations Convention on the Rights of the Child. In 2005, however when the UN Committee on the Rights of the Child reviewed Saudi Arabia's record, it condemned them for enforcing the death penalty on juveniles. Islamic scholars and other defenders of Sharia argue that these rules are meant to serve as a deterrent to crime.⁸²

Established in 2004 by royal decree, the National Society for Human Rights is the first independent nongovernmental organization created to ensure the Kingdom is implementing provisions in keeping with human rights principles. Reporting directly to the king, one of its goals is to promote human rights as understood by the international human rights community. At the end of March 2009, the society released its 2008 Report to the Shoura Council. In the 100-page report, the society presented a scathing litany of abuses committed by the religious police including physical torture, arbitrary arrests, and a variety of other human rights violations.

However, some subjects covered by international human rights organizations are still taboo for Saudi's National Society for Human Rights. The society does not specifically address the persecution of members of the LGBT community. Additionally, rights that affect the LGBT community's pursuit of decreased harassment and scrutiny in the Kingdom that are not in the society's purview include fair trials for prisoners, the right to assemble as a political party, freedom of press, freedom of speech, and expression. Some believe it is because of its dependence on the government for a business license and patronage as well as the fact that members are current or former members of the government.

RELIGION AND SPIRITUALITY

In the 1960s and 1970s, Saudi Arabia experienced intense economic development, experimentation with liberal policies, and open communication with the West. This liberal trend, however, came to a standstill in 1979 when the Grand Mosque in the holy city of Mecca was attacked by conservative critics of the Saudi monarchy. A small group of zealots laid siege on the Grand Mosque and went on a shooting spree within its walls to call for a return to conservative values. Though the group was numerically insignificant, the message behind the take-over resonated with many clergy and lay people throughout the Kingdom.

The 1980s saw an emergence of politically active conservative movements within Islam throughout the Arab world. In the West, these movements were often referred to as fundamentalist. The primary goal of these movements was

the increased institutionalization of Islam within governmental, educational, and political institutions. Though Saudi Arabia already used the Qur'an and Islamic principles as guideposts for the creation of their modern state, the Kingdom also experienced a wave of conservative thought. One of the missions of the Saudi royal family is to spreading Islam. In Saudi Arabia, Wahhabi Islam is practiced.

Since the dawn of Islam, Saudi Arabia has always enjoyed a revered status in the Islamic world. Within its borders are the two holiest cities, the city of Mecca: towards which all Muslims pray five times a day, and the city of Medina: the Prophet Mohammad's home after the Hijrah and the site of his burial. Pilgrimage to the Saudi city of Mecca is one of the five pillars of Islam. Because the two main Islamic holy cities, Mecca and Medina, are located in Saudi Arabia, the government of Saudi Arabia shoulders the great responsibility of being the keepers of Islamic faith. Saudi royalty has viewed guardianship of Mecca, Medina, and the two Holy Mosques within as a primary duty. In the past several decades, the monarchy has increased its allocation of resources towards facilitating a safe and comfortable pilgrimage for Muslim pilgrims. In 1986, to affirm the Saudi monarchy's role in this most important rite of passage for every Muslim in the world, then Saudi King Fahd relinquished the title of His Majesty and adopted in its place the title of Custodian of the Two Holy Mosques.

As keepers of the Islamic faith, the Saudi monarchy holds up Saudi Arabia as a paragon of Islamic living, employing one of the most conservative interpretations of Islam among Muslim countries. Interpretations of traditional Islam and Sharia remain strict, leaving little room for injecting progressive interpretations of the faith. As such, this leaves little chance for members of the LGBT community to make future progress in asserting their presence, accessing rights, or even meeting openly.

The majority of Muslims in Saudi Arabia are members of the Sunni sect, with an approximate 10–15 percent belonging to the Shi'a minority that primarily live in the Eastern Province.⁸³ The Saudi government strictly enforces a conservative version of Sunni Islam. All Muslims must follow the official interpretation of Islam and deviation can result in revocation of business licenses, fines, corporal punishment, imprisonment, or even harassment for more minor infractions by the religious police, the Mutaween.

Foreign workers comprise the majority of Saudi Arabia's non-Muslim population. Estimates of the Kingdom's foreign population vary from five to eight million depending on the source. The majority of foreign workers are Muslim, but include a range of other religions. Detailed statistics of the religious backgrounds of foreigners in Saudi Arabia are not available, but include Christians, Hindus, Jews, Parsis, Mandeans, Sikhs, and Buddhists.

Despite the merger of religious, political, and social spheres within Saudi Arabia, the country does offer relief to religious groups who do not follow the country's dominant religion of Islam. Members of other religions are allowed to live according to their religious law within their communities if they accepted the position of *dhimmis*, or "protected person." Classic Islamic political and legal texts define a *dhimmi* as a person living within a Muslim state who is a member of an officially tolerated non-Muslim religion. Initially, the term referred to "People of the Book" living under Muslim rule, such as Jews and Christians. Later the term expanded to include other religions such as Zoroastrianism, Mandaeism, Sikhism, Buddhism, and Hinduism. *Dhimmi* status involves the recognition of Muslim authority, special taxes, prohibition on proselytizing to Muslims, and various political restrictions.

Despite *dhimmi* status, freedom of religion for non-Muslims is not a protected right. Non-Muslims are barred from public practice of their religions. Non-Muslims are prohibited from proselytizing in Saudi Arabia and there are extremely severe apostasy laws enforced on those who have chosen to convert out of the Islamic faith.⁸⁴ Because proselytizing is illegal, there are restrictions against importing markers of other faiths such as Bibles, rosaries, crucifixes, and items with religious symbols such as the Star of David. While ostensibly non-Muslims are permitted to bring into the country what they need for personal worship, there have been reports that even travelers carrying a single copy of the Bible have had them confiscated at Saudi customs. Because *Dhimmi* is a status given only to religious groups and not members of social or political groups, the LGBT community would not be able to avail themselves of this protected status.

Saudi Arabia's ban on homosexuality in all forms is derived from Islam's rejection of homosexuality. Worse than fornication, homosexuality is considered a sin in Islam and the Qur'an refers to it as an abomination.⁸⁵ There are many passages in the holy books of Islam: the Qur'an and Hadith, which have been cited to show Islam's rejection of homosexuality. Most of these passages specifically refer to male-male same-sex behavior. Among these is Qur'an Sura 4:21: "And if two (men) of you commit (adultery), then hurt them both; but if they turn again and amend, leave them alone, verily, God is easily turned, compassionate." This verse seems to recommend physical punishment for men who engage in same-sex sexual activity, but they can be released if they renounce the practice.

Similar to Genesis 19 in the Old Testament, there are a series of passages in the Qur'an that link the sin of same-sex sexual activities among the men of Sodom to God's eventual destruction of the city.⁸⁶ When Lot denounces men in Sodom for their homosexual activities warning them in various ways about the terror that will befall them if they continue to sin in this manner, he is threatened with expulsion.

And Lot, when he said to his people, "Do ye approach an abomination which no one in all the world ever anticipated you in? Verily, ye approach men with lust rather than women- nay, ye are a people who exceed." But his people's answer only was to say, "Turn them out of your village, verily, they are a people who pretend to purity." But we saved him and his people, except his wife, who was of those who lingered; and we rained down upon them a rain;—see then how was the end of the sinners!⁸⁷

When God later kills all citizens of Sodom, ostensibly for their same-sex activities, Lot and his family is spared.

The Hadith is a collection of the words and deeds of the Prophet Mohammed that have become important tools for determining the Islamic way of life. In the Hadith, the Prophet Mohammed explains the gravity of the sin of homosexuality: "Allah curses the one who does the actions (homosexual practices) of the people of Lut"⁸⁸ repeating it three times; and he states in another Hadith: "If a man comes upon a man then they are both adulterers."⁸⁹ In another section, while outlining the punishment for two men engaged in homosexual sex acts the Hadith states: "Kill the one that is doing it and also kill the one that it is being done to."

Effeminate men are not spared in the Hadith with several passages referring to them negatively. One passage states: "The Prophet cursed effeminate men (those men who are in the similitude (assume the manners of women) and those women who assume the manners of men, and he said, 'Turn them out of your houses.'"⁹⁰

There are relatively fewer mentions of lesbian sexual activity in the Islamic holy texts as compared to male-male sexual relations. As in the Hebrew Scriptures, when homosexuality is denounced in the Qur'an, only male homosexual activity is referenced and lesbian practices are not specifically mentioned. The Hadith has several references to lesbian activities. In one Hadith, the Prophet Mohammed is cited as saying: "If a woman comes upon a woman, they are both Adulteresses." Scholars have stated that it is the responsibility of the authorities to punish lesbians in a manner appropriate to the crime.⁹¹

Terminology for female homosexuality is ambiguous in Arabic and varies by usage. *Sibaq* can mean rubbing, pounding, female masturbation, or even tribadism depending on the context and usage. In the Hadith, the Prophet Mohammed, addresses lesbian activities as a sin: "*Sibaq* (i.e. lesbian sexual activity) of women is *zina* (illegitimate sexual intercourse) among them."⁹²

Another term, *musahaqa*, has a variety of meanings that also depend on usage. Some references use it interchangeably with *sibaq*, referring to the acts involved such as tribadism. Others use *musahaqa* to mean female homosexuality or lesbianism in general. Sometimes it is used to refer to rubbing of the female genitalia, whether it is between two women or between a man and a woman.

Other passages address effeminate men and masculine women that gives more conservative interpreters license to prohibit transvestitism, bisexuality, and even apparent displays of gender confounding behavior.

Because of Saudi Arabia's role as the conservator of Islam for the Muslim world, Islam's ban on homosexuality is taken very seriously in the Kingdom. Saudi Arabia's version of Sharia punishes homosexuality severely, including capital punishment. This severity stems from Saudi's conservative interpretations of all aspects of Islamic life.

VIOLENCE

The Saudi media regularly provides short reports on the government's announcements of arrests, convictions, and executions of homosexuals. Typically this information is obtained from government officials. Little is known apart from what the government itself reports to a press strapped by strict censorship guidelines.

According to Amnesty International and media reports, both Saudi and foreign, the Sharia courts regularly sentence convicted criminals to corporal punishment.⁹³ Beatings, floggings, and amputations are acceptable forms of punishment. Amputations are typically prescribed as punishment for theft. Floggings frequently serve as the main or as an additional punishment for most criminal offences, and are carried out on a daily basis. The highest number of lashes as recorded by Amnesty International in 2008 was 7,000 against two men convicted of sodomy in October by a court in al-Baha. Children have been among those sentenced to floggings. At least three people had their right hand amputated at the wrist after being convicted of theft.

A few examples illustrate the extent to which homosexuality is criminalized in the Kingdom, but by no means are these incidents isolated. In September 1996, Saudi Arabian authorities sentenced 24 Filipino workers to 200 lashes each following their arrest for homosexual behavior and they were ordered to be deported after the sentence was carried out. In 2000, nine Saudi men were sentenced to lashings and extensive prison terms for cross-dressing and engaging in homosexual relations.⁹⁴

In 2005, more than 100 men were sentenced to one year's imprisonment and flogging for attending a gay wedding at which they expressed "deviant sexual behaviour," which included dancing and "behaving like women."⁹⁵ Some were sentenced with up to 2,000 lashes, a punishment that can prove fatal.⁹⁶ Ninety men were arrested for attending a gay event, only two months after the gay wedding arrests in Jeddah. *Salaam*, a Canadian organization for LGBT Muslims and *Al-Fatiha*, a U.S.-based organization for Muslim sexual and gender minorities condemned the arrests and called for their countries to pressure Saudi officials to release the arrested.⁹⁷

Every year, scores of individuals are arrested and convicted of homosexuality, sodomy, and related crimes in Saudi Arabia. International human rights organizations have long decried the use of corporal punishment as cruel, inhuman, and degrading to individuals whose main crime is to appear sexually deviant to a conservative religious police and judicial system. Human Rights Watch Director of LGBT Rights Program, Scott Long stated that "subjecting the victims to floggings is torture, pure and simple."⁹⁸

Death Penalty for Homosexuality

Saudi Arabia applies the death penalty for a wide range of offences, including offences with no lethal consequences such as drug trafficking, rape, and pornography. Murderers, rapists, and drug smugglers are usually executed by public beheading.⁹⁹ In 2000, a total of 123 individuals were executed for a variety of crimes; 71 of those executed were foreign workers from African and Asian countries.¹⁰⁰

Saudi Arabia is one of seven countries that still employs the death penalty for homosexuality.¹⁰¹ In 2000, three Yemeni men were executed for homosexuality, cross dressing, and child molestation. The Saudi Interior Ministry released a statement saying that a court had found the three men guilty of "committing the extreme obscenity of homosexuality and imitating women."¹⁰² In the same year, three Saudi men were executed for raping children and child pornography.¹⁰³ In 2008, two men convicted of homosexuality were decapitated by sword for allegedly beating and raping a man.¹⁰⁴

International organizations such as the United Nations, Amnesty International, Human Rights Watch, The International Gay and Lesbian Human Rights Commission (IGLHRC), as well as more liberal Muslim organizations such as North American-based *Salaam* and *Al-Fatiha* have tried to keep tabs on the situation from outside the country. International human rights standards disfavor the use of the death penalty for nonhomicide convictions. For years, Amnesty International has called for a moratorium on the death penalty in each report it issues on Saudi Arabia for "offences with no lethal consequences."¹⁰⁵ The IGLHRC has regularly protested the execution of men in the Kingdom based on their sexual orientation.¹⁰⁶ An additional objection to capital punishment in Saudi Arabia by international organizations is that it is imposed trials that invariably fail to meet the most basic international standards of trial fairness. In 2002, Amnesty International launched a letter writing campaign expressing concern that the three men "may have been executed primarily because of their sexual orientation and seeking urgent clarification of the exact charges and evidence brought against them, together with information on their trial proceedings."¹⁰⁷

In response to protests from international human rights organizations, in 2002, the Saudi government unofficially implied that it would only carry out capital

punishment in cases of pedophilia, rape, sexual attack, or murder.¹⁰⁸ International human rights organizations have long suspected, however, that some convicted of homosexuality and other crimes such as raping children, theft, blackmail, assault, murder, might simply be guilty of engaging in homosexual acts alone with other charges falsely added. For example, in 2002, Amnesty International and the International Gay and Lesbian Human Rights Commission (IGLHRC) released action alerts after three men were executed, “possibly solely on account of their homosexual conduct.”¹⁰⁹ The Interior Ministry announced that the three men “were convicted of homosexual acts, adding vaguely-worded charges of ‘luring children and harming others’ without providing any further details. The trial proceedings of the three men remain shrouded in secrecy.”¹¹⁰

There is no available information on violence perpetrated on members of the LGBT community by nonstate actors. Hate and bias crimes are not recorded. A victim of a hate crime on the basis of his or her sexuality would be extremely disinclined to report it since it is unlikely that the perpetrator would be punished and it would be undue attention on the victim for possibly being a homosexual—an illegal act in the Kingdom.

OUTLOOK FOR THE 21ST CENTURY

Despite the apparent freedom that sex segregation affords gay life in Saudi Arabia, because of the severe punishment for homosexuality in Saudi Arabia, the LGBT community is prevented from expressing their sexuality openly in public. Notwithstanding wide-spread criticism from international human rights organizations, foreign media, and the LGBT communities the world over, the Saudi government insists that its treatment of the LGBT community is not as harsh as reports make it seem and that its first priority is to uphold Sunni Islamic morality. Given the importance that Saudi Arabia places on adhering to one of the most conservative versions of Islam, cultural mores will be slow to change in the Kingdom.

The Internet and other forms of media have created a new world of possibilities for the LGBT community in the Kingdom. In cyberspace, online communities within Saudi Arabia, in the greater Muslim world, and the world at large, offer previously unheard of access to support and information. Those exploring their sexuality, whether homosexual, heterosexual or bisexual, are afforded access to information that was previously dangerous or impossible to obtain. As technology advances, and as such technologies become available to more socioeconomic groups, the Saudi government will be hard pressed to contain these forms of interactions.

In other countries, the 21st century holds the possibility of increased rights and increased visibility, better health care, and acceptance from the community at large for the LGBT community. In the Kingdom of Saudi Arabia, the best the LGBT community can aspire to is to be left alone.

The manager of www.gaymiddleeast.com, A.S. Getenio, stated Saudi Arabia was loosening some of their restrictions on access to gay web portals because of concern about the bad press it was generating in the international arena, “at the time it was involved in a multimillion dollar advertising campaign in the U.S. to improve its image.”¹¹¹ Specific attention on LGBT issues, combined with general reform of the criminal justice system in Saudi Arabia, will allow more members of the LGBT community in the Kingdom to live their lives in peace. Better reporting practices and increased freedom of the press will aid in accurate reporting on the

issue and give further incentive to the police and religious police to leave the LGBT community alone.

Because of the country's conservative religious code and the lack of separation between religion and politics, the fact that homosexuality is illegal and severely punished is not going to change. The areas in which change is feasible is at the arrest, trial, and sentencing phases. Changes in legal definitions could result in fewer convictions; for example, narrowing the definition of homosexuality so as to exclude activities accepted in other countries. This shift would allow the Kingdom to maintain the necessary appearance of outlawing homosexuality without unnecessarily violating human rights and raising the ire of the international community and the more liberal Muslim communities.

RESOURCE GUIDE

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[Lot said] "Verily, I am to you a faithful apostle; then fear God and obey me. I do not ask you for it any hire; my hire is only with the Lord of the worlds. Do ye approach males of all the world and leave what God your Lord has created for you of your wives? nay, but ye are people who transgress!" They said, "Surely, if thou dost not desist, O Lot! thou shalt be of those who are expelled!" Said he, "Verily, I am of those who hate your deed." (Quran Sura 26: 162–68)

And (remember) Lot when he said to his people, "Verily, ye approach an abomination which no one in all the world ever anticipated you in! What! do ye approach men? and stop folks on the highway? And approach in your assembly sin?" but the answer of his people was only to say, "Bring us God's torment, if thou art of those who speak the truth!" Said he, "My Lord! help me against a people who do evil!" And when our messengers came to Abraham with the glad tidings, they said, "We are about to destroy the people of this city. Verily, the people thereof are wrong-doers." (Sura 27: 55–57 and Sura 29: 28–31)

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VOLUME INDEX

- Abdul Al-Aziz bin Saud, al-Rahman, 193
- Abdulaziz bin Abdulrahman Al-Saud (king), 209
- Abdulla Muhammad Al-Zaid, 195
- Abdullah bin Abdulaziz Al Saud (king), 199
- Abolitionists, 69
- Abongo, Tom Ochieng, 55, 123
- Abortion, 60; in Botswana, 16; in Kenya, 60; in Lebanon, 182
- Abu Ghraib, 31
- Adoption: in Africa with marriage, 5; in Kenya, 61–62; in Middle East, 5; in Nigeria, 103; in Uganda, 141
- Africa: antidiscrimination statutes and violence in, 4–5; Botswana and, 11–22; Cameroon and, 23–28; education in, 5; Egypt and, 29–39; Ethiopia and, 41–46; Ghana and, 47–53; HIV/AIDS in, 5–6, 125–26; intersexed people in, 7; introduction to Middle East and, 1–8; Kenya and, 55–68; LGBT issues in, 4–7; Liberia and, 69–73; marriage and adoption in, 5; Morocco and, 75–85; Namibia and, 87–96; Nigeria and, 97–111; outlook for 21st century in, 7–8; religion in, 6; sexual and relationship arrangement in, 2–3; sodomy in, 4; South Africa and, 113–22; Tanzania and, 123–28; transgender people in, 6–7; Tunisia and, 129–34; Uganda and, 135–45; Zimbabwe and, 147–60
- Ahmadinejad, Mahmoud, 168, 169, 172
- Akeel, Maha, 196
- Akinola, Peter (Anglican bishop), 108–9
- Alaci, Arash (brother), 168
- Alaci, Kamiar (brother), 168
- Al-Gosaibi, Ghazi, 199
- Al-Humaid, Abdul Wahid, 200
- Alternatives-Cameroun*, 25
- Amin, Idi, 136–37
- Amnesty International, 143, 196, 215, 216–17
- Anglican Church, 7, 65, 114
- Animists, 26, 45
- Antidiscrimination statutes: in Africa with violence, 4–5; in Lebanon, 186; in Middle East with violence, 4–5
- Aoun, Michel (general), 177
- Apartheid, 4, 12, 114
- Arabs, 126; culture and literature, 76; marriage as obligatory for most, 79; Yahoo Group for gay, 1–2, 178. *See also* Egypt; Iran; Lebanon; Morocco; Saudi Arabia; Tunisia
- Assassinations, 177
- Association, speech and, 186–87
- Asylum cases: in Egypt, 34; in Kenya, 57; in Lebanon, 187; in Morocco, 82; in Zimbabwe, 151
- Aultman, Brandon L. H., 163
- Axumite Empire, 41
- Azuah, Unoma N., 97
- Bahá'ís, 176
- Bakare, Sebastian, 158
- Banana, Canaan, 148, 155, 156
- Bartels, Kwamena, 51
- Beauty pageants, 194, 210
- Ben Ali, Zine el Abidine, 129
- Berri, Habih, 177
- Bezness*, 130
- Bisexuals, 1; in Botswana, 13; in Cameroon, 24, 25, 28; in Egypt, 30, 34; in Ghana, 50; in Lebanon, 184, 187–88; in Morocco, 76–77; in Namibia, 90; in Nigeria, 102; in Saudi Arabia, 200; in Uganda, 138; in Zimbabwe, 152
- Bishops/priests, gay, 6, 19, 51, 65, 126
- Botswana:** abortion in, 16; bisexuals in, 13; Christianity's influence in, 19; community in, 17; education in, 13; employment and economics in, 13–14; family in, 16; gender-specific marriage initiation rites in, 16; health in, 17–18; HIV/AIDS in, 12–13, 14–18, 20; homosexuality criminalized in, 12, 18; languages and dialects spoken in, 12; LGBT issues in, 11–22; map of, 11; media in, 13; outlook for 21st century in, 20; overview, 11–13; politics and law in, 18–19; population and ethnic makeup of, 11–12; religion and spirituality in, 19; sexual practices in, 14–15; social and government

- programs in, 14; sodomy in, 148; teen pregnancy in, 15; violence in, 19–20
- Bourguiba, Habib, 129
- Bouzid, Nouri, 130, 131
- Bowles, Paul, 76
- Bride price, 16, 61, 91, 127
- Buddhists, 176, 213
- Burroughs, William, 76
- Cameron, James, 118
- Cameroon:** bisexuals in, 24, 25, 28; community in, 25; education in, 24; employment and economics in, 24; family in, 25; health in, 25; HIV/AIDS in, 25; homophobia in, 23–24, 25; languages and dialects spoken in, 23; LGBT issues in, 23–28; map of, 23; outlook for 21st century in, 28; overview, 23–24; politics and law in, 25–26; population of, 23; religion and spirituality in, 26; sexual practices in, 24; social and government programs in, 24; violence in, 26–28
- Capote, Truman, 76
- Catholic Church, 26, 56, 58, 65, 93, 99, 114
- Child abuse, confusion with homosexuality and, 23–24, 26
- Children: infant mortality rate and, 56; in Nigeria, 105–6; orphaned by AIDS, 152; recruited as soldiers, 71. *See also* Family; Students
- Chraïbi, Driss, 79
- Christianity, 6, 19, 29, 36, 49, 51, 65, 70, 75, 108, 123, 126, 129, 132, 142, 176, 177, 187, 213
- Circumcision, 16, 50, 60–61. *See also* Genital mutilation
- Clubs. *See* Gay clubs
- Community: in Botswana, 17; in Cameroon, 25; in Egypt, 33–34; in Ethiopia, 43–44; in Ghana, 50; in Iran, 168; in Kenya, 62; in Lebanon, 183–84; in Liberia, 71; in Morocco, 79; in Namibia, 92; in Nigeria, 105–6; in Saudi Arabia, 206–7; in South Africa, 118; in Tanzania, 125–26; in Tunisia, 131; in Uganda, 141; in Zimbabwe, 152
- Condoms: low use of, 185; in prisons, 6, 153, 168; prohibitive expense of, 5; stigma of, 16
- Constitutional protections, with international human rights obligations, 170
- Coptic Orthodox Church, 29, 36
- Coup d'états, 41, 69, 70, 129
- Criminalization: of homosexuality, 12, 18, 42, 44–45, 57, 72, 81, 92, 98, 123, 194; of sexual acts between women, 18, 92–93; of sodomy, 168, 194
- Dabbagh, Amr, 199
- Death penalty, 171; in Iran, 164; in Saudi Arabia for homosexuals, 216–17. *See also* Executions
- Deaths, 155; apartheid, 4; domestic violence, 20; execution, 169, 171, 202; hanging, 147, 171; HIV/AIDS, 12, 63; honor killings and, 1, 3, 33, 82, 171, 183; infant mortality, 56; journalists and, 169; massacres and, 148; persecution of homosexuals resulting in, 33, 81, 100; by stoning, 104
- de Lee, Benjamin, 47, 129
- Dietary restrictions, 211
- Divorce: as illegal, 16, 91; infertility as grounds for, 167; in Lebanon, 183; rate, 141
- Doe, Samuel K. (master sergeant), 69, 70
- Drag queens, 180
- Drag shows, 194
- Drugs: HIV/AIDS, 185; intravenous, 167; stigma of illegal, 6
- Dube, Jefa, 155
- Economics: in Botswana, 13–14; in Cameroon, 24; in Egypt, 31; in Ethiopia, 42; in Ghana, 49; in Iran, 166; in Kenya, 59–60; in Lebanon, 181–82; in Liberia, 71; in Namibia, 89–90; in Nigeria, 100–101; in Saudi Arabia, 198–202; in South Africa, 116; in Tanzania, 124; in Tunisia, 130; in Uganda, 139–40; in Zimbabwe, 150
- Education: in Africa, 5; in Botswana, 13; in Cameroon, 24; in Egypt, 31; in Ethiopia, 42; in Ghana, 48; in Iran, 165–66; in Kenya, 57–59; in Lebanon, 181; in Liberia, 70–71; in Middle East, 5; in Morocco, 77; in Namibia, 89; in Nigeria, 98–100; in Saudi Arabia, 195–98; in South Africa, 115–16; in Tanzania, 124; in Tunisia, 130; in Uganda, 138–39; in Zimbabwe, 150
- Egypt:** asylum cases in, 34; bisexuals in, 30, 34; community in, 33–34; dangerous attitudes toward LGBTs in, 31; education in, 31; employment and economics in, 31; family in, 32–33; government's attitude toward HIV/AIDS, 35; health in, 34–35; HIV/AIDS in, 31, 34–35; languages and dialects spoken in, 29; lesbians in, 32, 34; LGBT issues in, 29–39; map of, 29; media in, 30; outlook for 21st century in, 37; overview, 29–31; politics and law in, 35; population of, 29; religion and spirituality in, 36–37; sexual practices in, 32, 36; social and government programs in, 31; violence in, 37; women constrained by social dictates in, 32
- Employment: in Botswana, 13–14; in Cameroon, 24; in Egypt, 31; in Ethiopia, 42; in Ghana, 49; in Iran, 166; in Kenya, 59–60; in Lebanon, 181–82; in Liberia, 71; in Morocco, 77; in Namibia, 89–90; in Nigeria, 100–101; in Saudi Arabia, 198–202; in South Africa, 116; in Tanzania, 124; in Tunisia, 130; in Uganda, 139–40; in Zimbabwe, 150
- Episcopal Church, 51, 65, 126
- Ethiopia:** ancient history of, 41; community in, 43–44; education in, 42; employment and economics in, 42; family in, 43; health in, 44; HIV/AIDS in, 42–44; homophobia in, 42; homosexuality criminalized in, 42, 44–45; LGBT issues in, 41–46; map of, 41; Muslims in, 45; outlook for 21st century in, 45; overview, 41–42; politics and law in, 44–45; religion and spirituality in, 44–45; sexual practices in, 43; social and government programs in, 42–43; sodomy in, 45; suicide in, 45; violence in, 44–45
- Executions, 169, 171, 202
- Expression, freedom of, 169–70
- Family: in Botswana, 16; in Cameroon, 25; in Egypt, 32–33; in Ethiopia, 43; in Ghana, 49–50; in Iran, 167–68; in Kenya, 61–62; in Lebanon, 183; in Liberia, 71; marriage within, 183; in Morocco, 78–79; Muslims and, 32–33; in Namibia, 91–92; in

- Nigeria, 105–6; in Saudi Arabia, 205–6; in South Africa, 117–18; in Tanzania, 125; in Tunisia, 131; in Uganda, 141; violence, 33, 171; in Zimbabwe, 151–52
- Farahat, Sherif, 37
- Al-Fatiha, 33–34
- Feghali, Bassem, 180
- Films, 130, 131
- Freedom: to assemble in Saudi Arabia, 210–11; of expression in Iran, 169–70; of speech and press in Saudi Arabia, 210
- Gates, Bill (husband), 139
- Gates, Melinda (wife), 139
- Gay clubs, 27, 30, 132, 184
- Gay men, in Lebanon, 184
- Gay Travels in the Muslim World*, 180
- Geagea, Samir, 177
- Gemayel, Amin, 177
- Gender reassignment surgery, 7, 132, 165–66, 168, 170
- Genet, Jean, 76
- Genital mutilation, 61
- Getenio, A. S., 217
- Ghana:** bisexuals in, 50; community in, 50; education in, 48; employment and economics in, 49; family in, 49–50; health in, 50; LGBT issues in, 47–53; map of, 47; media in, 48; outlook for 21st century in, 51–52; overview, 47–48; police in, 47; politics and law in, 50–51; pregnancy in, 49, 50; religion and spirituality in, 51; sexual practices in, 49; social and government programs in, 49; violence in, 51
- Ginsberg, Allen, 76
- Goddard, Keith, 147
- Goering, Laurie, 94
- Gordimer, Nadine, 154
- Government programs: in Botswana, 14; in Cameroon, 24; in Egypt, 31; in Ethiopia, 42–43; in Ghana, 49; in Iran, 166; in Kenya, 60; in Lebanon, 182; in Liberia, 71; in Morocco, 77; in Namibia, 90; in Nigeria, 101–2; in Saudi Arabia, 202–3; in South Africa, 116–17; in Tanzania, 125; in Tunisia, 131; in Uganda, 140; in Zimbabwe, 150–51
- Gueboguo, Charles, 23
- Haile Selassie I (emperor), 41
- Hajj, Francois (general), 178
- Hamd* (to praise), 34
- Hariri, Rafiq (father), 177
- Hariri, Saad (son), 177
- Health: in Botswana, 17–18; in Cameroon, 25; in Egypt, 34–35; in Ethiopia, 44; in Ghana, 50; in Iran, 168; in Kenya, 63–64; in Lebanon, 184–85; in Liberia, 71–72; in Morocco, 80; in Namibia, 92; in Nigeria, 106–7; in Saudi Arabia, 207–8; in South Africa, 118–19; in Tanzania, 126; in Tunisia, 132; in Uganda, 141–42; in Zimbabwe, 152–53
- Hinduism, 56, 65, 123, 176, 213
- HIV/AIDS: in Africa, 5–6, 125–26; in Botswana, 12–13, 14–18, 20; in Cameroon, 25; children orphaned by, 152; deaths, 12, 63; drugs, 185; in Egypt, 31, 34–35; Egyptian government's attitude toward, 35; in Ethiopia, 42–44; in Ghana, 48–50; in Iran, 165, 167–68; in Kenya, 56–57, 60–61, 63–64; in Lebanon, 182, 184–85; in Middle East, 5–6; in Morocco, 80, 81; Muslims, "war of the beaches" and, 80; in Namibia, 87–89, 91–92, 94; in Nigeria, 102–3, 106–7; in prisons, 6, 20; in Saudi Arabia, 202–3, 208; in South Africa, 115, 117–19; in Tanzania, 125–26; in Tunisia, 131–32; in Uganda, 137–39, 141–43; in Zimbabwe, 148–53
- Homophobia: in Cameroon, 23–24, 25; in Ethiopia, 42; in Kenya, 60; in Lebanon, 179; in Liberia, 72; in Namibia, 91; in Nigeria, 99; in Tanzania, 126
- Homosexuality: confusion between child abuse and, 26; confusion with child abuse and, 23–24; criminalization of, 12, 18, 42, 44–45, 57, 81, 92, 98, 123, 194; as taboo, 15, 34, 60, 91, 150; Zimbabwe's cultural views on, 149
- Homosexuals: death by persecution, 33, 81, 100; death penalty in Saudi Arabia for, 216–17; Lebanon's historical stance on, 1
- Honor killings, 1, 3, 33, 82, 171, 183
- HRW. *See* Human Rights Watch
- Human rights, with constitutional protections, 170
- Human Rights Watch (HRW), 33
- Hussein, Farduz, 34
- Identity. *See* Terminology, gay identifying
- Idi Amin. *See* Amin, Idi
- Igwe, Leo, 97
- Indigenous religions, 6, 19, 93, 108, 118
- Interfaith marriages, 2, 188
- Internet: dangers of LGBT students meeting via, 31; as main source of information on LGBT life, 8, 34, 79, 130, 133, 178, 195; online dating via, 34; Yahoo Group and, 1, 2, 178
- Intersexed people: as invisible population, 7; in Lebanon, 188; in Middle East, 7
- Invisible populations: homosexuals in African nation, 48; intersexed people as, 7; lesbians as, 179
- Iran:** community in, 168; death penalty in, 164; education in, 165–66; employment and economics in, 166; family in, 167–68; freedom of expression in, 169–70; gender reassignment surgery in, 166, 168, 170; health in, 168; HIV/AIDS in, 165, 167–68; international human rights obligations and constitutional protections in, 170; LGBT issues in, 163–73; map of, 163; outlook for 21st century in, 171–72; overview, 163–65; politics and law in, 168–70; population of, 164; religion and spirituality in, 170; sexual practices in, 167; Sharia Law in, 163, 164, 169; social and government programs in, 166; sodomy in, 168, 171; transsexuals in, 170; violence in, 170–71
- Islam, 2, 6, 29, 36, 75, 78, 81, 98, 108, 123, 126, 142, 193–94, 213; marriage views and, 31; suicide and, 80
- Islamic Revolution of 1979, 163–64, 165–66
- Jawhar, Sabria S., 197
- Jihad* (religious calls to action), 166
- Johnson-Sirleaf, Ellen, 70
- Journalists, 169, 178, 196
- Judaism, 6, 75, 118, 129, 132, 176, 213
- Jumblatt, Walid, 177
- Kaguvi (spirit-medium leader or shaman), 147
- Kamau, Emmanuel, 61, 66

- Karouni, Nasser, 187
 Kazemi, Zahra, 169
Kenya: abortion in, 60; adoption in, 61–62; asylum cases in, 57; Catholic Church's influence in, 56, 58; community in, 62; education in, 57–59; employment and economics in, 59–60; family in, 61–62; health in, 63–64; HIV/AIDS in, 56–57, 60–61, 63–64; homophobia in, 60; LGBT issues in, 55–68; map of, 55; media in, 57; Muslims in, 56; outlook for 21st century in, 66; overview, 55–57; police in, 57; politics and law in, 64–65; population of, 55–56; religion and spirituality in, 65; sexual practices in, 60–61; social and government programs in, 60; violence in, 65–66
 Kenyatta, Jomo, 56
 Khama, Seretse Ian, 12, 13, 17
 Khomeini, Ruhollah (ayatollah), 164, 166
 Kibaki, Emilio Mwai, 56
 Kikwete, Jakaya Mrisho, 124, 126
 “Kingdom in the Closet” (Labi), 197–98
 Koran, 30, 36, 77, 81, 98, 164, 214
 Kufuor, John, 47
 Kunonga, Nolbert (Anglican bishop), 19, 158
 Labi, Nadya, 197–98
 Lahoud, Emile, 178
 Languages/dialects: Botswana's, 12; Cameroon's, 23; Egypt's, 29; Lebanon's, 176; Morocco's, 75; Namibia's, 88; translations of gay-themed titles and, 180
 Laws: in Botswana, 18–19; in Cameroon, 25–26; in Egypt, 35; in Ethiopia, 44–45; in Ghana, 50–51; in Iran, 168–70; in Kenya, 64–65; in Lebanon, 186–88; in Liberia, 72; in Morocco, 80–81; Muslim, 70, 81, 102, 109, 131, 163, 164, 195, 209–10, 211; in Namibia, 92–93; in Nigeria, 107–8; in Saudi Arabia, 209–12; Sharia, 109, 131, 163, 164, 169, 195, 209–10, 211; in South Africa, 119; in Tanzania, 126; in Tunisia, 132; in Uganda, 142
Lebanon: abortion in, 182; antidiscrimination statutes in, 186; as Arab world's most gay-friendly city, 2; asylum cases in, 187; bisexuals in, 184, 187–88; community in, 183–84; divorce in, 183; drag queens in, 180; education in, 181; employment and economics in, 181–82; family in, 183; gay men in, 184; health in, 184–85; historical stance on homosexuals in, 1; HIV/AIDS in, 182, 184–85; homophobia in, 179; intersexed people in, 188; languages and dialects spoken in, 176; lesbians in, 184; LGBT issues in, 175–92; map of, 175; marriage in, 186; media in, 179–80; Muslims in, 176; outlook for 21st century in, 190; overview, 175–80; political history of, 176–78; politics and law in, 186–88; population and ethnic makeup of, 175; religion and spirituality in, 188–89; sex toys and, 185; sexual practices in, 182; social and government programs in, 182; sodomy in, 186; speech and association in, 186–87; transsexuals in, 188; violence in, 178, 189–90
 Legal restrictions, with sodomy, 194, 211–12
 Lesbians: bride price and, 127; in Egypt, 32, 34; invisibility of, 179; in Lebanon, 184; violence against, 65; in workplace, 77. *See also* Women
 LGBTIQ (Lesbian, gay, bisexual, transgender, intersex or questioning), 33–34
Liberia: community in, 71; education in, 70–71; employment and economics in, 71; family in, 71; health in, 71–72; homophobia in, 72; homosexuality criminalized in, 72; LGBT issues in, 69–73; map of, 69; outlook for 21st century in, 72; overview, 69–70; politics and law in, 72; religion and spirituality in, 72; sexual practices in, 71; social and government programs in, 71; sodomy in, 72; violence in, 72
 Long, Scott, 216
 Lule, Yusufu, 137
 Lutherans, 93
 Macaulay, Jide, 97, 102, 104–5
 MacDonald, Prince, 48
 Madzongwe, Edna, 153
 Magic, 118
 MAHA, 165
 Makhulu, Walter (Anglican archbishop), 19
Man of Ashes, 131
 Mandeans, 213
 Maps: Botswana, 11; Cameroon, 23; Egypt, 29; Ethiopia, 41; Ghana, 47; Iran, 163; Kenya, 55; Lebanon, 175; Liberia, 69; Morocco, 75; Namibia, 87; Nigeria, 97; Saudi Arabia, 193; South Africa, 113; Tanzania, 123; Tunisia, 129; Uganda, 135; Zimbabwe, 147
 Maronite, Christian, 176
 Marriage: in Africa with adoption, 5; bride price and, 16, 61, 91, 127; within families, 183; gender-specific initiation rites of, 16; interfaith, 2, 188; Islam's views on, 31; in Lebanon, 186; in Middle East, 5; as obligatory for most Arabs, 79; same-sex, 25, 103, 105, 120, 138, 152; women engaging in homosexual acts and, 32, 78. *See also* Family
 Massacres, 148
 Matyszak, Derek, 147
 Mau Mau rebellion of 1952, 56
 McNally, Nicholas (justice), 156
 Mecca, 193, 213
 Media, 5; in Botswana, 13; in Egypt, 30; in Ghana, 48; in Kenya, 57; in Lebanon, 179–80; in Morocco, 76; in Saudi Arabia, 201; in Tunisia, 129; in Zimbabwe, 153. *See also* Press
 Medina, 194, 213
 Meem, 179, 184, 185, 187
 Men: honor killings and, 1, 3, 33, 82, 171, 183; Lebanese gay, 184; Muslim gay, 76
 Men who have sex with men. *See* MSM
 Mengistu Haile Mariam, 41
 Middle East: antidiscrimination statutes and violence in, 4–5; education in, 5; HIV/AIDS in, 5–6; intersexed people in, 7; introduction to Africa and, 1–8; Iran and, 163–73; Lebanon and, 175–92; LGBT issues in, 4–7; marriage and adoption in, 5; outlook for 21st century in, 7–8; religion in, 6; Saudi Arabia and, 193–223; sexual and relationship arrangement in, 2–3; sodomy in, 4; transgender people in, 6–7
 Military, gays in, 101

- Moawad, Nadine, 175
 Mogae, Festus, 12
 Mohamed VI (king), 75
 Moi, Daniel Arap, 56, 57
Morocco: asylum cases in, 82; bisexuals in, 76–77; community in, 79; education in, 77; employment in, 77; family in, 78–79; government programs in, 77; health in, 80; HIV/AIDS in, 80, 81; homosexuality criminalized in, 81; languages and dialects spoken in, 75; LGBT issues in, 75–85; map of, 75; media in, 76; Muslims in, 75; outlook for 21st century in, 83; overview, 75–77; politics and law in, 80–81; pregnancy out of wedlock in, 82; religion and spirituality in, 81–82; sexual practices in, 78; violence in, 82
 Moscati, Maria Federica, 41
 Mouloudzadeh, Makvan, 171
 MSM (Men who have sex with men), 3, 63, 103, 149, 184–85
 Mubarak, Hosni, 29
 Mugabe, Robert, 2, 148, 152, 154, 155, 158
 Musango, Gertrude, 153
 Museveni, Yoweri, 137, 138–39, 140, 141, 142, 143
 Muslims, 26, 29, 36, 49, 51, 65, 118, 129, 132, 170; dietary restrictions, 211; in Ethiopia, 45; historical tolerance of homosexual practice, 75–76, 133; HIV/AIDS, “war of the beaches” and, 80; interfaith marriages prohibited for, 188; in Kenya, 56; law, 70, 81, 102, 109, 131, 163, 164, 169, 195, 209–10, 211; in Lebanon, 176; LGBT, 216; LGBTIQ, 33–34; lifestyle, 205, 213; in Namibia, 93; in Nigeria, 108; non, 214; religious duties of, 98–99, 213; religious persecution of, 109, 177; Sunni, 194, 210; traditional families and, 32–33. *See also* Iran; Saudi Arabia
 Mwamba, Trevor (bishop), 19
Namibia: bisexuals in, 90; community in, 92; education in, 89; employment and economics in, 89–90; family in, 91–92; health in, 92; HIV/AIDS in, 87–89, 91–92, 94; homophobia in, 91; languages and dialects spoken in, 88; LGBT issues in, 87–96; map of, 87; Muslims in, 93; outlook for 21st century in, 94; overview, 87–89; politics and law in, 92–93; population and ethnic makeup of, 88; religion and spirituality in, 93; sexual practices in, 90–91; social and government programs in, 90; violence in, 93–94
 Nasrallah, Hassan, 177
 Natural Law Theory, 181
 Ncube, Pius (Roman Catholic archbishop), 158
 Nehanda (spirit-medium leader or shaman), 147
Nigeria: adoption in, 103; bisexuals in, 102; children in, 105–6; criminalization of homosexuality in, 98; education in, 98–100; employment and economics in, 100–101; family and community in, 105–6; health in, 106–7; HIV/AIDS in, 102–3, 106–7; homophobia in, 99; LGBT issues in, 97–111; map of, 97; Muslims in, 108; outlook for 21st century in, 109–10; overview, 97–98; politics and law in, 107–8; population and ethnic makeup of, 97–98; religion and spirituality in, 108–9; same-sex marriage in, 105; sexual practices in, 102–5; Sharia Law in, 109; social and government programs in, 101–2; sodomy in, 103; violence in, 109
 Njeim, Ziad, 187
 Njenga, Frank, 64
 Nkomo, Alice, 27
 Nkomo, Joshua, 148
 Nteere, Nancy, 11, 55, 87
 Nujoma, Sam, 89, 91, 93–94, 155
 Nyerere, Mwalimu Julius, 124
 Odinga, Raila, 56
 Odumuye, Oludare, 102, 103
 Online dating, police taskforce against, 34
 Palestinians, 1, 175, 177, 201
 Parsis, 213
 Pentecostals, 51
 Persecution: death and, 33, 81, 100; religious, 109, 177
 Police, 26, 77, 154; abuse of power, 127; brutality, 27, 142; fear of, 114; in Ghana, 47; in Kenya, 57; raid, 165; Saudi Arabia’s religious, 203; taskforce against online dating, 34; in Tunisia, 130; undercover, 35
 Politics: in Botswana, 18–19; in Cameroon, 25–26; in Egypt, 35; in Ethiopia, 44–45; in Ghana, 50–51; in Iran, 168–70; in Kenya, 64–65; in Lebanon, 186–88; in Liberia, 72; in Morocco, 80–81; in Namibia, 92–93; in Nigeria, 107–8; in Saudi Arabia, 209–12; in South Africa, 119; in Tanzania, 126; in Tunisia, 132; in Uganda, 142; in Zimbabwe, 153–58
 Polygamy, 49, 51, 91, 115–16
 Population: Botswana’s, 11–12; Cameroon’s, 23; Egypt’s, 29; invisible, 7, 48; Iran’s, 164; Kenya’s, 55–56; Lebanon’s, 175; Namibia’s, 88; Nigeria’s, 97–98; Saudi Arabia’s, 193, 201; South Africa’s, 113–14; Uganda’s, 135–36
 Pregnancies, 60, 204; out of wedlock, 50, 82; teen, 15; unplanned, 49
 Press, Saudi Arabia and freedom of speech and, 210
 Priests/bishops, gay, 6, 19, 51, 65, 126
 Prisons, 171; condoms in, 6, 153, 168; HIV/AIDS in, 6, 20
 Prostitutes, 81, 140, 180, 188
 Protestants, 56, 93, 114, 176
 Qaddafi, Muammar, 137
 Qahwaji, Jean, 176
 Qassir, Samir, 178
 Queen Boat Affair, 4, 30, 31, 33, 34, 35, 37
 Queen of Sheba, 41
 Queer theory, 181
 Qur’an. *See* Koran
 Rape, 127, 165, 171, 189
 Reagan, Ronald, 69
 Relationships: in Africa with sexual arrangements, 2–3; in Middle East with sexual arrangements, 2–3
 Religions: in Africa, 6; in Botswana, 19; in Cameroon, 26; in Egypt, 36–37; in Ethiopia, 44–45; in Ghana, 51; indigenous, 6, 19, 93, 108, 118; interfaith marriages and, 2, 188; in Iran, 170; in Kenya, 65; in Lebanon, 188–89; in Liberia, 72; in Middle East, 6; in Morocco, 81–82;

- in Namibia, 93; in Nigeria, 108–9; in Saudi Arabia, 212–15; in South Africa, 119–20; in Tanzania, 126; in Tunisia, 132; in Uganda, 142–43; in Zimbabwe, 158. *See also specific religions*
- Reza Shah, 164, 169
- Rhodes, Cecil John, 12, 147
- Robertson, Pat, 71
- Robinson, Gene, 6, 19, 51, 65
- Salloom, Al, 196
- Same-sex marriages, 25, 103, 105, 120, 138, 152
- Sandels, Alexandra, 175
- Sangomas* (shamans), 118, 147
- Saudi Arabia:** as birthplace of Islam, 193; bisexuals in, 200; community in, 206–7; death penalty for homosexuals in, 216–17; education in, 195–98; employment and economics in, 198–202; family in, 205–6; freedom of speech and press in, 210; freedom to assemble in, 210–11; health in, 207–8; HIV/AIDS in, 202–3, 208; homosexuality criminalized in, 194; legal restrictions and sodomy in, 211–12; LGBT issues in, 193–223; map of, 193; media in, 201; outlook for 21st century in, 217–18; overview, 193–95; politics and law in, 209–12; population of, 193, 201; religion and spirituality in, 212–15; religious police in, 203; sexual practices in, 203–5; Sharia Law in, 195, 209–10, 211; social and government programs in, 202–3; violence in, 215–17; women in, 196–98
- Serhane, Abdelhak, 79
- Sex: toys, 2, 185; workers, 49, 130
- Sex education. *See* Education
- Sexual arrangements: in Africa with relationships, 2–3; in Middle East with relationships, 2–3
- Sexual practices: in Botswana, 14–15; in Cameroon, 24; in Egypt, 32, 36; in Ethiopia, 43; in Ghana, 49; in Iran, 167; in Kenya, 60–61; in Lebanon, 182; in Liberia, 71; in Morocco, 78; in Namibia, 90–91; in Nigeria, 102–5; in South Africa, 117; in Tanzania, 125; in Tunisia, 131; in Uganda, 140; in Zimbabwe, 151
- Shah, Shivali, 193
- Shamans, 118, 147
- Sharia Law: in Iran, 163, 164, 169; in Nigeria, 109; in Saudi Arabia, 195, 209–10, 211; in Tunisia, 131
- Sheba. *See* Queen of Sheba
- Shenouda III (pope), 36
- Shock therapy, 189
- Sikhs, 213
- Sikhism, 56, 65
- Siyachitema, Jonathan (Anglican bishop), 158
- Slaves, 2, 69
- Sleiman, Michel, 178
- Smith, Ian, 147
- Smuts, Johan H. B., 113
- Social programs. *See* Government programs
- Sodomy: in Africa, 4; in Botswana, 148; criminalization of, 168; in Ethiopia, 45; in Iran, 168, 171; in Lebanon, 186; in Liberia, 72; in Middle East, 4; in Nigeria, 103; in Saudi Arabia with legal restrictions, 194, 211–12; in South Africa, 115; in Tunisia, 130; in Uganda, 138
- Solomon (king), 41
- South Africa:** community in, 118; education in, 115–16; employment and economics in, 116; family in, 117–18; health in, 118–19; HIV/AIDS in, 115, 117–19; LGBT issues in, 113–22; map of, 113; as only nation with equality and sexual orientation written into constitution, 1; outlook for 21st century in, 121; overview, 113–15; politics and law in, 119; population and ethnic makeup of, 113–14; religion and spirituality in, 119–20; sexual practices in, 117; social and government programs in, 116–17; sodomy in, 115; violence in, 120
- Soyinka, Wole, 154
- Speech: association and, 186–87; Saudi Arabia and freedom of press and, 210
- Spirituality. *See* Religions
- Students: Internet and risks for LGBT, 31; ratio of graduating female and, 13. *See also* Education
- Suicide, 26; in Ethiopia, 45; Islam and, 80; teen, 124, 167
- Sunni Muslims, 194, 210
- Surgery, gender reassignment, 7, 132, 165–66, 168, 170
- Tantawi, Mohammed Sayed (sheik), 31
- Tanzania:** community in, 125–26; education in, 124; employment and economics in, 124; family in, 125; health in, 126; HIV/AIDS in, 125–26; homophobia in, 126; homosexuality criminalized in, 123; LGBT issues in, 123–28; map of, 123; outlook for 21st century in, 127; overview, 123; police in, 127; politics and law in, 126; religion and spirituality in, 126; sexual practices in, 125; social and government programs in, 125; violence in, 127
- Taylor, Charles, 70, 71
- Teen pregnancies, 15
- Teen suicide, 124, 167
- Terminology, gay identifying, 2, 30–31, 76–77, 104, 141, 180, 184, 187, 215
- Torture, 35, 36, 169, 171, 212, 216
- Transgender people: in Africa, 6–7; in Middle East, 6–7
- Transsexuals: in Iran, 170; in Lebanon, 188
- Tsvangirai, Morgan, 148
- Tueni, Gebran, 177
- Tunisia:** community in, 131; education in, 130; employment and economics in, 130; family in, 131; health in, 132; HIV/AIDS in, 131–32; LGBT issues in, 129–34; map of, 129; media in, 129; outlook for 21st century in, 132–33; overview, 129–30; police in, 130; politics and law in, 132; religion and spirituality in, 132; sexual practices in, 131; Sharia Law in, 131; social and government programs in, 131; sodomy in, 130; violence in, 132
- 21st century: outlook for Africa in, 7–8; outlook for Botswana in, 20; outlook for Cameroon in, 28; outlook for Egypt in, 37; outlook for Ethiopia in, 45; outlook for Ghana in, 51–52; outlook for Iran in, 171–72; outlook for Kenya in, 66; outlook for Lebanon in, 190; outlook for Liberia in, 72; outlook for Morocco in, 83; outlook for Namibia in, 94; outlook for Nigeria in, 109–10; outlook for Saudi Arabia in, 217–18; outlook for South Africa in, 121; outlook

- for Tanzania in, 127; outlook for Tunisia in, 132–33; outlook for Uganda in, 143; outlook for Zimbabwe in, 158–59
- Uganda:** adoption in, 141; bisexuals in, 138; community in, 141; divorce rate in, 141; education in, 138–39; employment and economics in, 139–40; family in, 141; health in, 141–42; HIV/AIDS in, 137–39, 141–43; LGBT issues in, 135–45; map of, 135; outlook for 21st century in, 143; overview, 135–38; police in, 142; politics and law in, 142; population and ethnic makeup of, 135–36; religion and spirituality in, 142–43; sexual practices in, 140; social and government programs in, 140; sodomy in, 138; violence in, 143
- Undercover police, 35
- Unspoken Facts: A History of Homosexualities in Africa*, 154
- The Vagina Monologues*, 180
- Violence: in Africa with antidiscrimination statutes, 4–5; in Botswana, 19–20; in Cameroon, 26–28; child soldiers and, 71; domestic, 20; in Egypt, 37; in Ethiopia, 44–45; familial, 171; family, 33; in Ghana, 51; in Iran, 170–71; in Kenya, 65–66; in Lebanon, 178, 189–90; against lesbians, 65; in Liberia, 72; in Middle East with antidiscrimination statutes, 4–5; in Morocco, 82; in Namibia, 90; in Nigeria, 109; police brutality and, 27; in Saudi Arabia, 215–17; in South Africa, 120; in Tanzania, 127; in Tunisia, 132; in Uganda, 143; against women, 171; in Zimbabwe, 158
- Water spirits, 108
- Westmoreland Bouchard, Jen, 29, 75
- Wilets, James D., 69
- Wilson, James A. Jr., 135
- Women: bride price and, 16, 61, 91, 127; criminalization of sexual acts between, 18, 92–93; genital mutilation and, 61; homosexual activities among married, 32, 78; marginalized in society, 14, 151; in Saudi Arabia, 196–98; as second-class citizens in Islamic countries, 6; social dictates constraining, 32; violence against, 171. *See also* Family
- Yahoo Group, 1–2, 178
- Zenawi, Meles, 42
- Zimbabwe:** asylum cases in, 151; bisexuals in, 152; community in, 152; cultural views of homosexuality in, 149; education in, 150; employment and economics in, 150; family in, 151–52; health in, 152–53; HIV/AIDS in, 148–53; LGBT issues in, 147–60; map of, 147; media in, 153; outlook for 21st century in, 158–59; overview, 147–49; political history of, 147–48; politics and law in, 153–58; religion and spirituality in, 158; sexual practices in, 151; social and government programs in, 150–51; violence in, 158; women marginalized in, 151
- Zoroastrianism, 170, 213

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International/General

- Amnesty International: www.amnestyusa.org
- The Gay and Lesbian Arabic Society: www.glas.org
- Gay/Lesbian Politics and Law: www.indiana.edu/~glbt/subject.htm
- GayLawNet: www.gaylawnet.com
- Gayscape: www.jwpublishing.com/gayscape
- Human Rights Watch: www.hrw.org
- International Day Against Homophobia: www.homophobiaday.org
- International Gay and Lesbian Association: www.igla.org
- International Gay and Lesbian Human Rights Commission (IGLHRC): www.iglhrc.org
- Internationaal Homo/Lesbisch Informatiecentrum en Archief (IHLIA): www.ihlia.nl

LAMBDA: www.lambda.org
 UNAIDS: www.unaids.org

AFRICA

Behind The Mask: www.mask.org.za
 Coalition of African Lesbians: www.cal.org.za
 DATA: Debt, AIDS, Trade, Africa: www.data.org
 Gay News in Africa: www.mask.org.za

ASIA AND OCEANIA

PT Foundation (Pink Triangle): www.ptfinalaysia.org
 Transgender Equality and Acceptance Movement (TEAM): teamhk.org/e-index.html
 TransgenderAsia: web.hku.hk/~sjwinter/TransgenderASIA/index.htm
 Utopia: Asian Gay & Lesbian Resources: www.utopia-asia.com

EUROPE

Coalition on Sexual Orientation (CoSO): www.coso.org.uk
 European Gay and Lesbian Sports Federation: www.eqlsf.info/
 European Parliament Gay and Lesbian Rights Intergroup: www.lgbt-ep.eu/news.php
 European Pride Organisers Association: www.europride.info
 Fundamental Rights Agency: fra.europa.eu/fra/index.php
 International Gay, Lesbian, Bisexual, Transgender and Queer Youth and Student Organization (IGLYO): www.iglyo.com
 QueerSpace: www.queerspace.org.uk

MIDDLE EAST

Bint el Nas Association for Arab Lesbians: www.bintelnas.org
 The Gay and Lesbian Arabic Society: www.glas.org
 Gay and Lesbian Arabs: www.al-bab.com/arab/background/gay.htm
 Gay Middle East: www.gaymiddleeast.com
 Gay Middle East Blog: www.gaymiddleeast.blogspot.com

UNITED STATES

ACT UP/ New York: www.actupny.org
 American Civil Liberties Union (ACLU): www.aclu.org/issues/gay/hmgl.html
 BiNet USA: www.binetusa.org
 Dignity USA: www.dignityusa.org
 Female-to-Male International (FTM): www.ftm-intl.org
 Gay and Lesbian Advocates and Defenders (GLAD): www.glad.org
 Gay and Lesbian Alliance Against Defamation (GLAAD): www.glaad.org
 Gay and Lesbian Atheists and Humanists (GALAH): www.galah.org
 Gay and Lesbian Medical Association (GLMA): www.glma.org
 Gay and Lesbian Victory Fund: www.victoryfund.org
 Gay, Lesbian & Bisexual Veterans of America (GLBVA): www.glbva.org
 Gay, Lesbian and Straight Education Network (GLSEN): www.glsen.org
 Gay/Lesbian International News Network (GLINN): www.glinn.com
 Gay/Lesbian Politics and Law: www.indiana.edu/~glbt/subject.htm

GayLawNet: <http://www.gaylawnet.com/>
Gayscape: www.jwpublishing.com/gayscape
Human Rights Campaign (HRC): www.hrc.org
Intersex Society of North America (ISNA): www.isna.org
June L. Mazer Archives: www.lesbian.org Lambda Legal Defense and Education Fund:
www.lambdalegal.org/cgi-bin/iowa/index.html
Lesbian.org: www.lesbian.org
National Center for Lesbian Rights (NCLR): www.nclrights.org
National Gay and Lesbian Task Force (NGLTF): www.nglhf.org
National Latina/o Lesbian, Gay, Bisexual, and Transgender Organization (LLEGÓ): www.llego.org
National Lesbian and Gay Law Association (NLGLA): www.nlgl.org
National Minority Aids Council (NMAC): www.nmac.org
National Organization of Gay and Lesbian Scientists and Technical Professionals: www.noglstp.org
ONE Institute and Archives: www.oneinstitute.org
Outfest: www.outfest.org
Parents, Families & Friends of Lesbians & Gays (PFLAG): www.pflag.org
Queer Resources Directory: www.qrd.org
Servicemembers Legal Defense Network (SLDN): www.sldn.org
Soulforce: www.soulforce.org
Stonewall Library and Archives (SLA): www.stonewall-library.org
Transgender Forum: www.transgender.org
Transgender Fund: www.tgfund.org

SET INDEX

Volume numbers are set in boldface.

- Abdul Al-Aziz bin Saud, al-Rahman, **3:193**
Abdulaziz bin Abdulrahman Al-Saud (king), **3:209**
Abdulla Muhammad Al-Zaid, **3:195**
Abdullah bin Abdulaziz Al Saud (king), **3:199**
Abecedary (Trubar), **2:373**
Abolitionists, **3:69**
Abongo, Tom Ochieng, **3:55, 123**
Aborigines, **1:50, 250, 317, 488**
Abortion, **1:202, 237 n.96, 289, 478, 528, 3:60**; in Andorra, **2:18**; in Belgium, **2:61**; in Botswana, **3:16**; in Ireland, **2:238**; in Italy, **2:257**; in Kenya, **3:60**; in Lebanon, **3:182**; in Norway, **2:315**; in Poland, **2:324**; in Portugal, **2:336**; in Russia, **2:362**; in Slovenia, **2:385**
Abse, Leo, **2:447**
Abstinence, **1:202**; Haiti and, **1:137**; Jamaica and, **1:161**; Venezuela and, **1:301**
Abu Ghraib, **3:31**
Achilles, **2:206**
Adenauer, Konrad, **2:192**
Adoption, **2:6**; in Africa with marriage, **3:5**; Americas/Caribbean, marriage and child, **1:8**; in Andorra, **2:16**; in Asia and Oceania, **1:313**; in Australia, **1:325**; in Austria with artificial insemination, **2:28–29**; in Belarus, **2:41**; in Belgium, **2:50**; in Bolivia, **1:28**; in Bulgaria, **2:70**; in Canada, **1:57, 60–61**; in Croatia, **2:86**; in Czech Republic, **2:102**; in Denmark, **2:114–15**; in EU, **2:124**; in Europe, **2:7–8**; in Finland, **2:149, 153**; in France, **2:167**; in Georgia, **2:186**; in Germany, **2:196**; in Greece, **2:210**; in Hungary, **2:224**; in Italy, **2:258**; in Kenya, **3:61–62**; in Middle East, **3:5**; in Moldova, **2:279–80**; the Netherlands and, **2:291**; in Nigeria, **3:103**; in Norway, **2:309**; in Poland, **2:328**; in Portugal, **2:341**; in Romania, **2:351**; in Russia, **2:363**; in Slovenia, **2:380**; in Spain, **2:399**; in Switzerland, **2:420**; in Uganda, **3:141**; in UK, **2:443**; in Uruguay, **1:293**
Adventists, **2:405**
Africa: antidiscrimination statutes and violence in, **3:4–5**; Botswana and, **3:11–22**; Cameroon and, **3:23–28**; education in, **3:5**; Egypt and, **3:29–39**; Ethiopia and, **3:41–46**; Ghana and, **3:47–53**; HIV/AIDS in, **3:5–6, 125–26**; intersexed people in, **3:7**; introduction to Middle East and, **3:1–8**; Kenya and, **3:55–68**; LGBT issues in, **3:4–7**; Liberia and, **3:69–73**; marriage and adoption in, **3:5**; Morocco and, **3:75–85**; Namibia and, **3:87–96**; Nigeria and, **3:97–111**; outlook for 21st century in, **3:7–8**; religion in, **3:6**; sexual and relationship arrangement in, **3:2–3**; sodomy in, **3:4**; South Africa and, **3:113–22**; Tanzania and, **3:123–28**; transgender people in, **3:6–7**; Tunisia and, **3:129–34**; Uganda and, **3:135–45**; Zimbabwe and, **3:147–60**
African Americans, **1:277, 278**
Agnostics, **1:74**
Aguirre, Patricio, **1:111**
Ahmadinejad, Mahmoud, **3:168, 169, 172**
AIDS/HIV. *See* HIV/AIDS
Aizhi Newsletter, **1:361**
Akeel, Maha, **3:196**
Akinola, Peter (Anglican bishop), **3:108–9**
Alaci, Arash (brother), **3:168**
Alaci, Kamiar (brother), **3:168**
Albertini, Laura, **1:294**
Aleksandar (king), **2:80**
Alemán, Arnoldo, **1:224**
Alexandre, Vicente, **2:396**
Alexander II, **2:359**
Alexander the Great, **2:206**
Alexeyev, Nicholas, **2:369**
Al-Gosaibi, Ghazi, **3:199**
Al-Humaid, Abdul Wahid, **3:200**
Allende, Salvador, **1:75, 78–79**
Almodóvar, Pedro, **2:402**
Alternatives-Cameroun, **3:25**
Altman, Dennis, **1:324**
Alvarez, Martha, **1:100**
Amandala, **1:21**
Amenábar, Alejandro, **2:402**
American Psychological Association, **1:27**
Americas and Caribbean: African slave trade in, **1:4**; AIDS in, **1:9–10**; ambiguous/fluid gender roles of indigenous peoples in,

- 1:3–4, 10; antidiscrimination statutes and violence in, 1:7–8; Christianity and conversion in, 1:3–4, 10; creation myths' transsexual gods in, 1:3; education in, 1:8–9; intersexed in, 1:11; introduction, 1:1–12; marriage and child adoption in, 1:8; outlook for 21st century, 1:11–12; overview of LGBT issues in, 1:6–11; religion in, 1:10–11; sexual/relationship arrangements in machismo cultures, 1:5–6; sodomy in, 1:6–7; transgendered people in, 1:11
- Amin, Idi, 3:136–37
- Amnesty International, 1:180, 2:40, 45, 285, 377, 3:143, 196, 215, 216–17
- Anacreon, 2:207
- Anal intercourse, 1:55, 59–60, 153, 198 n.81. *See also* Sodomy
- Anaya, Alvin (general), 1:26–27
- Andersen, Bibi, 2:402
- Andorra:** abortion in, 2:18; absence of antisodomy laws in, 2:19; adoption in, 2:16; Catholic Church's influence in, 2:18–19, 20; civil unions/partnerships in, 2:7; community in, 2:16–17; education in, 2:14; employment and economics in, 2:14–15; family in, 2:15–16; 1419 Council of Land and, 2:13; Green Party of, 2:16; health in, 2:17; lack of membership in EU and, 2:14; LGBT issues in, 2:13–21; map of, 2:13; outlook for 21st century in, 2:19–20; overview, 2:13–14; politics and law in, 2:17–18; population and ethnic makeup of, 2:13; religion and spirituality in, 2:18–19; sexual practices in, 2:15; Stable Union of Couples Act and, 2:15; violence in, 2:19
- Andrade, Xavier, 1:111
- Angelo, Bob, 2:291
- Anglican Church, 1:62, 153, 467, 3:7, 65, 114
- Anglicanism, 2:59
- Anisú*, 1:428
- Animists, 3:26, 45
- Antidiscrimination statutes, 1:85; in Africa with violence, 3:4–5; Americas/Caribbean, violence and, 1:7–8; in Asia and Oceania, 1:312–13; in Austria, 2:27; in Bulgaria, 2:74–75; in EU, 2:5, 131–32; in Europe, 2:6–7; in Honduras, 1:145–46; in Hungary, 2:226–27; in Italy, 2:258–59; in Lebanon, 3:186; in Middle East with violence, 3:4–5; in Nicaragua, 1:228; in Norway, 2:313; in Russia, 2:362, 367; in U.S., 1:273. *See also* Laws
- Antigay culture: in Belarus, 2:9; in Croatia, 2:9; in Russia, 2:9
- Anti-Heterosexism* (Hiroaki), 1:421
- Antisodomy laws, 2:366; Andorra's absence of, 2:19; Finland's absence of, 2:149; women's exclusion from, 2:5. *See also* Sodomy
- Antisodomy statutes: in Jamaica, 1:7; in Trinidad and Tobago, 1:7. *See also* Laws
- Aoun, Michel (general), 3:177
- Apartheid, 3:4, 12, 114
- Arabs, 3:126; culture and literature, 3:76; marriage as obligatory for most, 3:79; Yahoo Group for gay, 3:1–2, 178. *See also* Egypt; Iran; Lebanon; Morocco; Saudi Arabia; Tunisia
- Araujo, Arturo, 1:116
- Archilochos, 2:207
- Arco Iris, 1:38
- Are You Being Served?*, 2:445
- Argentina, 1:9
- Arias, Arnulfo, 1:242
- Arias Dávila, Pedro, 1:241
- Aristogiton, 2:207
- Arran (lord), 2:447
- Arthashastra*, 1:398
- Artificial insemination, 2:445; in Austria with adoption, 2:28–29; in Bulgaria, 2:69; in Finland, 2:152–53; in Germany, 2:196; in Greece, 2:210; in Hungary, 2:224; lesbians excluded from, 2:29; in Slovenia, 2:380
- Ashe Productions, 1:177
- Ashley, April, 2:447
- Asia and Oceania: antidiscrimination statutes and violence in, 1:312–13; education in, 1:313–14; HIV/AIDS in, 1:314; introduction, 1:307–12; marriage and child adoption in, 1:313; outlook for 21st century, 1:316; overview of LGBT issues in, 1:312–16; religion in, 1:314–15; sodomy in, 1:312; transgendered and intersexed people in, 1:315–16
- Assassinations, 3:177
- Association: in Hungary with speech, 2:228; in Nicaragua with speech, 1:229–30; in Norway with speech, 2:314; in Russia with speech, 2:368–69; in Uruguay with speech, 1:295; in U.S. with speech, 1:274–75
- Association, speech and, 3:186–87
- Asylum, 2:16, 124, 291; in Italy, 2:260–61; law in Austria, 2:29; seekers, 2:36, 284, 306
- Asylum cases: in Egypt, 3:34; in Kenya, 3:57; in Lebanon, 3:187; in Morocco, 3:82; in Zimbabwe, 3:151
- Atheists, 1:74
- Atobá, 1:38
- Au, Alex, 1:481
- Aultman, Brandon L. H., 3:163
- Australia:** adoption in, 1:325; community in, 1:321–22; education in, 1:318–19; employment and economics in, 1:319; family in, 1:320–21; Gay Pride festivals and, 1:321–22; health in, 1:323–24; HIV/AIDS and, 1:322–24, 325, 328; indigenous peoples of, 1:317; LGBT issues in, 1:317–32; map of, 1:317; outlook for 21st century in, 1:327–28; overview, 1:317–18; politics and law in, 1:324–26; population of, 1:317; religion and spirituality in, 1:326–27; sexuality/sexual practices in, 1:320; social/government programs in, 1:319–20; suicide and, 1:323; violence in, 1:327
- Austria:** adoption and artificial insemination in, 2:28–29; antidiscrimination legislation in, 2:27; asylum law in, 2:29; Catholic Church's influence in, 2:24, 25; community in, 2:25–26; divorce in, 2:25; economics in, 2:25; education in, 2:24–25; employment in, 2:25; as EU member, 2:23, 27, 116; family in, 2:25; Gay Pride festivals/parades in, 2:26; GDP of, 2:25; Green Party of, 2:30; health in, 2:26; HIV/AIDS in, 2:26; LGBT issues in, 2:23–34; map of, 2:23; Nazi influence on, 2:24, 26; outlook for 21st century in, 2:30–32; overview, 2:23–24; parenting in, 2:28–29; partnership legislation in, 2:27–28; politics and law in,

- 2:26–29; population and ethnic makeup of, 2:23; religion and spirituality in, 2:29; social/government programs in, 2:25; violence in, 2:29–30
- A&V* (Artists for Life), 1:301, 302
- Axumite Empire, 3:41
- Aya Kamikawa, 1:422
- Aymara, 1:25
- Azis, 2:69
- Azuah, Unoma N., 3:97
- Babin, Herculine, 1:56–57
- Baby Cham, 1:187
- Badalu, John, 1:413
- Bahá'ís, 3:176
- Bai Xian-yong, 1:494
- Bakare, Sebastian, 3:158
- Banac, Ivo, 2:92
- Banana, Canaan, 3:148, 155, 156
- Bangladesh:** community in, 1:338–39; education in, 1:336; employment and economics in, 1:336–37; ethnic makeup of, 1:333; family in, 1:338; health in, 1:339–41; *hijra* subculture in, 1:334–36, 337, 340, 341–42, 343 n.4, 343 n.6; HIV/AIDS and, 1:336, 337–38, 339–40; *kotbi* subculture in, 1:335, 337, 338, 339, 340, 343 n.6, 344 n.17; languages/dialects spoken in, 1:333; LGBT issues in, 1:333–46; map of, 1:333; outlook for 21st century in, 1:342–43; overview, 1:333–36; *panthi* subculture in, 1:334, 340; politics and law in, 1:341; religion and spirituality in, 1:341–42; sexuality/sexual practices in, 1:337–38; social/government programs in, 1:337; violence in, 1:342
- Banton, Buju, 1:186, 187
- Baptists, 1:153, 260, 2:262
- Bar-4*, 2:181
- Barazoku*, 1:427
- Barebacking, 2:166, 300
- Barhona, Ana, 1:202
- Barnett, Tim, 1:465
- Bartels, Kwamena, 3:51
- Bashment Granny*, 1:188–89
- de Bastidas, Rodrigo, 1:241
- Bathhouses, 2:182, 220, 363, 398, 430
- Batlle y Ordóñez, José, 1:289
- “Batty man,” 1:153, 186
- “Bears,” 1:320
- Beauty pageants, 1:482, 3:194, 210; Miss Gay Bolivia, 1:28; Miss Kathoey, 1:516; Miss Waria, 1:413
- Beenie Man, 1:187
- Belarus:** adoption in, 2:41; antigay culture in, 2:9; community in, 2:40–41; divorce in, 2:39; education in, 2:37–38; employment and economics in, 2:38; family in, 2:39–40; gay clubs in, 2:41; Gay Pride festivals/parades in, 2:40; gays in military in, 2:41; health in, 2:41–42; HIV/AIDS in, 2:38–39, 40, 41–42; LGBT issues in, 2:35–48; map of, 2:35; military in, 2:36; outlook for 21st century in, 2:45–46; overview, 2:35–37; politics and law in, 2:42–44; population of, 2:35; rape in, 2:42; religion and spirituality in, 2:45; sexual practices in, 2:38–39; social and government programs in, 2:38; social orphans in, 2:39; societal homophobia in, 2:37; STDs in, 2:41–42; violence in, 2:45
- Belgium:** abortion in, 2:61; adoption in, 2:50; closeted teachers in, 2:50; community in, 2:55–56; education in, 2:50–51; employment and economics in, 2:51–52; as EU member, 2:116; family in, 2:53–55; Gay Pride festivals/parades in, 2:56; GDP of, 2:51; hate crimes in, 2:60; health in, 2:56; HIV/AIDS in, 2:52, 56–57; languages spoken in, 2:49; LGBT issues in, 2:49–64; map of, 2:49; mental health in, 2:56–57; outlook for 21st century in, 2:61; overview, 2:49–50; politics and law in, 2:57–59; religion and spirituality in, 2:59–60; same-sex marriage in, 2:7, 8, 32; sexual practices in, 2:52–53; social and government programs in, 2:52; suicide and youth in, 2:57; violence in, 2:60–61
- Belize:** carnal intercourse law in, 1:19–20; Catholic Church's influence in, 1:16–17, 21; Catholic Church's influence on education in, 1:16–17; colonial, 1:14–16; community in, 1:18; culture of love in, 1:18; depopulation of, 1:14; education in, 1:16–17; employment and economics in, 1:17; ethnic makeup of, 1:15–16; family in, 1:18; gay cruise ship landing of 1998 and, 1:20–21; gay tourist dollars and, 1:12; GDP of, 1:17; health in, 1:18–19; HIV/AIDS in, 1:18–19, 21–22; homosexuals equated with prostitutes in, 1:20; homosexuals impacted by discriminatory laws in, 1:19–20; as independent nation, 1:16; languages/dialects spoken in, 1:16; LGBT issues in, 1:13–23; map of, 1:13; Mayan people and, 1:13–16; military spending in, 1:17–18; outlook for 21st century in, 1:22; overview, 1:13–16; politics and law in, 1:19–20; population of, 1:13, 15–16; poverty and children in, 1:17; religion and spirituality in, 1:20–21; same-sex marriages in, 1:16; sexuality/sexual practices in, 1:18; “Skittles” and openly gay men in, 1:18; social/government programs in, 1:17–18; violence in, 1:21–22; youth and first sexual intercourse, 1:20
- Bellefleur, Dolly, 2:298
- BelQueer, 2:40
- Ben Ali, Zine el Abidine, 3:129
- Benavente, Jacinto, 2:396
- Benavides, O. Hugo, 1:111
- Benkert, Karl Maria. *See* Kertbeny, Károly
- Bennett, Natalie D. A., 1:151
- Berlusconi, Silvio, 2:256
- Berri, Habih, 3:177
- Bestiality, 2:5, 323
- Beyer, Georgina, 1:465
- Bezness*, 3:130
- BGO Gemini. *See* Bulgarian Gay Organization Gemini
- Bhumibol Adulyadej (king), 1:508
- Bichas* (men in passive sex roles), 1:38, 40
- Big Brother*, 2:402
- Bilitis Lesbian and Bi-Woman Resource Center, 2:67, 70
- Birit manga* (collecting alms), 1:337
- Birth control: China's policy on, 1:356; machismo culture and, 1:9; machismo views of, 1:9. *See also* Condoms; Sexual practices
- Bisexuals, 3:1; in Botswana, 3:13; in Cameroon, 3:24, 25, 28; in Canada, 1:56; in

- Denmark, 2:118; in Egypt, 3:30, 34; in Ghana, 3:50; in Honduras, 1:146; in Italy, 2:261; in Kyrgyzstan, 2:271; in Lebanon, 3:184, 187–88; legally unrecognized in Bolivia, 1:30; in Morocco, 3:76–77; in Namibia, 3:90; in Nicaragua, 1:222–23; in Nigeria, 3:102; in Saudi Arabia, 3:200; in Uganda, 3:138; in Uruguay, 1:295; in U.S., 1:275; in Zimbabwe, 3:152
- Bishops/priests, gay, 3:6, 19, 51, 65, 126
- Black Sheep Collective, 1:293
- Blair, Tony, 2:440, 449
- Blais, Martin, 1:49
- Blanco criollo* (white Creole), 1:300
- Blažič, Mitja, 2:385, 386
- Blidon, Marianne, 2:163
- Blood donations, 2:9, 14, 16, 17
- BOB. *See* Boys Only Bangladesh
- Bochow, Michael, 2:198
- Bofè* (men in dominant sex roles), 1:38
- Bolívar, Simón, 1:242, 300
- Bolivia:** adoption in, 1:28; bisexuals, transsexuals and intersexuals not legally recognized in, 1:30; Catholic Church's influence in, 1:31; closet homosexuality in, 1:27–28; community in, 1:28–29; as drug hub, 1:9; education in, 1:27; employment and economics in, 1:27; ethnic makeup of, 1:26; family in, 1:28; Gay Day in, 1:28; Gay Pride festival in, 1:29; GDP of, 1:26; health in, 1:30; HIV/AIDS and, 1:30; Inca Empire and, 1:25–26; languages/dialects spoken in, 1:25; legal prostitution in, 1:30; LGBT issues in, 1:25–35; LGBT organizations in, 1:28–29; map of, 1:25; military and homosexuals in, 1:26–27; outlook for 21st century in, 1:31; overview, 1:25–27; politics and law in, 1:30; *pongueaje* and indentured servitude in, 1:26; religion and spirituality in, 1:31; same-sex marriage in, 1:26; sexuality/sexual practices in, 1:27–28; social/government programs in, 1:27; sodomy in, 1:30; three groups of homosexuals in, 1:27–28; violence in, 1:25
- Bollywood, 1:393
- Bonaparte, Napoleon, 1:300, 2:3, 258, 289, 322, 359, 374
- Bondage, 1:320
- Bonini-Baraldi, Matteo, 2:123
- Books. *See* Textbooks
- “Boom Bye Bye,” 1:186, 188
- Bortnik, Viachaslau, 2:35
- Botswana:** abortion in, 3:16; bisexuals in, 3:13; Christianity's influence in, 3:19; community in, 3:17; education in, 3:13; employment and economics in, 3:13–14; family in, 3:16; gender-specific marriage initiation rites in, 3:16; health in, 3:17–18; HIV/AIDS in, 3:12–13, 14–18, 20; homosexuality criminalized in, 3:12, 18; languages and dialects spoken in, 3:12; LGBT issues in, 3:11–22; map of, 3:11; media in, 3:13; outlook for 21st century in, 3:20; overview, 3:11–13; politics and law in, 3:18–19; population and ethnic makeup of, 3:11–12; religion and spirituality in, 3:19; sexual practices in, 3:14–15; social and government programs in, 3:14; sodomy in, 3:148; teen pregnancy in, 3:15; violence in, 3:19–20
- Bouchard, Jen Westmoreland, 1:37, 135, 257, 391
- Bouraoui, Nina, 2:165
- Bourguiba, Habib, 3:129
- Boutin, Christine, 2:171
- Bouزيد, Nouri, 3:130, 131
- Bowers v. Hardwick*, 1:273
- Bowie, David, 2:193
- Bowles, Paul, 3:76
- Boys Only Bangladesh (BOB), 1:335, 339, 342, 345 n.25
- Brand, Dionne, 1:136
- Brazil:** Catholic Church's influence in, 1:37, 43–44; community in, 1:41–42; as drug hub, 1:9; education in, 1:38–39; employment and economics in, 1:39; family in, 1:41; Gay Pride festival in, 1:38, 41–42; health in, 1:42–43; HIV/AIDS and, 1:40, 42–43; languages/dialects spoken in, 1:37; LGBT issues in, 1:37–47; LGBT organizations in, 1:38, 41; map of, 1:37; outlook for 21st century in, 1:44–45; overview, 1:37–38; politics and law in, 1:43; population of, 1:38; religion and spirituality in, 1:43–44; same-sex marriages in, 1:41; sexuality/sexual practices in, 1:40; slavery legacy in, 1:37; social/government programs in, 1:40; sodomy in, 1:37; suicide and, 1:43; transsexual population in, 1:42; violence in, 1:44
- Bregula, Korahina, 2:325
- Brewer, Elena, 2:282
- Bride price, 3:16, 61, 91, 127
- Brink, Joe, 2:292
- Brokeback Mountain*, 1:54
- Bronze Age, 1:505–6
- Brookside*, 2:445
- Brother Tobi, 1:120
- Brown v. Board of Education*, 1:264, 278
- La Brújula Queer, 1:293
- Buddhism, 1:61, 154, 246, 347, 349, 352–53, 356, 365, 385, 412, 420, 430, 448, 455, 467, 498, 506, 517, 518, 523, 533
- Buddhists, 2:29, 59, 164, 315, 3:176, 213
- Bufen* (versatile lesbian), 1:360
- Bulgaria:** adoption in, 2:70; antidiscrimination statutes in, 2:74–75; artificial insemination in, 2:69; attitudes toward homosexuals, 2:66; community in, 2:70–72; drag queens in, 2:71; drug use in, 2:73; education in, 2:67–68; employment and economics in, 2:68–69; as EU member, 2:66, 116; family in, 2:69–70; Gay clubs in, 2:71; Gay Pride festivals/parades in, 2:70–71; GDP of, 2:66, 68; health in, 2:72–74; HIV/AIDS in, 2:73–74; lesbians in, 2:69; LGBT issues in, 2:65–78; map of, 2:65; military in, 2:76; Orthodox Church's influence in, 2:75; outlook for 21st century in, 2:76–77; overview, 2:65–67; politics and law in, 2:74–75; population and ethnic makeup of, 2:65; religion and spirituality in, 2:75–76; social and government programs in, 2:69; STDs in, 2:73; transvestites in, 2:66; violence in, 2:76
- Bulgarian Gay Organization Gemini (BGO Gemini), 2:66–67, 68, 70, 72, 74, 76
- Bullying, 1:52, 62, 267, 291, 344 n.11, 2:83–84, 150
- Buraku* people, 1:428
- Burke, Christopher, 1:459
- Burroughs, William, 3:76

- Bush, George W., 1:268
 Butler, Judith, 1:421
 Byzantine Empire, 2:65, 79, 203, 358
- C. and L.M. v. the United Kingdom*, 2:129
- CAFTA. *See* Central America Free Trade Agreement
- Calabash Literary Festival, 1:190
- Cambodia**: education in, 1:351; employment and economics in, 1:351; ethnic makeup of, 1:347; family in, 1:352; health in, 1:352; HIV/AIDS and, 1:352; Khmer Empire and, 1:348–49; Khmer Rouge and destruction of, 1:349, 351; LGBT issues in, 1:347–54; map of, 1:347; outlook for 21st century in, 1:353–54; overview, 1:347–51; rape and, 1:353; religion and spirituality in, 1:352–53; sexuality/sexual practices in, 1:352; social/government programs in, 1:351–52; violence in, 1:353
- Cameron, James, 3:118
- Cameroon**: bisexuals in, 3:24, 25, 28; community in, 3:25; education in, 3:24; employment and economics in, 3:24; family in, 3:25; health in, 3:25; HIV/AIDS in, 3:25; homophobia in, 3:23–24, 25; languages and dialects spoken in, 3:23; LGBT issues in, 3:23–28; map of, 3:23; outlook for 21st century in, 3:28; overview, 3:23–24; politics and law in, 3:25–26; population of, 3:23; religion and spirituality in, 3:26; sexual practices in, 3:24; social and government programs in, 3:24; violence in, 3:26–28
- Camuflados* (camouflaged homosexuals), 1:27–28
- Canada**: adoption in, 1:57, 60–61; bisexuals in, 1:56; Catholic Church's influence in, 1:52; community in, 1:58; education in, 1:51–53; employment and economics in, 1:53–54; equal rights in, 1:4; family in, 1:57–58; family projects in, 1:57; federal/provincial gay/lesbian health and health agendas in, 1:56; First Nations people in, 1:62; full legal equality for LGBTs in, 1:51; Gay Pride festival in, 1:58; gay-friendly culture/ rights in, 1:7; gays in military and, 1:54; health in, 1:58–59; HIV/AIDS and, 1:51, 54–56; intersexuals in, 1:56–57; lack of attention to women's health issues in, 1:55–56; languages/dialects spoken in, 1:50; LGBT issues in, 1:49–71; map of, 1:49; Metropolitan Community Church of Toronto in, 1:61; outlook for 21st century in, 1:64; overview, 1:49–51; politics and law in, 1:59–61; population of, 1:49; provincial charters in, 1:60; religion and spirituality in, 1:61–62; same-sex marriage in, 1:8, 10, 50–51, 57, 60; same-sex spouse recognition in, 1:60; seniors in, 1:57–58; sexuality/sexual practices in, 1:54–57; transsexual people's rights in, 1:61; two legal systems in, 1:50; violence against lesbians in, 1:63–64; violence in, 1:62–64
- Candomblé*, 1:44
- Cao Dai, 1:533
- Capill, David, 1:467
- Capote, Truman, 3:76
- Cardeno, Endry, 1:100
- Caribbean: Voodoo in, 1:4, 10–11. *See also* Americas and Caribbean
- Caritas, 1:119
- Carnal intercourse, 1:19–20
- Cârstocea, Sînziana, 2:347
- Carter, Chris, 1:465
- Casas, Francisco, 1:75
- Casey, Eamonn (bishop), 2:244
- Catechism* (Trubar), 2:373
- Catherine (the Great) II, 2:358, 366
- Catholic Church, 1:246, 260, 412, 467, 2:59, 79, 198, 290, 3:26, 56, 58, 65, 93, 99, 114; in Andorra, 2:18–19, 20; in Austria, 2:24, 25, 29; in Belize, 1:16–17, 21; in Bolivia, 1:31; in Brazil, 1:37, 43–44; in Canada, 1:52; in Chile and, 1:75, 78–79; in Colombia, 1:98, 100–101; in Croatia, 2:84, 95; in El Salvador, 1:119–20; in Germany, 2:9–10; in Guatemala, 1:130; interference in public schools by, 1:9; in Ireland, 2:236–38, 239–40, 243–44; in Italy, 2:252–54, 264; Jesuits and, 1:250; in Mexico, 1:200, 206; negativity promoted by, 1:4; in Nicaragua, 1:235 n.51, 237 n.96; Opus Dei and, 1:85, 119, 294; in Poland, 2:322, 332–33; in Portugal, 2:342; as primary religion in Latin America, 1:5; in Slovenia, 2:385–86; in Spain, 2:395–96, 399–400, 404–5; in Switzerland, 2:421–22; tax exemption status of, 2:17; in Uruguay, 1:296. *See also* Religions
- Çavara, 2:55
- CCB. *See* Centre Culturel Belge
- Ceausescu, Nicolae, 2:348
- Central America Free Trade Agreement (CAFTA), 1:117–18, 127, 220
- Central Intelligence Agency (CIA), 1:268, 393
- Centre Culturel Belge (CCB), 2:55
- Centre de solidarité lesbienne*, 1:64
- Cerda Delgadillo, Eulalio, 1:204
- Chamberland, Line, 1:49
- Chamorro, Violeta, 1:221
- Chang, Beng, 1:439
- Chang, Larry, 1:173, 183
- Charter of Fundamental Rights and Freedoms, 2:6
- Chauvel, Charles, 1:466
- Chernobyl, 2:36
- Child Support Scheme, 1:320
- Children: Americas/Caribbean, marriage, adoption and, 1:8; Belize, poverty and, 1:17; bullying in schools and, 1:52, 62, 291; criminalization of sex play between, 1:20; custody of, 1:22, 63; death rate of Ecuadorian youth and, 1:113; foster, 2:240; homosexual, 1:83; infant mortality rate and, 3:56; machismo's influence on, 1:5–6; in Nigeria, 3:105–6; orphaned by AIDS, 3:152; recruited as soldiers, 3:71; as social orphans, 2:39; suicide and, 3:124, 167; teen pregnancy and, 2:238, 292, 341, 3:15; violence against, 2:40. *See also* Adoption; Family; Students
- Chile**: Catholic Church's influence in, 1:75, 78–79; colonial, 1:74–75; community in, 1:83; education in, 1:77–78; employment and economics in, 1:78–81; family in, 1:82–83; health in, 1:83–84; history of sex education in, 1:78; HIV/AIDS and, 1:76, 81, 83–84; Inca Empire and, 1:75; LGBT issues in, 1:64–88; LGBT organizations in, 1:76; map of, 1:73; Mapuche

- people in, 1:74–75; outlook for 21st century in, 1:85–86; overview, 1:73–77; penguin revolution in, 1:77–78; politics and law in, 1:84–85; population of, 1:73; religion and spirituality in, 1:73–74, 85; sexuality/sexual practices in, 1:81–82; social/government programs in, 1:81; sodomy in, 1:84; violence in, 1:85
- China**, 2:4, 123, 269, 310, 399; birth control policy, 1:356; community in, 1:361–62; education in, 1:358–59; employment and economics in, 1:359; family in, 1:360–61; health in, 1:362–63; HIV/AIDS and, 1:357, 359, 361, 363, 366; languages/dialects spoken in, 1:356; LGBT issues in, 1:355–73; map of, 1:355; outlook for 21st century in, 1:366; overview, 1:355–58; politics and law in, 1:363–65; population of, 1:356; religion and spirituality in, 1:365–66; sexual terms in, 1:360; social/government programs in, 1:359–60; violence in, 1:366
- Chirac, Jacques, 2:15
- Chiyo Rokuhana, 1:422
- Chojin Lama, 1:449
- Chraïbi, Driss, 3:79
- Christian Orthodox Church, 2:282
- Christianity, 1:260, 356, 385, 430, 498, 3:6, 19, 29, 36, 49, 51, 65, 70, 75, 108, 123, 126, 129, 132, 142, 176, 177, 187, 213; indigenous people, forced conversions and, 1:3–4, 10; orthodox, 1:61
- Christodoulos of Athens (archbishop), 2:213
- Chu T'ien-wen, 1:494
- Chulalongkorn (king), 1:507, 508
- Church of God, 1:153
- Church of Norway. *See* Protestant Church of Norway
- CIA. *See* Central Intelligence Agency
- Čikeš, Lucija, 2:93
- Circumcision, 3:16, 50, 60–61. *See also* Genital mutilation
- Civil unions/partnerships, 2:7. *See also* Marriage
- Cliff, Michelle, 1:136
- Clinton, Bill, 1:265, 268
- the Closet, 1:6
- Clubs. *See* Gay clubs
- Cocteau, Jean, 2:164
- CoE. *See* Council of Europe
- Colby, Donn, 1:523
- Colette, 2:164
- Colipato*, 1:81
- Colita*, 1:81
- Colombia**: Catholic Church's influence in, 1:98, 100–101; colonial, 1:90, 97; community in, 1:95–96; death rate in, 1:101–2; as drug hub, 1:9; education in, 1:91–92; employment and economics in, 1:92–93; equality, intimacy, and free development of personality in, 1:97–98; family in, 1:94–95; GDP of, 1:92; health in, 1:96–97; HIV/AIDS and, 1:97; intersexed people in, 1:99; LGBT issues in, 1:89–106; LGBT persons in jails in, 1:100; literacy rate in, 1:91; map of, 1:89; marriages in, 1:94–95; outlook for 21st century in, 1:102; overview, 1:89–91; political system in, 1:89; politics and law in, 1:97–100; population of, 1:89–90; public expressions of gender identity in, 1:100; religion and spirituality in, 1:100–101; same-sex couples' rights in, 1:98–99; sexuality/sexual practices in, 1:94; social/government programs in, 1:93–94; sodomy in, 1:97; transgendered and transsexuals' rights in, 1:99; transgendered people and education system in, 1:92; violence in, 1:101–2; working women, pregnancy and, 1:92
- Colombia Diversa, 1:98
- Colón, Cristóbal, 1:241
- Columbus, Christopher, 1:135, 151, 299
- Coming Out*, 2:193
- Community: in Andorra, 2:16–17; in Australia, 1:321–22; in Austria, 2:25–26; in Bangladesh, 1:338–39; in Belarus, 2:40–41; in Belgium, 2:55–56; in Belize, 1:18; in Bolivia, 1:28–29; in Botswana, 3:17; in Brazil, 1:41–42; in Bulgaria, 2:70–72; in Cameroon, 3:25; in Canada, 1:58; in Chile, 1:58; in China, 1:361–62; in Colombia, 1:95–96; in Croatia, 2:87–88; in Czech Republic, 2:104–5; in Denmark, 2:115–16; in Ecuador, 1:111–12; in Egypt, 3:33–34; in El Salvador, 1:118–19; in Ethiopia, 3:43–44; in EU, 2:138; in Finland, 2:154; in France, 2:167–68; in Georgia, 2:182–84; in Germany, 2:197; in Ghana, 3:50; in Greece, 2:210–12; in Guatemala, 1:129; in Haiti, 1:137; in Honduras, 1:144–45; in Hong Kong, 1:382; in Hungary, 2:224; in India, 1:396; in Indonesia, 1:409–10; in Iran, 3:168; in Ireland, 2:241; in Italy, 2:257–58; in Jamaica, 1:170–75; in Japan, 1:426–28; in Kenya, 3:62; in Kyrgyzstan, 2:272–73; in Lebanon, 3:183–84; in Liberia, 3:71; in Malaysia, 1:442; in Mexico, 1:206–7; in Moldova, 2:280; in Mongolia, 1:453–55; in Morocco, 3:79; in Namibia, 3:92; in the Netherlands, 2:296–99; in New Zealand, 1:464; in Nigeria, 3:105–6; in Norway, 2:310–11; in Panama, 1:245; in Paraguay, 1:252–53; in Poland, 2:329; in Portugal, 2:340; in Romania, 2:351–52; in Russia, 2:363; in Saudi Arabia, 3:206–7; in Singapore, 1:481–82; in Slovenia, 2:380–81; in South Africa, 3:118; in Spain, 2:401–2; in Switzerland, 2:418–19; in Taiwan, 1:493–95; in Tanzania, 3:125–26; in Thailand, 1:514; in Trinidad and Tobago, 1:259; in Tunisia, 3:131; in Turkey, 2:430–31; in Uganda, 3:141; in United Kingdom, 2:445–46; in Uruguay, 1:293–94; in U.S., 1:271; in Venezuela, 1:303; in Vietnam, 1:528–29; in Zimbabwe, 3:152
- Compass—Education of Human Rights in Working with the Youth* (Council of Europe), 2:324
- Condoms, 2:15, 39, 53, 73, 85, 223, 237, 256, 270, 300, 327, 339, 351, 417, 432; low use of, 3:185; in prisons, 3:6, 153, 168; prohibitive expense of, 3:5; resistance/refusal to use, 1:40, 130, 360; safer sex and, 1:16–17; stigma of, 3:16. *See also* Sexual practices
- Conference of Bishops, 1:9, 291
- Confucianism, 1:356, 365, 385, 420, 523
- Conquistadors*, 1:241
- Constitutional protections, with international human rights obligations, 3:170

- Contra War, 1:215
 Cook, James (captain), 1:317
 Cook, Peter, 1:52
 Cooper, Carolyn, 1:197 n.80
 Coptic Orthodox Church, 3:29, 36
 Corbett, Arthur, 2:447
Corbett v. Corbett, 2:447
Core Reports (UniBAM), 1:22
 Corleto, Cristina, 1:317
 Correa, Rafael, 1:110, 112, 113
 Corriveau, Patrice, 1:49
 Cotugno, Nicolás (archbishop), 1:296
 Council of Europe (CoE), 2:128–30, 324
 Coup d'états, 3:41, 69, 70, 129
 Creation myths, 1:3
 Creole, 1:16, 136, 153, 300
 Crimes: masturbation as, 1:20; oral sex as, 1:20; war, 1:290
 Criminalization, 2:226; of homosexuality, 3:12, 18, 42, 44–45, 57, 72, 81, 92, 98, 123, 194; of sexual acts between women, 3:18, 92–93; of sodomy, 3:168, 194
Croatia, 2:8; adoption in, 2:86; antigay culture in, 2:9; Catholic Church's influence in, 2:84, 95; civil unions/partnerships in, 2:7; community in, 2:87–88; divorce in, 2:87; education in, 2:82–84; employment and economics in, 2:84; family in, 2:86–87; Gay Pride festivals/parades in, 2:87, 98; genocide and ethnic cleansing in, 2:80; health in, 2:88–90; HIV/AIDS in, 2:86, 88–89, 92; LGBT issues in, 2:80–100; map of, 2:80; military in, 2:79; overview, 2:80–82; political history of, 2:79–80; politics and law in, 2:90–95; as potential EU member, 2:81; religion and spirituality in, 2:95–97; sexual practices in, 2:85–86; social and government programs in, 2:84–85; violence in, 2:97–98
Cruising, 2:445
 Culture: antigay, 1:7; family in Mayan, 1:18; *bijra sub*, 1:334–37, 340, 341–42, 343 n.4, 343 n.6; Jamaica, 1:184–90; *kothi sub*, 1:335, 337, 338, 339, 340, 343 n.6, 344 n.17; of love, 1:18; machismo, 1:5–6, 7, 9; male sexual identity and machismo, 1:5–6; Native Americans, same-sex eroticism and, 1:14; *pantbi sub*, 1:334, 340
Czech Republic, 2:8; adoption in, 2:102; civil unions/partnerships in, 2:7; community in, 2:104–5; education in, 2:102; employment and economics in, 2:102–3; as EU member, 2:101, 116; family in, 2:103–4; foster care in, 2:104; hate crimes in, 2:107; health in, 2:105–6; HIV/AIDS in, 2:103, 105; LGBT issues in, 2:101–10; map of, 2:101; outlook for 21st century in, 2:107–8; overview, 2:101–2; parenting in, 2:104; politics and law in, 2:106; population and ethnic makeup of, 2:101; religion and spirituality in, 2:106–7; sexual practices in, 2:103; social and government programs in, 2:103; violence in, 2:107
D and Sweden v. Council, 2:133, 136
 Dabbagh, Amr, 3:199
 Dai Jinhua, 1:359
 Dalí, Salvador, 2:394
 Dancehall music, 1:153, 197 n.80
 Danero Iglesias, Julien, 2:277
 Daniel, Suzan, 2:55
 Daoism, 1:356
 Daoust, Jean-Paul, 2:375
A Darker Side of Black, 1:186
 Dating: services, 1:320; sites, 1:396
 Dau-Chuan Chung, 1:487
 Davy, Zowie, 2:439
 de Lee, Benjamin, 3:47, 129
 Death penalty, 3:171; in Iran, 3:164; in Saudi Arabia for homosexuals, 3:216–17. *See also* Executions
 Deaths, 3:155; apartheid, 3:4; Buddhist monks, 1:349, 352; in Colombia, 1:101–2; domestic violence, 3:20; of Ecuadorian youths, 1:113; execution, 3:169, 171, 202; in Guatemala, 1:131; hanging, 3:147, 171; HIV/AIDS, 1:10, 2:41, 184, 212, 3:12, 63; in Honduras, 1:147–48; honor killings and, 3:1, 3, 33, 82, 171, 183; infant mortality, 3:56; journalists and, 3:169; machismo, honor killings and, 1:5; massacres and, 3:148; persecution of homosexuals resulting in, 1:14–15, 44, 45, 63, 2:19, 36, 237, 244, 342, 3:33, 81, 100; by poisoning, 2:179; schools and shooting, 2:150; by stoning, 3:104; teen pregnancy resulting in, 2:238; violence against women and, 1:157; World War I, 2:359; World War II, 2:359. *See also* Violence
Dedovshchina (rule of the grandfathers), 2:362
 Defense of Marriage Act (DOMA), 1:8
 Degeneres, Ellen, 1:477
 Deities. *See* Gods/deities
 Delanoé, Bertrand, 2:164
 Delpiazzo, Carlos, 1:294
 Demir, Demet, 2:432
Denmark: adoption in, 2:114–15; bisexuals in, 2:118; civil unions/partnerships in, 2:7; community in, 2:115–16; education in, 2:112; employment and economics in, 2:112–13; as EU member, 2:111, 116; family in, 2:114–15; GDP of, 2:113; health in, 2:116–17; HIV/AIDS in, 2:112, 113–14, 116; LGBT issues in, 2:111–22; map of, 2:111; marriage in, 2:117; outlook for 21st century in, 2:119; overview, 2:111–12; politics and law in, 2:117–18; population and ethnic makeup of, 2:111; religion and spirituality in, 2:118–19; sexual practices in, 2:113–14; social and government programs in, 2:113; sodomy in, 2:117; STDs in, 2:114; transsexuals in, 2:117–18; violence in, 2:119
 Depression, 1:322, 384, 2:56, 242, 273
 Derogatory terms: “faggot” and other, 1:81–82; *pédé*, 1:136; used against homosexuals, 1:31; used against LGBTs in Colombia, 1:95
 Dewaele, Alexis, 2:49
Diagnostic and Statistical Manual (DSM), 1:265, 341, 405, 420
 Dialects/languages. *See* Languages/dialects
 Dialogay, 1:38
 Díaz-Muñoz, Marco, 1:213
 Dietary restrictions, 3:211
 Dignidad, 1:28
 The Dignity Group, 1:38
 Discrimination: Americas/Caribbean, violence and statutes for anti, 1:7–8; blood donations and homosexual, 2:9, 14, 16, 17; Cuenca, detention of

- homosexuals and, 1:111; in Finland, 2:157; HIV/AIDS, 2:14–15; against LGBT students, 2:68; in Romania, 2:353; workplace, 1:79
- Divorce, 1:292; in Austria, 2:25; in Belarus, 2:39; in Croatia, 2:87; as illegal, 3:16, 91; infertility as grounds for, 3:167; in Lebanon, 3:183; rate, 3:141
- Dochterman, James, 2:357
- Doe, Samuel K. (master sergeant), 3:69, 70
- Dolenc, Anton, 2:382
- DOMA. *See* Defense of Marriage Act
- Domestic violence, 2:214
- Domínguez-Ruvalcaba, Héctor, 1:199
- “Don’t ask, don’t tell” policy, 1:265, 268
- Douke* (versatile), 1:360
- Drag queens, 3:180; in Bulgaria, 2:71; in the Netherlands, 2:298
- Drag shows, 3:194
- Drug trafficking, 1:242
- Drugs, 1:443; in Bulgaria, 2:73; countries producing, 1:9; HIV/AIDS, 3:185; intravenous, 1:442, 3:167; in Ireland, 2:237; sex and, 2:53; stigma of illegal, 3:6
- DSM. *See* *Diagnostic and Statistical Manual*
- Dube, Jefta, 3:155
- Dudgeon, Jeffrey, 2:242, 447
- Duquesnoy, Hieronymus, 2:57
- Dustan, Guillaume, 2:165
- Easter Rebellion, 2:236
- Eastern Orthodox Christians, 2:29, 65
- EC. *See* European Community
- ECHR. *See* European Convention on Human Rights
- Economics: in Andorra, 2:14–15; in Australia, 1:319; in Austria, 2:25; in Bangladesh, 1:336–37; in Belarus, 2:38; in Belgium, 2:51–52; in Belize, 1:17; in Bolivia, 1:27; in Botswana, 3:13–14; in Brazil, 1:39; in Bulgaria, 2:68–69; in Cambodia, 1:351; in Cameroon, 3:24; in Canada, 1:53–54; in Chile, 1:78–81; in China, 1:359; in Colombia, 1:92–93; in Croatia, 2:84; in Czech Republic, 2:102–3; in Denmark, 2:112–13; in Ecuador, 1:109–10; in Egypt, 3:31; in El Salvador, 1:117–18; in Ethiopia, 3:42; in EU, 2:130–33; in Finland, 2:150–51; in France, 2:165–66; gay tourist dollars and, 1:12; in Georgia, 2:180–81; in Germany, 2:195; in Ghana, 3:49; in Greece, 2:206–7; in Guatemala, 1:127; in Haiti, 1:136; in Honduras, 1:143; in Hong Kong, 1:379; in India, 1:393–94; in Indonesia, 1:406–7; in Iran, 3:166; in Ireland, 2:239; in Italy, 2:255–56; in Japan, 1:423–24; in Kenya, 3:59–60; in Kyrgyzstan, 2:271; in Lebanon, 3:181–82; in Liberia, 3:71; in Malaysia, 1:441; in Mexico, 1:203–5; in Moldova, 2:279; in Mongolia, 1:450–51; in Namibia, 3:89–90; in the Netherlands, 2:293; in New Zealand, 1:461–62; in Nicaragua, 1:220–21; in Nigeria, 3:100–101; in Norway, 2:308; in Panama, 1:243–44; in Paraguay, 1:251; in Poland, 2:324–25; in Portugal, 2:338–39; in Romania, 2:350; in Russia, 2:362; in Saudi Arabia, 3:198–202; in Singapore, 1:478–79; in Slovenia, 2:377–78; in South Africa, 3:116; in Spain, 2:396–97; in Switzerland, 2:416–17; in Taiwan, 1:489; in Tanzania, 3:124; in Thailand, 1:509–10; in Trinidad and Tobago, 1:258; in Tunisia, 3:130; in Turkey, 2:429; in Uganda, 3:139–40; in United Kingdom, 2:442–43; in Uruguay, 1:292; in U.S., 1:267–68; in Venezuela, 1:301; in Vietnam, 1:525–26; in Zimbabwe, 3:150
- Ecuador:** antigay culture in, 1:7; community in, 1:111–12; death rate of youths in, 1:113; education in, 1:108–9; employment and economics in, 1:109–10; ethnic makeup of, 1:108; family in, 1:111; Gay Pride festival in, 1:112; health in, 1:112; HIV/AIDS and, 1:108; LGBT issues in, 1:107–14; map of, 1:107; outlook for 21st century in, 1:113; overview, 1:107–8; politics and law in, 1:112–13; population of, 1:107–8; religion and spirituality in, 1:113; same-sex marriage in, 1:108; sexuality/sexual practices in, 1:111; social/government programs in, 1:110–11; violence in, 1:113
- Education: in Africa, 3:5; in Americas and Caribbean, 1:8–9; in Andorra, 2:14; in Asia and Oceania, 1:313–14; in Australia, 1:318–19; in Austria, 2:24–25; in Bangladesh, 1:336; in Belarus, 2:37–38; in Belgium, 2:50–51; in Belize, 1:16–17; in Bolivia, 1:27; in Botswana, 3:13; in Brazil, 1:38–39; in Bulgaria, 2:67–68; in Cambodia, 1:351; in Cameroon, 3:24; in Canada, 1:51–53; Catholic Church’s interference with public, 1:9; in Chile, 1:77–78; in China, 1:358–59; in Colombia, 1:91–92; controversial textbooks and, 1:291; in Croatia, 2:82–84; in Czech Republic, 2:102; in Denmark, 2:112; in Ecuador, 1:108–9; in Egypt, 3:31; in El Salvador, 1:117; in Ethiopia, 3:42; in EU, 2:139–40; in Europe, 2:8; in Finland, 2:149–50; in France, 2:164–65; in Georgia, 2:180; in Germany, 2:194–95; in Ghana, 3:48; in Greece, 2:205–6; in Guatemala, 1:126–27; in Haiti, 1:136; in Honduras, 1:143; in Hong Kong, 1:378; in Hungary, 2:221–22; in India, 1:393; in Indonesia, 1:405–6; in Iran, 3:165–66; in Ireland, 2:238; in Italy, 2:255; in Jamaica, 1:158–64; in Japan, 1:422–23; in Kenya, 3:57–59; in Kyrgyzstan, 2:270–71; in Lebanon, 3:181; in Liberia, 3:70–71; in Malaysia, 1:441; in Mexico, 1:201–3; in Middle East, 3:5; in Moldova, 2:278–79; in Mongolia, 1:450; in Morocco, 3:77; in Namibia, 3:89; in the Netherlands, 2:292; in New Zealand, 1:460–61; in Nicaragua, 1:219; in Nigeria, 3:98–100; in Norway, 2:307–8; in Panama, 1:243; in Paraguay, 1:251; in Poland, 2:323–24; in Portugal, 2:338; poverty’s influence on, 1:9; rainbow curriculums in, 1:9; in Romania, 2:348–49; in Russia, 2:361–62; in Saudi Arabia, 3:195–98; in Singapore, 1:477–78; in Slovenia, 2:376–77; in South Africa, 3:115–16; in Spain, 2:395–96; in Switzerland, 2:415; in Taiwan, 1:488–89; in

- Tanzania, 3:124; in Thailand, 1:508–9; in Trinidad and Tobago, 1:258; in Tunisia, 3:130; in Turkey, 2:428–29; in Uganda, 3:138–39; in United Kingdom, 2:442; in Uruguay, 1:290–91; in U.S., 1:266–67; in Venezuela, 1:301; in Vietnam, 1:525; in Zimbabwe, 3:150
- EEC. *See* European Economic Community
- Egypt:** asylum cases in, 3:34; bisexuals in, 3:30, 34; community in, 3:33–34; dangerous attitudes toward LGBTs in, 3:31; education in, 3:31; employment and economics in, 3:31; family in, 3:32–33; government's attitude toward HIV/AIDS, 3:35; health in, 3:34–35; HIV/AIDS in, 3:31, 34–35; languages and dialects spoken in, 3:29; lesbians in, 3:32, 34; LGBT issues in, 3:29–39; map of, 3:29; media in, 3:30; outlook for 21st century in, 3:37; overview, 3:29–31; politics and law in, 3:35; population of, 3:29; religion and spirituality in, 3:36–37; sexual practices in, 3:32, 36; social and government programs in, 3:31; violence in, 3:37; women constrained by social dictates in, 3:32
- El Salvador:** antigay culture in, 1:7; Catholic Church's influence in, 1:119–20; civil war in, 1:117; community in, 1:118–19; education in, 1:117; employment and economics in, 1:117–18; family in, 1:118; Football War and, 1:142; health in, 1:119; HIV/AIDS and, 1:117, 119; languages/dialects spoken in, 1:115; LGBT issues in, 1:115–23; literacy rate in, 1:117; map of, 1:115; outlook for 21st century in, 1:121–22; overview, 1:115–17; politics and law in, 1:119; population of, 1:115; pregnancy, HIV/AIDS and, 1:119; rape and, 1:121; religion and spirituality in, 1:115, 119–20; sexuality/sexual practices in, 1:118; social/government programs in, 1:118; sodomy in, 1:119; transvestites and, 1:118; violence in, 1:120–21
- Elephant Man, 1:187
- Ellen*, 2:376
- Ellis, Havelock, 1:362
- Ellis, Owen “Blakka,” 1:189
- Employment: in Andorra, 2:14–15; in Australia, 1:319; in Bangladesh, 1:336–37; in Belarus, 2:38; in Belgium, 2:51–52; in Belize, 1:17; in Bolivia, 1:27; in Botswana, 3:13–14; in Brazil, 1:39; in Bulgaria, 2:68–69; in Cambodia, 1:351; in Cameroon, 3:24; in Canada, 1:53–54; in Chile, 1:78–81; in China, 1:359; in Colombia, 1:92–93; in Croatia, 2:84; in Czech Republic, 2:102–3; in Denmark, 2:112–13; in Ecuador, 1:109–10; in Egypt, 3:31; in El Salvador, 1:117–18; in Ethiopia, 3:42; in EU, 2:130–33; in Finland, 2:150–51; in France, 2:165–66; in Georgia, 2:180–81; in Germany, 2:195; in Ghana, 3:49; in Greece, 2:206–7; in Guatemala, 1:127; in Haiti, 1:136; in Honduras, 1:143; in Hong Kong, 1:379; in India, 1:393–94; in Indonesia, 1:406–7; in Iran, 3:166; in Ireland, 2:239; in Italy, 2:255–56; in Jamaica, 1:164–67; in Japan, 1:423–24; in Kenya, 3:59–60; in Kyrgyzstan, 2:271; in Lebanon, 3:181–82; in Liberia, 3:71; in Malaysia, 1:441; in Mexico, 1:203–5; in Moldova, 2:279; in Mongolia, 1:450–51; in Morocco, 3:77; in Namibia, 3:89–90; in the Netherlands, 2:293; in New Zealand, 1:461–62; in Nicaragua, 1:220–21; in Nigeria, 3:100–101; in Norway, 2:308; in Panama, 1:243–44; in Paraguay, 1:251; in Poland, 2:324–25; in Portugal, 2:338–39; in Romania, 2:350; in Russia, 2:362; in Saudi Arabia, 3:198–202; in Singapore, 1:478–79; in Slovenia, 2:377–78; in South Africa, 3:116; in Spain, 2:396–97; in Switzerland, 2:416–17; in Taiwan, 1:489; in Tanzania, 3:124; in Thailand, 1:509–10; in Trinidad and Tobago, 1:258; in Tunisia, 3:130; in Turkey, 2:429; in Uganda, 3:139–40; in United Kingdom, 2:442–43; in Uruguay, 1:292; in U.S., 1:267–68; in Venezuela, 1:301; in Vietnam, 1:525–26; in Zimbabwe, 3:150. *See also* Economics
- Employment Framework Directive, 2:4–5
- Endeavour*, 1:317
- Enric Vives, Joan, 2:16, 18
- Ephorus of Kyme, 2:207
- Epidemic of Hate* (Mott), 1:44
- Episcopal Church, 3:51, 65, 126
- Erastes* (lover), 2:206
- Eromenos* (beloved), 2:206
- Estenssoro, Víctor Paz, 1:26
- Ethiopia:** ancient history of, 3:41; community in, 3:43–44; education in, 3:42; employment and economics in, 3:42; family in, 3:43; health in, 3:44; HIV/AIDS in, 3:42–44; homophobia in, 3:42; homosexuality criminalized in, 3:42, 44–45; LGBT issues in, 3:41–46; map of, 3:41; Muslims in, 3:45; outlook for 21st century in, 3:45; overview, 3:41–42; politics and law in, 3:44–45; religion and spirituality in, 3:44–45; sexual practices in, 3:43; social and government programs in, 3:42–43; sodomy in, 3:45; suicide in, 3:45; violence in, 3:44–45
- Ethiopian Coptic Church, 1:154
- Ethnic cleansing, 2:80
- EU. *See* European Union
- Eunuchs, 1:335
- Eurogames 2008, 2:17
- Europe: antidiscrimination statutes and violence in, 2:6–7; education in, 2:8; HIV/AIDS in, 2:9; intersexed people in, 2:11; introduction, 2:1–11; marriage and child adoption in, 2:7–8; outlook for 21st century in, 2:11; overview, 2:3–5; overview of LGBT issues in, 2:5–11; religion and spirituality in, 2:9–10; sodomy in, 2:5–6; transgender people in, 2:10. *See also* European Union
- European Community (EC), 2:117; EU and case law of court of justice in, 2:132–33
- European Convention on Human Rights (ECHR), in EU with CoE, 2:128–30
- European Court of Human Rights (ECtHR), 2:27–28, 31
- European Economic Community (EEC), 2:4
- European Union (EU):** adoption in, 2:124; Andorra and lack of membership in, 2:14;

- antidiscrimination legislative framework in, 2:5, 131–32; Austria as member of, 2:23, 27; Bulgaria as member of, 2:66; CoE and ECHR in, 2:128–30; community in, 2:138; Croatia as potential member of, 2:81; Czech Republic as member of, 2:101; Denmark as member of, 2:111; EC and case law of the court of justice in, 2:132–33; education in, 2:139–40; employment and economics in, 2:130–33; family in, 2:135–38; formation of, 2:4; France as member of, 2:163; free movement in, 2:130–31; Fundamental Rights Agency, 2:11; GDP of, 2:4, 116; Greece as member of, 2:116, 203; health in, 2:138–39; HIV/AIDS in, 2:139; Hungary as member of, 2:220; institutions in, 2:125–26; Ireland as member of, 2:235; judgments in matrimonial matters and parental responsibility in, 2:136–38; LGBT issues in, 2:123–45; member countries, 2:116; outlook for 21st century in, 2:141; overview, 2:123–26; policies and programs in, 2:133; politics and law in, 2:126–30; population of, 2:116; Romania as member of, 2:116, 348; social and government programs in, 2:133–35; violence in, 2:140–41
- Evangelical Federation, 1:146–47
- Evangelicals, 1:73, 113, 146–47, 246, 2:164, 405
- Executions, 3:169, 171, 202
- Exodus International, 1:277
- Expression, freedom of, 3:169–70
- Ezili Danto, 1:138
- Fabeni, Stefano, 2:255
- Fabio Estrada, Josef, 1:147
- “Faggot,” 1:81–82, 2:52, 263, 294, 394
- Falun Gong, 1:385
- Family: in Andorra, 2:15–16; in Australia, 1:320–21; in Austria, 2:25; in Bangladesh, 1:338; in Belarus, 2:39–40; in Belgium, 2:53–55; in Belize, 1:18; in Bolivia, 1:28; in Botswana, 3:16; in Brazil, 1:41; in Bulgaria, 2:69–70; in Cambodia, 1:352; in Cameroon, 3:25; in Canada, 1:57–58; in Chile, 1:82–83; in China, 1:360–61; in Colombia, 1:94–95; in Croatia, 2:86–87; in Czech Republic, 2:103–4; in Denmark, 2:114–15; in Ecuador, 1:111; in Egypt, 3:32–33; in El Salvador, 1:118; in Ethiopia, 3:43; in EU, 2:135–38; in Finland, 2:151–53; in France, 2:166–67; in Georgia, 2:182; in Germany, 2:195–97; in Ghana, 3:49–50; in Greece, 2:209–10; in Guatemala, 1:128–29; in Haiti, 1:137; in Honduras, 1:144; in Hong Kong, 1:381–82; in Hungary, 2:223–24; in India, 1:395–96; in Indonesia, 1:408–9; in Iran, 3:167–68; in Ireland, 2:240–41; in Italy, 2:257; in Jamaica, 1:167–70; in Japan, 1:426; in Kenya, 3:61–62; *kothbis*, *hijras* and, 1:338; in Kyrgyzstan, 2:271–72; in Lebanon, 3:183; in Liberia, 3:71; marriage within, 3:183; in Mayan culture, 1:18; in Mexico, 1:206; in Mongolia, 1:452–53; in Morocco, 3:78–79; Muslims and, 3:32–33; in Namibia, 3:91–92; in the Netherlands, 2:294–96; in New Zealand, 1:463–64; in Nigeria, 3:105–6; in Norway, 2:309–10; in Panama, 1:244–45; in Paraguay, 1:252; in Poland, 2:328; in Portugal, 2:340; in Romania, 2:351; in Russia, 2:363; in Saudi Arabia, 3:205–6; in Singapore, 1:480–81; in Slovenia, 2:379–80; in South Africa, 3:117–18; in Spain, 2:399–400; in Switzerland, 2:417–18; in Taiwan, 1:492–93; in Tanzania, 3:125; in Thailand, 1:512–14; in Trinidad and Tobago, 1:258; in Tunisia, 3:131; in Turkey, 2:430; in Uganda, 3:141; in United Kingdom, 2:444–45; in U.S., 1:269–71; in Venezuela, 1:302–3; in Vietnam, 1:527–28; violence, 3:33, 171; in Zimbabwe, 3:151–52
- Family projects, 1:57
- Fang Gang, 1:359, 364
- Farabundo Martí, Agustín, 1:115
- Farahat, Sherif, 3:37
- Fassbinder, Rainer, 2:193
- Fathers, 2:153. *See also* Family; Men
- Al-Fatihah, 3:33–34
- Federal Bureau of Investigation (FBI), 1:268
- Federal Nazi Victims Compensation Act, 2:24
- Feghali, Bassem, 3:180
- Ferdinand VII (king), 1:300
- Fernández, Juli, 2:16
- Ferrer, Rosa, 2:15
- Field, Jesse, 1:439
- Figueroa, Peter, 1:176, 180
- Filat, Vasile, 2:282, 284
- Filloy, Víctor, 2:17
- Filmmakers, 2:402
- Films, 2:193, 211, 237, 375, 381, 445, 3:130, 131; banned, 1:477; Bollywood, 1:393; festivals, 1:361, 413
- Finland:** absence of antisodomy laws in, 2:149; adoption and foster care in, 2:153; adoption in, 2:149; civil unions/partnerships in, 2:7; community in, 2:154; discrimination in, 2:157; education in, 2:149–50; employment and economics in, 2:150–51; as EU member, 2:116; family in, 2:151–53; fathers in, 2:153; GDP of, 2:150; hate crimes in, 2:149; health in, 2:154–55; HIV/AIDS in, 2:149, 154–55, 159; insemination in, 2:152–53; languages/dialects spoke in, 2:148; LGBT issues in, 2:147–62; map of, 2:147; marriage in, 2:156; outlook for 21st century in, 2:158–59; parenting in, 2:151–52; politics and law in, 2:155–57; population of, 2:147; religion and spirituality in, 2:157–58; social and government programs in, 2:151; sodomy in, 2:155–56; violence in, 2:158; World War II and, 2:147–48
- Finlayson, Chris, 1:465
- First Nations people, 1:62
- Fisher, Diane (bishop), 2:354
- Fleto*, 1:81
- Florida, Richard, 1:479
- Flynn, Declan, 2:237, 244
- Fong, Otto, 1:478
- Football War, 1:142
- Formula 17*, 1:477
- Foster care, 2:7; in Czech Republic, 2:104; in Finland, 2:153; in Norway, 2:309; in Slovenia, 2:380
- Foster children, 2:240
- Foster parents, 2:28
- Foucault, Michel, 2:165
- 419 (one-night stand), 1:360, 361
- Fourier, Charles, 2:303
- Foy, Lydia, 2:243

- France**, 2:5; adoption in, 2:167; civil unions/partnerships in, 2:7; community in, 2:167–68; education in, 2:164–65; employment and economics in, 2:165–66; as EU member, 2:116, 163; family in, 2:166–67; health in, 2:169; HIV/AIDS in, 2:166, 168, 169; languages and dialects spoken in, 2:163; LGBT issues in, 2:163–76; map of, 2:163; outlook for 21st century in, 2:172–73; overview, 2:163–64; parenting in, 2:164; politics and law in, 2:169–71; population of, 2:163; religion and spirituality in, 2:171–72; same-sex marriage and 14th century, 2:7; sexual practices in, 2:166; social and government programs in, 2:166; violence in, 2:172
- Free movement, 2:130–31
- Freedom: to assemble in Saudi Arabia, 3:210–11; of expression in Iran, 3:169–70; of speech and press in Saudi Arabia, 3:210
- Frei Ruiz-Tagle, Eduardo, 1:84
- French National Constituent Assembly, 2:3
- French Revolution, 2:5
- Freud, Sigmund, 1:362
- Friedman, Milton, 1:79
- Friel, Anna, 2:445
- Frielle, Karen-Christine, 2:314
- FTM Nippon*, 1:428
- Fung, Richard, 1:136
- Furiine*, 1:428
- Galán Family, 1:29
- Galgani, Jaime, 1:73
- Galindo, María, 1:29
- Gambuush, 1:449
- García Lorca, Federico, 2:394, 396
- Garibaldi, Giuseppe, 2:251
- Gates, Bill (husband), 3:139
- Gates, Melinda (wife), 3:139
- Gay*, 1:95
- Gay, Claudio, 1:75
- Gay civil rights movement, 2:10
- Gay clubs, 2:19, 41, 67, 71, 104, 168, 194, 254, 274, 280, 291, 329, 340, 418, 3:27, 30, 132, 184
- Gay Day, 1:28
- Gay Liberation, 1:324
- Gay men, in Lebanon, 3:184
- Gay Pride festivals/parades: Australia's, 1:321–22; in Austria, 2:26; in Belarus, 2:40; in Belgium, 2:56; in Bolivia, 1:29; in Brazil, 1:38, 41–42; in Bulgaria, 2:70–71; in Canada, 1:58; in Croatia, 2:87, 98; in Ecuador, 1:112; in Greece, 2:210, 211; in Guatemala, 1:130; in Hungary, 2:228–29; in Mexico, 1:207; in Moldova, 2:284; in New Zealand, 1:464; in Slovenia, 2:374, 386; in Switzerland, 2:418; in Turkey, 2:431; in UK, 2:449; in Uruguay, 1:294
- Gay Pride Survey of 2005, 1:296
- Gay Sports Club Tangra, 2:67
- Gay Travels in the Muslim World*, 3:180
- Gaydar, 1:320
- GDP. *See* Gross Domestic Product
- Geagea, Samir, 3:177
- Gemayel, Amin, 3:177
- “Gender fuck,” 2:298
- Gender identity: in Colombia and public expressions, 1:100; in Vietnam, 1:528
- Gender reassignment surgery, 3:7, 132, 165–66, 168, 170
- Gender transformation art, 2:298
- GenderDoc-M, 2:278–79, 280, 281, 282–83, 284
- Gender-Motivated Violence Act, 1:275
- Genet, Jean, 2:164, 394, 3:76
- Geneva Refugee Convention, 2:29, 43
- Genital mutilation, 3:61
- Genitalia: *katials* and cutting of, 1:340; ritualistic shedding of male, 1:335
- Genocide, 2:80
- Georgia**: adoption in, 2:186; community in, 2:182–84; education in, 2:180; employment and economics in, 2:180–81; family in, 2:182; GDP of, 2:178; health in, 2:184–85; HIV/AIDS in, 2:182, 184; LGBT issues in, 2:177–89; map of, 2:177; Orthodox Church's influence in, 2:186; outlook for 21st century in, 2:187; overview, 2:177–80; political history of, 2:177–78; politics and law in, 2:185–86; population and ethnic makeup of, 2:178; religion and spirituality in, 2:186; sexual practices in, 2:181–82; social and government programs in, 2:181; violence in, 2:186–87
- Germany**: adoption in, 2:196; artificial insemination in, 2:196; Catholic Church's influence in, 2:9–10; civil unions/partnerships in, 2:7; community in, 2:197; criminal code of, 2:3; education in, 2:194–95; employment and economics in, 2:195; as EU member, 2:116; family in, 2:195–97; GDP of, 2:194; health in, 2:197; HIV/AIDS in, 2:195, 197; homosexuality in East, 2:193–94; homosexuality in West, 2:192–93; LGBT issues in, 2:191–201; map of, 2:191; outlook for 21st century in, 2:199; overview, 2:191–92; politics and law in, 2:198; population of, 2:191; religion and spirituality in, 2:198; sexual practices in, 2:195; social and governmental programs in, 2:195; violence in, 2:198–99
- Gerodetti, Natalia, 2:413
- Getenio, A.S., 3:217
- Ghana**: bisexuals in, 3:50; community in, 3:50; education in, 3:48; employment and economics in, 3:49; family in, 3:49–50; health in, 3:50; LGBT issues in, 3:47–53; map of, 3:47; media in, 3:48; outlook for 21st century in, 3:51–52; overview, 3:47–48; police in, 3:47; politics and law in, 3:50–51; pregnancy in, 3:49, 50; religion and spirituality in, 3:51; sexual practices in, 3:49; social and government programs in, 3:49; violence in, 3:51
- Gide, André, 2:164
- Giertych, Roman, 2:324
- Ginsberg, Allen, 3:76
- Giovanardi, Carlo, 2:256
- Girls, pregnancy, 1:128. *See also* Children; Teen pregnancies
- Gisberta, 2:342
- Glasnost* (openness), 2:359, 363
- Goddard, Keith, 3:147
- Gods/deities: Americas/Caribbean's creation myths and transsexual, 1:3; Krishna, 1:398; Maha Maya Ji, 1:334, 337, 341; *orishas*, 1:44; Shiva, 1:347, 348, 398
- Goering, Laurie, 3:94
- Goh Chok Tong, 1:479
- Golding, Bruce, 1:155, 176, 182, 186
- Goodbye to Berlin* (Isherwood), 2:192

- Gorbachev, Mikhail, 2:359
 Gordimer, Nadine, 3:154
 Gordon, Rodney (pastor), 1:21
 Gorky, Maxim, 2:361
 Government programs: in Australia, 1:319–20; in Austria, 2:25; in Bangladesh, 1:337; in Belarus, 2:38; in Belgium, 2:52; in Belize, 1:17–18; in Bolivia, 1:27; in Botswana, 3:14; in Brazil, 1:40; in Bulgaria, 2:69; in Cambodia, 1:351–52; in Cameroon, 3:24; in Chile, 1:81; in China, 1:359–60; in Colombia, 1:93–94; in Croatia, 2:84–85; in Czech Republic, 2:103; in Denmark, 2:113; in Ecuador, 1:110–11; in Egypt, 3:31; in El Salvador, 1:118; in Ethiopia, 3:42–43; in EU, 2:133–35; in Finland, 2:151; in France, 2:166; in Georgia, 2:181; in Germany, 2:195; in Ghana, 3:49; in Greece, 2:207; in Guatemala, 1:127–28; in Honduras, 1:144; in Hong Kong, 1:379–80; in Hungary, 2:223; in India, 1:394; in Indonesia, 1:407; in Iran, 3:166; in Ireland, 2:239; in Italy, 2:256; in Japan, 1:424; in Kenya, 3:60; in Kyrgyzstan, 2:271; in Lebanon, 3:182; in Liberia, 3:71; in Malaysia, 1:441–42; in Mexico, 1:205; in Moldova, 2:279; in Mongolia, 1:451–52; in Morocco, 3:77; in Namibia, 3:90; in the Netherlands, 2:293; in New Zealand, 1:462; in Nicaragua, 1:221–22; in Nigeria, 3:101–2; in Panama, 1:244; in Paraguay, 1:252; in Poland, 2:325–26; in Portugal, 2:339; in Romania, 2:350; in Russia, 2:362; in Saudi Arabia, 3:202–3; in Singapore, 1:479–80; in Slovenia, 2:378; in South Africa, 3:116–17; in Spain, 2:397–98; in Switzerland, 2:417; in Taiwan, 1:489–91; in Tanzania, 3:125; in Thailand, 1:510; in Trinidad and Tobago, 1:258; in Tunisia, 3:131; in Turkey, 2:429; in Uganda, 3:140; in United Kingdom, 2:443–44; in Uruguay, 1:292; in U.S., 1:268–69; in Venezuela, 1:301; in Vietnam, 1:526; in Zimbabwe, 3:150–51
Grant v. South West Trains Ltd., 2:132
 Grđan, Kristijan, 2:80
 Great Spirit, 1:62
Greece: adoption and artificial insemination in, 2:210; community in, 2:210–12; domestic violence in, 2:214; education in, 2:205–6; employment and economics in, 2:206–7; as EU member, 2:116, 203; family in, 2:209–10; Gay Pride festivals/parades in, 2:210, 211; GDP of, 2:206; Greek Orthodox Church's influence in, 2:205, 209, 213, 215; hate crimes in, 2:215; health in, 2:212; HIV/AIDS in, 2:203–18; literacy rate in, 2:205; local communities in, 2:210–12; map of, 2:203; media in, 2:210; military in, 2:207; no sex education in, 2:8; outlook for 21st century in, 2:215; overview, 2:203–5; politics and law in, 2:213; population of, 2:117; religion and spirituality in, 2:213–14; same-sex couples in, 2:209–10; sexual practices in, 2:207–9; social and government programs in, 2:207; violence in, 2:214–15
 Greek Orthodox Church, 2:205, 209, 213, 215
 Green Party, 2:14, 16, 26, 30
 Grigolo, Michele, 2:251
 Grillini, Franco, 2:263
 Grizzly Bear Award, 2:40
 Gross Domestic Product (GDP): Austria's, 2:25; Belgium's, 2:51; Belize's, 1:17; Bolivia's, 1:26; Bulgaria's, 2:66, 68; Colombia's, 1:92; Denmark's, 2:113; EU's, 2:4, 116; Finland's, 2:150; Georgia's, 2:178; Germany's, 2:194; Greece's, 2:206; Haiti's, 1:135; Hong Kong's, 1:379; Hungary's, 2:222; Indonesia's, 1:404; Jamaica's, 1:155; Mexico, 1:199; Moldova's, 2:279; Mongolia's, 1:451; New Zealand's, 1:461; Romania's, 2:350
 Gruden, Vladimir, 2:82, 96
 Grupo Gay da Bahia, 1:38, 39–40, 41, 44, 45
Guatemala: antigay culture in, 1:7; CAFTA and, 1:127; Catholic Church's influence in, 1:130; community, 1:129; deaths in, 1:131; education in, 1:126–27; employment and economics in, 1:127; family in, 1:128–29; Gay Pride festival in, 1:130; health in, 1:129–30; HIV/AIDS and, 1:126; languages/dialects spoken in, 1:125; LGBT issues in, 1:125–33; LGBT organizations in, 1:129; literacy rate in, 1:126–27; map of, 1:125; outlook for 21st century in, 1:132; overview, 1:125–26; politics and law in, 1:130; population of, 1:125; religion and spirituality in, 1:130–31; sexuality/sexual practices in, 1:128; social/government programs in, 1:127–28; suicide rate in, 1:126; violence in, 1:131; virginity in, 1:128
 Gueboguo, Charles, 3:23
 Guibert, Hervé, 2:165
 Guillarte, Óscar, 1:27
 Guo Xiaofei, 1:359
 Guyon, René, 1:507
 Haakon (prince), 2:305
 Habsburgs, 2:80, 373
 Haider, Jörg, 2:27, 31
 Haile Selassie I (emperor), 3:41
Haiti: abstinence and, 1:137; community in, 1:137; cultural view of homosexuals in, 1:135–36; early stages of gay civil rights in, 1:4; education in, 1:136; employment and economics in, 1:136; family in, 1:137; GDP of, 1:135; health in, 1:137–38; HIV/AIDS and, 1:136–37, 138; languages/dialects spoken in, 1:136; LGBT issues in, 1:135–39; literacy rate in, 1:136; map of, 1:135; outlook for 21st century in, 1:139; overview, 1:135–36; politics and law in, 1:138; religion and spirituality in, 1:138; sexuality/sexual practices in, 1:136–37; slave revolt in, 1:135; violence in, 1:138; Voodoo in, 1:10, 138–39
 Hajj, Francois (general), 3:178
 Hall, Marc, 1:52
Hamd (to praise), 3:34
 Haniff, Nesha, 1:176
 Harald V (king), 2:305
Harijans (untouchables), 1:392
 Hariri, Rafiq (father), 3:177
 Hariri, Saad (son), 3:177
 Harmodius, 2:207
 Harvey, Lenford “Steve,” 1:179

- Hate: feelings of, 2:6, 325, 405; groups, 2:70; slogans, 2:354; speech, 2:29–30, 180, 338, 375; speech legislation, 2:338. *See also* Hate crimes
- Hate Crime Survey* (Human Rights First), 2:140
- Hate crimes, 2:36, 76, 92, 119, 301, 428, 441; in Belgium, 2:60; in Czech Republic, 2:107; in Finland, 2:149; in Greece, 2:215; in Italy, 2:258; laws, 2:245, 338; in Norway, 2:313
- Hated to Death* (HRW), 1:180
- Havel, Václav, 2:101
- HCtHR. *See* European Court of Human Rights
- Health: in Andorra, 2:17; in Australia, 1:323–24; in Austria, 2:26; in Bangladesh, 1:339–41; in Belarus, 2:41–42; in Belgium, 2:56–57; in Belize, 1:18–19; in Bolivia, 1:30; in Botswana, 3:17–18; in Brazil, 1:42–43; in Bulgaria, 2:72–74; in Cambodia, 1:352; in Cameroon, 3:25; in Canada, 1:58–59; in Chile, 1:83–84; in China, 1:362–63; in Colombia, 1:96–97; in Croatia, 2:88–90; in Czech Republic, 2:105–6; in Denmark, 2:116–17; in East Germany, 2:197; in Ecuador, 1:112; in Egypt, 3:34–35; in El Salvador, 1:119; in Ethiopia, 3:44; in EU, 2:138–39; in Finland, 2:154–55; in France, 2:169; in Georgia, 2:184–85; in Ghana, 3:50; in Greece, 2:212; in Guatemala, 1:129–30; in Haiti, 1:137–38; in Honduras, 1:145; in Hong Kong, 1:381–84; in Hungary, 2:224–26; in India, 1:396–97; in Indonesia, 1:410–11; in Iran, 3:168; in Ireland, 2:241–42; in Italy, 2:258; in Jamaica, 1:175–77; in Japan, 1:428–30; in Kenya, 3:63–64; in Kyrgyzstan, 2:273; in Lebanon, 3:184–85; in Liberia, 3:71–72; in Malaysia, 1:442–43; in Mexico, 1:207–8; in Moldova, 2:280–81; in Mongolia, 1:455; in Morocco, 3:80; in Namibia, 3:92; in the Netherlands, 2:300; in New Zealand, 1:464–65; in Nicaragua, 1:226–27; in Nigeria, 3:106–7; in Norway, 2:311–12; in Panama, 1:245–46; in Paraguay, 1:253; in Poland, 2:330; in Portugal, 2:341; in Russia, 2:363; Russia's forced medical treatment of lesbians and, 2:365; in Saudi Arabia, 3:207–8; in Singapore, 1:482; in Slovenia, 2:381–83; in South Africa, 3:118–19; in Spain, 2:402–3; in Switzerland, 2:419–20; in Taiwan, 1:495–96; in Tanzania, 3:126; in Thailand, 1:514–15; in Trinidad and Tobago, 1:259; in Tunisia, 3:132; in Turkey, 2:431–32; in Uganda, 3:141–42; in United Kingdom, 2:446; in Uruguay, 1:294–95; in U.S., 1:271–72; in Vietnam, 1:529–30; in Zimbabwe, 3:152–53
- “Hear Us Out,” 1:53
- Heche, Anne, 1:477
- Hekma, Gert, 2:289
- Hellesund, Tone, 2:305
- Henry, Gareth, 1:179, 183
- Henry, Greg, 1:136
- Hephaiston, 2:206
- Hernandez Martinez, Maximiliano, 1:116
- Herrera, Gioconda, 1:111
- Hettinger, Hans, 2:133
- Hierarchies, machismo culture and, 1:5–6
- Hijras* (impotent, third sex), 1:336, 337, 340, 343 n.4, 343 n.6; family and, 1:338; India's subculture of, 1:395; *nirban and*, 1:335; *panthi, parik and*, 1:334; religion and, 1:341–42; sexual health projects for, 1:339
- Hinduism, 1:61, 246, 260, 333, 385, 412, 467, 2:164, 450, 3:56, 65, 123, 176, 213
- Hiroaki Hirano, 1:421
- Hiroko Kakefuda, 1:421, 427
- Hirschfeld, Magnus, 1:362, 2:192, 375, 418
- Hitler, Adolf, 2:192. *See also* Nazis
- HIV/AIDS, 1:291, 2:8; Africa and, 3:5–6, 125–26; Americas, Caribbean and, 1:9–10; Asia, Oceania and, 1:314; Australia and, 1:322–24, 325, 328; Austria and, 2:26; Bangladesh and, 1:336, 337–38, 339–40; Belarus and, 2:38–39, 40, 41–42; Belgium and, 2:52, 56–57; Belize and, 1:18–19, 21–22; Bolivia and, 1:30; Botswana and, 3:12–13, 14–18, 20; Brazil and, 1:40, 42–43; Bulgaria and, 2:73–74; Cambodia and, 1:352; Cameroon and, 3:25; Canada and, 1:51, 54–56; children orphaned by, 3:152; Chile and, 1:76, 81, 83–84; China and, 1:357, 359, 361, 363, 366; Colombia and, 1:97; condoms and, 1:16–17; Croatia and, 2:86, 88–89, 92; Czech Republic and, 2:103, 105; deaths, 2:41, 184, 212, 3:12, 63; Denmark and, 2:112, 113–14, 116; discrimination, 2:14–15; drugs, 3:185; Ecuador and, 1:108; Egypt and, 3:31, 34–35; Egyptian government's attitude toward, 3:35; El Salvador and, 1:117, 119; Ethiopia and, 3:42–44; EU and, 2:139; Europe and, 2:9; Finland and, 2:149, 154–55, 159; France and, 2:166, 168, 169; Georgia and, 2:182, 184; Germany and, 2:195, 197; Ghana and, 3:48–50; Greece and, 2:205, 212; Guatemala and, 1:126; Haiti and, 1:136–37, 138; Honduras and, 1:145; Hungary and, 2:225; India and, 1:394, 396, 399; Indonesia and, 1:404–5, 407–8, 410–11; Iran and, 3:165, 167–68; Ireland and, 2:237, 239, 240, 241–42; Italy and, 2:256; IV drug users and, 1:9; Jamaica and, 1:166–67, 173–77, 179–80; Japan and, 1:420, 429; Kenya and, 3:56–57, 60–61, 63–64; Kyrgyzstan and, 2:271, 273; Lebanon and, 3:182, 184–85; Malaysia and, 1:440–43; Mexico and, 1:202–3, 207–8; Middle East and, 3:5–6; Moldova and, 2:280–81; Mongolia and, 1:450, 451–52, 454–55, 456–57; Morocco and, 3:80, 81; MSM and, 1:55; Muslims, “war of the beaches” and, 3:80; Namibia and, 3:87–89, 91–92, 94; the Netherlands and, 2:291, 295, 300; New Zealand and, 1:460, 462–63, 465; Nicaragua and, 1:218, 226–27; Nigeria and, 3:102–3, 106–7; Panama and, 1:242; Paraguay and, 1:253; Poland and, 2:327; Portugal and, 2:339, 341; pregnancy and, 1:119; in prisons, 3:6, 20; Romania and, 2:350, 352; Russia, STDs and, 2:361, 362, 364–65; Saudi Arabia and, 3:202–3, 208; Singapore and, 1:480, 482; Slovenia and,

- 2:378, 381–83; South Africa and, 3:115, 117–19; Spain and, 2:402–3; Switzerland and, 2:417, 419–20; Taiwan and, 1:488, 491, 495–96; Tanzania and, 3:125–26; Thailand and, 1:515; Trinidad and Tobago and, 1:258, 259, 261; Tunisia and, 3:131–32; Turkey and, 2:431–32; two-spirited persons and, 1:62; Uganda and, 3:137–39, 141–43; UK and, 2:441, 446; Uruguay and, 1:292, 294; U.S. and, 1:264, 268–69, 271–72; Venezuela and, 1:300–301, 303, 304; Vietnam and, 1:525–29, 530, 534; women and, 1:55–56, 130; Zimbabwe and, 3:148–53. *See also* Health
- Hoa Hao, 1:533
- Hocquenghem, Guy, 2:165
- Holmes/Watson v. California Army*, 1:268
- Holness, Andrew, 1:161, 162
- Holocaust, 2:192, 214
- Homophile, 2:306
- Homophobia: in Cameroon, 3:23–24, 25; in Ethiopia, 3:42; in Kenya, 3:60; in Lebanon, 3:179; in Liberia, 3:72; in Namibia, 3:91; in Nigeria, 3:99; in Tanzania, 3:126
- Homophobia, in Belarus, 2:37. *See also* Violence
- Homosexual: Oppression and Liberation* (Altman), 1:324
- Homosexual Movies
Panorama, 2:211
- Homosexuality: confusion between child abuse and, 3:26; confusion with child abuse and, 3:23–24; criminalization of, 3:12, 18, 42, 44–45, 57, 81, 92, 98, 123, 194; decriminalization of, 2:5; in East Germany, 2:193–94; media's treatment of, 2:24; as pathology, 2:3–4, 8; as taboo, 3:15, 34, 60, 91, 150; in West Germany, 2:192–93; Zimbabwe's cultural views on, 3:149
- Homosexuals: behavior among African slaves, 1:14–15; behavior among Mayans, 1:13; behavior among pirates, 1:14; blood donations and discrimination against, 2:9, 14, 16, 17; Bolivia and closet, 1:27–28; Bolivian military and, 1:26–27; Bulgaria's attitude toward, 2:66; Canadian military and, 1:54; Colombian military and, 1:92; Cuenca and detention of, 1:111; death by persecution, 2:19, 36, 237, 244, 342, 3:33, 81, 100; death penalty in Saudi Arabia for, 3:216–17; Ecuadorian military and, 1:112; Haiti's cultural views of, 1:135–36; impacted by discriminatory laws in Belize, 1:19–20; Lebanon's historical stance on, 3:1; “lowerclass,” 1:82; masculinization of Brazil's male, 1:40; pejorative language used against, 1:31; persecution and death of, 1:14–15, 44, 45, 63; *weye*, 1:75; workplace rights for, 1:204–5. *See also* Violence
- Homosexuelle Initiative Wien (HOSI Wien), 2:25, 26, 27
- Honduras:** antidiscrimination statutes and Constitution in, 1:145–46; bisexuals in, 1:146; community in, 1:144–45; deaths in, 1:147–48; education in, 1:143; employment and economics in, 1:143; family in, 1:144; Football War and, 1:142; health in, 1:145; HIV/AIDS and, 1:145; LGBT issues in, 1:141–50; map of, 1:141; outlook for 21st century in, 1:148; overview, 1:141–43; politics and law in, 1:145–46; population of, 1:141; religion and spirituality in, 1:146–47; sexuality/sexual practices in, 1:144; social/government programs in, 1:144; sodomy in, 1:145; transvestites and, 1:146; violence in, 1:147–48
- Hong Kong:** colonial, 1:365–66; community in, 1:382; education in, 1:378; employment and economics in, 1:379; ethnic makeup of, 1:365; family in, 1:381–82; GDP of, 1:379; health in, 1:382–84; LGBT issues in, 1:375–90; map of, 1:375; outlook for 21st century in, 1:385–86; overview, 1:375–77; politics and law in, 1:384–85; religion and spirituality in, 1:385; sexuality/sexual practices in, 1:380–81; social/government programs in, 1:379–80; suicide and, 1:384; violence in, 1:385
- Hongwei Bao, 1:355
- Honor killings, 1:5, 3:1, 3, 33, 82, 171, 183
- Hossain, Adnan, 1:333
- Hossain, Shakhawat, 1:339
- Howard, John, 1:325
- HRW. *See* Human Rights Watch
- Huaco*, 1:81
- Human rights, with constitutional protections, 3:170
- Human Rights Tribunal, 1:64
- Human Rights Watch (HRW), 1:180–81, 3:33
- Hun Sen, 1:349, 350, 352
- Hungary:** adoption in, 2:224; antidiscrimination statutes in, 2:226–27; artificial insemination in, 2:224; civil unions/partnerships in, 2:7; community in, 2:224; criminalization in, 2:226; education in, 2:221–22; as EU member, 2:116, 220; family in, 2:223–24; Gay Pride festivals/parades in, 2:228–29; GDP of, 2:222; health in, 2:224–26; HIV/AIDS in, 2:225; LGBT issues in, 2:219–33; map of, 2:219; marriage in, 2:227–28; outlook for 21st century in, 2:229; overview, 2:219–21; politics and law in, 2:226–28; population of, 2:219–20; religion and spirituality in, 2:228; sexual practices in, 2:223; social and government programs in, 2:223; speech and association in, 2:228; transsexuals in, 2:228; violence in, 2:228–29
- Hurtado, Juan (general), 1:27
- Hussein, Farduz, 3:34
- I, Rigoberta Menchú: An Indian Woman in Guatemala* (Menchú Tum), 1:131
- Ibáñez del Campo, Carlos, 1:75
- Ibrahim, Anwar, 1:443, 444
- Ibycos, 2:207
- Identity: Colombia and public expressions of gender, 1:100; machismo culture and male sexual, 1:5–6; Vietnam and gender, 1:528. *See also* Terminology, gay identifying
- Idi Amin. *See* Amin, Idi
- IGLTA. *See* International Gay and Lesbian Travel Association
- Igwe, Leo, 3:97
- Implementing Equality for Lesbians, Gays and Bisexuals*, 2:239
- Inca Empire, 1:3; Bolivia and, 1:25–26; Chile and, 1:75
- Incarceration. *See* Prisons

- Incest, 2:5, 82, 323, 339, 376
- India:** community in, 1:396; education in, 1:393; employment and economics in, 1:393–94; family in, 1:395–96; health in, 1:396–97; *bijras* in, 1:395; HIV/AIDS and, 1:394, 396, 399; languages/dialects spoken in, 1:392; LGBT issues in, 1:391–401; map of, 1:391; outlook for 21st century in, 1:399; overview, 1:391–93; politics and law in, 1:397–98; population of, 1:391; rape and, 1:399; religion and spirituality in, 1:398; sexuality/sexual practices in, 1:395; social/government programs in, 1:394; violence in, 1:398–99
- Indigenous peoples: in Americas/Caribbean and ambiguous gender roles, 1:3–4, 10; Australia's, 1:317; First Nations, 1:62; Paraguay's, 1:249–50. *See also* Native Americans
- Indigenous religions, 3:6, 19, 93, 108, 118
- Indonesia:** colonial, 1:403–4; community in, 1:409–10; education in, 1:405–6; employment and economics in, 1:406–7; family in, 1:408–9; GDP of, 1:404; health in, 1:410–11; HIV/AIDS and, 1:404–5, 407–8, 410–11; LGBT issues in, 1:403–17; map of, 1:403; outlook for 21st century in, 1:414; overview, 1:403–5; politics and law in, 1:411–12; population of, 1:403; rape and, 1:413; religion and spirituality in, 1:412; same-sex marriages in, 1:409; sexuality/sexual practices in, 1:407–8; social/government programs in, 1:407; suicide and, 1:409; violence in, 1:413–14
- Insemination. *See* Artificial insemination
- Institutions, 2:125–26
- Intercourse: anal, 1:55, 59–60, 153, 198 n.81; carnal, 1:19–20; youth and first sexual, 1:20. *See also* Sexual practices
- Interfaith marriages, 3:2, 188
- International Gay and Lesbian Travel Association (IGLTA), 1:187
- Internet: censorship, 2:44; dangers of LGBT students meeting via, 3:31; as main source of information on LGBT life, 2:40–41, 3:8, 34, 79, 130, 133, 178, 195; online dating via, 3:34; Yahoo Group and, 3:1, 2, 178
- Intersexed people: in Americas and Caribbean, 1:11; Asia and Oceania, and transgendered and, 1:315–16; in Asia and Oceania, 1:315–16; in Canada, 1:56–57; in Colombia, 1:99; in Europe, 2:11; as invisible population, 3:7; in Italy, 2:262; in Lebanon, 3:188; legally unrecognized in Bolivia, 1:30; marriage problems with, 2:7–8; in Middle East, 3:7; in Nicaragua, 1:225; in U.S., 1:275–76
- Invisible populations: homosexuals in African nation, 3:48; intersexed people as, 3:7; lesbians as, 3:179
- Iran:** community in, 3:168; death penalty in, 3:164; education in, 3:165–66; employment and economics in, 3:166; family in, 3:167–68; freedom of expression in, 3:169–70; gender reassignment surgery in, 3:166, 168, 170; health in, 3:168; HIV/AIDS in, 3:165, 167–68; international human rights obligations and constitutional protections in, 3:170; LGBT issues in, 3:163–73; map of, 3:163; outlook for 21st century in, 3:171–72; overview, 3:163–65; politics and law in, 3:168–70; population of, 3:164; religion and spirituality in, 3:170; sexual practices in, 3:167; Sharia Law in, 3:163, 164, 169; social and government programs in, 3:166; sodomy in, 3:168, 171; transsexuals in, 3:170; violence in, 3:170–71
- Ireland,** 2:447; abortion in, 2:238; Catholic Church's influence in, 2:236–38, 239–40, 243–44; community in, 2:241; drugs in, 2:237; education in, 2:238; employment and economics in, 2:239; as EU member, 2:116, 235; family in, 2:240–41; health in, 2:241–42; HIV/AIDS in, 2:237, 239, 240, 241–42; LGBT issues in, 2:235–49; map of, 2:235; marriage in, 2:242–43; outlook for 21st century in, 2:245; overview, 2:235–38; politics and law in, 2:242–43; religion and spirituality in, 2:243–44; sexual practices in, 2:239–41; social and government programs in, 2:239; sodomy in, 2:242; transsexuals in, 2:243; violence in, 2:244–45
- IS* (Chiyo), 1:422
- Isherwood, Christopher, 2:192
- Ishida, Hitoshi, 1:356, 419
- Islam, 1:61, 154, 385, 412, 2:10, 59, 60, 164, 3:2, 6, 29, 36, 75, 78, 81, 98, 108, 123, 126, 142, 193–94, 213; marriage views and, 3:31; suicide and, 3:80
- Islamic Revolution of 1979, 3:163–64, 165–66
- It is Not the Homosexual Who is Perverted, but the Situation in Which He Lives*, 2:193
- Italy,** 2:9; abortion in, 2:257; adoption in, 2:258; antidiscrimination legislation in, 2:258–59; asylum in, 2:260–61; bisexuals in, 2:261; Catholic Church's influence in, 2:252–54, 264; community in, 2:257–58; education in, 2:255; employment and economics in, 2:255–56; as EU member, 2:116; family in, 2:257; hate crimes in, 2:258; health in, 2:258; HIV/AIDS in, 2:256; intersexed people in, 2:262; LGBT issues in, 2:251–67; map of, 2:251; outlook for 21st century in, 2:264; overview, 2:251–54; politics and law in, 2:258–62; population of, 2:251; religion and spirituality in, 2:262; same-sex relations in, 2:259–60; sexual practices in, 2:256–57; social and government programs in, 2:256; sodomy in, 2:258; suicide in, 2:263; transsexuals and transgender people in, 2:261; violence in, 2:262–63; World War II and, 2:251–52
- IV drug users, 1:9
- Ivan (the Great) III, 2:358
- Ivan (the Terrible) IV, 2:358
- Ivan X (pope), 2:79
- Ivanov, Andrei, 2:284
- Izaguirre, Boris, 2:402
- Izdebski, Zbigniew, 2:326
- Jails. *See* Prisons
- Jamaica:** abstinence and, 1:161; antisodomy statutes in, 1:7; community in, 1:170–75; early

- stages of gay civil rights in, 1:4; education in, 1:158–64; employment and economy in, 1:164–67; ethnic makeup of, 1:152; family in, 1:167–70; GDP of, 1:155; health in, 1:175–77; HIV/AIDS and, 1:166–67, 173–77, 179–80; languages/dialects spoke in, 1:153; LGBT issues in, 1:151–98; map of, 1:151; media and culture in, 1:184–90; outlook for 21st century in, 1:190–91; overview, 1:151–58; politics and law in, 1:177–84; population of, 1:152; pregnancy and, 1:161; rape definition and, 1:178; religion and spirituality in, 1:184; Taino peoples in, 1:151
- Jamaica Gleaner*, 1:160, 185–86
- Jamaican Gaily News*, 1:173
- Janoff, Douglas, 1:63
- Japan**: community in, 1:426–28; education in, 1:422–23; employment and economics in, 1:423–24; family in, 1:426; health in, 1:428–30; HIV/AIDS and, 1:420, 429; LGBT issues in, 1:419–37; outlook for 21st century in, 1:431–32; overview, 1:419–22; politics and law in, 1:430; population of, 1:419; religion and spirituality in, 1:430–31; sexuality/sexual practices in, 1:424–26; social/governmental programs in, 1:424; violence in, 1:431
- de la Jaraquemada, Juan, 1:75
- Jaruga-Nowacka, Izabela, 2:325
- Jawhar, Sabria S., 1:197
- Jayavarman, 1:506
- Jayavarman VII (king), 1:348–49, 506
- Jehovah's Witnesses, 1:73, 153, 246, 2:321, 342
- Jenny Lives with Eric and Martin*, 2:237
- Jensen, Peter (archbishop), 1:326
- Jesuits, 1:250
- Jihad* (religious calls to action), 3:166
- John, Elton, 1:259
- Johnson-Sirleaf, Ellen, 3:70
- Jörgens, Frédéric, 2:191, 251
- Joseph II (king), 2:226
- Jouhandeau, Marcel, 2:164
- Journalists, 3:169, 178, 196
- Jubran, Azmi, 1:64
- Judaism, 1:61, 73, 113, 154, 246, 276, 385, 2:29, 59, 164, 171, 450, 3:6, 75, 118, 129, 132, 176, 213
- Julien, Isaac, 1:186
- Jumblatt, Walid, 3:177
- Juras, Sanja, 2:80
- Kaczynski, Jaroslaw, 2:324
- Kaczynski, Lech, 2:324, 332
- Kaguvi (spirit-medium leader or shaman), 3:147
- Kaklamanis, Nikitas, 2:210
- Kamasutra*, 1:398
- Kamau, Emmanuel, 3:61, 66
- Kanako Otsuji, 1:421
- Kapera, Kazimierz, 2:325
- Karamanlis, Kostas, 2:206, 209
- Karma, 1:448–49, 457 n.2
- Karner v. Austria*, 2:27
- Karouni, Nasser, 3:187
- Karttunen, Krister, 2:147
- Katials* (ritual genital cutters), 1:340
- Kazemi, Zahra, 3:169
- Kenya**: abortion in, 3:60; adoption in, 3:61–62; asylum cases in, 3:57; Catholic Church's influence in, 3:56, 58; community in, 3:62; education in, 3:57–59; employment and economics in, 3:59–60; family in, 3:61–62; health in, 3:63–64; HIV/AIDS in, 3:56–57, 60–61, 63–64; homophobia in, 3:60; LGBT issues in, 3:55–68; map of, 3:55; media in, 3:57; Muslims in, 3:56; outlook for 21st century in, 3:66; overview, 3:55–57; police in, 3:57; politics and law in, 3:64–65; population of, 3:55–56; religion and spirituality in, 3:65; sexual practices in, 3:60–61; social and government programs in, 3:60; violence in, 3:65–66
- Kenyatta, Jomo, 3:56
- Kern, Viki, 2:385
- Kertbeny, Károly, 2:220, 221
- Khama, Seretse Ian, 3:12, 13, 17
- Khmer Empire, 1:347–49, 505, 506
- Khmer Rouge, 1:351, 524; Buddhist monks killed by, 1:349, 352; Cambodia's destruction and, 1:349
- Khomeini, Ruhollah (ayatollah), 3:164, 166
- Khorloogiin Choibalsan, 1:455
- Kibaki, Emilio Mwai, 3:56
- Kikwete, Jakaya Mrisho, 3:124, 126
- King, Mark E., 1:375
- King, Peter, 1:157
- “Kingdom in the Closet” (Labi), 3:197–98
- Kinsey Report, 1:362
- Kirby, Michael, 1:326
- Kirey, Anna, 2:269
- Klaus, Hanna (sister), 2:96
- Klavs, Irena, 2:378
- Kluzik-Rostkowska, Joanna, 2:326
- Knight, K. D., 1:179
- Kohl, Helmut, 2:193
- Köhn, Rosemarie, 2:315
- Koloman (king), 2:80
- König, Ralf, 2:193
- Koran, 1:342, 3:30, 36, 77, 81, 98, 164, 214
- Kosar, Baki, 2:434
- Koseki* (family register), 1:430, 431
- Kosofsky Sedgwick, Eve, 1:421
- Kotbis* subculture, 1:335, 337, 340, 343 n.6; cooking work and, 1:344 n.17; family and, 1:338; sexual health projects for, 1:339
- Kramberg, Franc, 2:385
- Kreisky, Bruno, 2:30
- Kresal, Katarina, 2:386
- Krickler, Kurt, 2:23
- Krishna, 1:398
- Kublai Khan, 1:523
- Kuchynski, Viktor, 2:37
- Kufuor, John, 3:47
- Kuhar, Roman, 2:373
- Kumiko Ikeda, 1:423
- Kunonga, Nolbert (Anglican bishop), 3:19, 158
- Kuzanov, Iva, 2:184
- Kuzmin, Mikhail, 2:363
- Kyrgyzstan**: bisexuals in, 2:271; community in, 2:272–73; education in, 2:270–71; employment and economics in, 2:271; family in, 2:271–72; health in, 2:273; HIV/AIDS in, 2:271, 273; LGBT issues in, 2:269–75; map of, 2:269; outlook for 21st century in, 2:274; overview, 2:269–70; politics and law in, 2:273; population and ethnic makeup of, 2:269; religion and spirituality in, 2:273–74; sexual practices in, 2:271; social and government programs in, 2:271; violence in, 2:274
- Labi, Nadya, 3:197–98
- LABRYS*, 1:427, 428
- Lacalle, Saenz (bishop), 1:119
- Lahoud, Emile, 3:178
- Laïcité*, 2:59, 60

- The Land of Spices* (O'Brien), 2:237
- Languages/dialects: Aymara, 1:25; Bangladesh's, 1:333; Belgium's, 2:49; Bolivia's ethnic linguistic groups and, 1:25; Botswana's, 3:12; Brazil's, 1:37; Cameroon's, 3:23; Canada's, 1:50; China's, 1:356; Creole, 1:16; derogatory terms, homosexuals and, 1:31; Egypt's, 3:29; "faggot" and other pejorative terms and, 1:81–82; Finland's, 2:148; France's, 2:163; Guatemala's, 1:125; Haiti's, 1:136; India's, 1:392; Jamaica's, 1:153; Lebanon's, 3:176; Moldova's, 2:278; Mongolia's, 1:448; Morocco's, 3:75; Namibia's, 3:88; pejorative, 1:31, 81–82, 136; Quechua, 1:25; *quoc ngu* and, 1:524; translations of gay-themed titles and, 3:180
- Lasalvia, Eduardo, 1:294
- Lassen, Ann Kristin, 2:111
- Latifundios* (large landholdings), 1:290
- Latvia, 2:35, 123
- de Lauretis, Teresa, 1:421
- Lawrence v. Texas*, 1:273
- Laws: in Andorra, 2:17–18; of Antisocial States, 1:75; in Australia, 1:324–26; in Austria, 2:26–29; in Bangladesh, 1:341; in Belarus, 2:42–44; in Belgium, 2:57–59; in Belize, 1:19–20; Belize's carnal intercourse, 1:19–20; in Bolivia, 1:30; in Botswana, 3:18–19; in Brazil, 1:43; in Cameroon, 3:25–26; in Canada, 1:59–61; in Chile, 1:84–85; in China, 1:363–65; in Colombia, 1:97–100; in Croatia, 2:90–95; in Czech Republic, 2:106; in Denmark, 2:117–18; in Ecuador, 1:112–13; in Egypt, 3:35; in El Salvador, 1:119; in Ethiopia, 3:44–45; in EU, 2:126–30; in Finland, 2:155–57; in France, 2:169–71; in Georgia, 2:185–86; in Germany, 2:198; in Ghana, 3:50–51; in Greece, 2:213; in Guatemala, 1:130; in Haiti, 1:138; hate speech, 2:338; homosexuals impacted by discriminatory, 1:19–20; in Honduras, 1:145–46; in Hong Kong, 1:384–85; in Hungary, 2:226–28; in India, 1:397–98; in Indonesia, 1:411–12; in Iran, 3:168–70; in Ireland, 2:242–43; in Italy, 2:258–62; in Jamaica, 1:177–84; in Japan, 1:430; in Kenya, 3:64–65; in Kyrgyzstan, 2:273; in Lebanon, 3:186–88; in Liberia, 3:72; in Malaysia, 1:443–44; in Mexico, 1:208–9; in Moldova, 2:281–82; in Mongolia, 1:455; in Morocco, 3:80–81; Muslim, 3:70, 81, 102, 109, 131, 163, 164, 195, 209–10, 211; in Namibia, 3:92–93; in the Netherlands, 2:300–301; in New Zealand, 1:465–67; in Nicaragua, 1:227–30; in Nigeria, 3:107–8; in Norway, 2:312–14; Nuremberg, 2:80; outlook for Bulgaria in, 2:74–75; in Panama, 1:246; in Paraguay, 1:253; in Poland, 2:330–32; in Portugal, 2:341–42; in Romania, 2:352–53; in Russia, 2:366–69; in Saudi Arabia, 3:209–12; Sharia, 3:109, 131, 163, 164, 169, 195, 209–10, 211; in Singapore, 1:483; in Slovenia, 2:383–85; in South Africa, 3:119; in Spain, 2:403–4; in Switzerland, 2:420–21; in Taiwan, 1:496–98; in Tanzania, 3:126; in Thailand, 1:515–17; in Trinidad and Tobago, 1:259–60; in Tunisia, 3:132; in Turkey, 2:432–33; in Uganda, 3:142; in United Kingdom, 2:446–49; in Uruguay, 1:295–96; in U.S., 1:272–76; in Vietnam, 1:530–32; women excluded from antisodomy, 2:5
- Lawyers' Christian Fellowship, 1:181
- Lebanon:** abortion in, 3:182; antidiscrimination statutes in, 3:186; as Arab world's most gay-friendly city, 3:2; asylum cases in, 3:187; bisexuals in, 3:184, 187–88; community in, 3:183–84; divorce in, 3:183; drag queens in, 3:180; education in, 3:181; employment and economics in, 3:181–82; family in, 3:183; gay men in, 3:184; health in, 3:184–85; historical stance on homosexuals in, 3:1; HIV/AIDS in, 3:182, 184–85; homophobia in, 3:179; intersexed people in, 3:188; languages and dialects spoken in, 3:176; lesbians in, 3:184; LGBT issues in, 3:175–92; map of, 3:175; marriage in, 3:186; media in, 3:179–80; Muslims in, 3:176; outlook for 21st century in, 3:190; overview, 3:175–80; political history of, 3:176–78; politics and law in, 3:186–88; population and ethnic makeup of, 3:175; religion and spirituality in, 3:188–89; sex toys and, 3:185; sexual practices in, 3:182; social and government programs in, 3:182; sodomy in, 3:186; speech and association in, 3:186–87; transsexuals in, 3:188; violence in, 3:178, 189–90
- Lee Hsien Loong, 1:479
- de Leeuw, Paul, 2:292
- Legal restrictions, with sodomy, 3:194, 211–12. *See also* Laws
- Los Legionarios de Cristo, 1:85
- Lemebel, Pedro, 1:76
- Lenin, Vladimir Ilyich, 2:359
- Leon, Laurence Wai Teng, 1:475
- Lesbiana*, 1:95
- Lesbians: bride price and, 3:127; in Bulgaria, 2:69; butch/femme, 1:360; Canada and violence against, 1:63–64; child custody and, 1:63; in Egypt, 3:32, 34; excluded from artificial insemination, 2:29; invisibility of, 3:179; in Lebanon, 3:184; machismo culture's influence on, 1:6; overlooked health needs of, 2:9; in prison and rights to intimate visits, 1:100; Russia's forced medical treatment of, 2:365; suicide and, 1:396; versatile, 1:360; violence against, 2:405, 3:65; in workplace, 3:77. *See also* Women
- Lesbians on the Loose*, 1:322
- Lesboflexible*, 1:94
- Lesbos, 2:207, 211
- Levensrecht* (the right to live), 2:291
- Lévy, Joseph Josy, 1:49
- Lewis, Richard, 1:467
- LGBTIQ (Lesbian, gay, bisexual, transgender, intersex or questioning), 3:33–34
- Li Xiaojiang, 1:359
- Li Yinhe, 1:359
- Liberal Party of Honduras (PLH), 1:142
- Liberia:** community in, 3:71; education in, 3:70–71; employment and economics in, 3:71; family in, 3:71; health in, 3:71–72; homophobia in, 3:72; homosexuality criminalized in,

- 3:72; LGBT issues in, 3:69–73; map of, 3:69; outlook for 21st century in, 3:72; overview, 3:69–70; politics and law in, 3:72; religion and spirituality in, 3:72; sexual practices in, 3:71; social and government programs in, 3:71; sodomy in, 3:72; violence in, 3:72
- Lim-Hing, Sharon, 1:136
- Lin Yinhe, 1:361
- Literacy rate: Colombia's, 1:91; El Salvador's, 1:117; Guatemala's, 1:126–27; Haiti's, 1:136; Vietnam's, 1:525
- Liu Dalin, 1:359, 362
- Locas*, 1:82, 94
- Locos*, 1:95
- Lon Nol, 1:349
- Long, Scott, 3:216
- Loquita*, 1:82
- Lorde, Audre, 1:136
- Love, culture of, 1:18
- Lovett, Anne, 2:238
- The L-Word*, 1:189, 2:445
- Lu Longguang, 1:363
- Lučín, Šime, 2:92
- Lukashenka, Alyksandr, 2:35, 36, 37
- Lule, Yusufu, 3:137
- Lupu, Marian, 2:282
- Lutherans, 2:157, 198, 321, 3:93
- Luxembourg, 2:123, 163, 189; civil unions/partnerships in, 2:7; as EU member, 2:19
- Luxuria, Vladimir, 2:256, 262, 263
- Luzhkov, Yuri, 2:369
- Lwa* (feminine spirit), 1:138
- MacAulay, Colin, 2:284
- Macaulay, Jide, 3:97, 102, 104–5
- MacDonald, Prince, 3:48
- Machis* (Mapuche shamans), 1:75
- Machismo culture: in Americas/Caribbean and sexual-relationship arrangements, 1:5–6; birth control in, 1:9; honor killings in, 1:5; violence in, 1:5–6, 7
- Macho* (men in dominant sex roles), 1:40, 111
- Madame Arthur, 2:298
- Madden, Ed, 2:235
- Madzongwe, Edna, 3:153
- Magic, 3:118
- MAHA*, 3:165
- Maha Maya Ji, 1:334, 337, 341
- Mahuad, Jamil, 1:110
- Makhulu, Walter (Anglican archbishop), 3:19
- Malaysia**: community in, 1:442; education in, 1:441; employment and economics in, 1:441; health in, 1:442–43; HIV/AIDS and, 1:440–43; LGBT issues in, 1:439–46; map of, 1:439; outlook for 21st century in, 1:444–45; overview, 1:439–41; politics and law in, 1:443–44; population of, 1:439; religion and spirituality in, 1:444; sexuality/sexual practices in, 1:442; social/government programs since 1992, 1:441–42; violence in, 1:444
- Male-to-female. *See* MTF
- Malta, 2:19, 123, 213
- Mambos* (religious leaders), 1:138
- Man of Ashes*, 3:131
- Mandeans, 3:213
- Manly, Michael, 1:158
- Manu Spirit*, 1:398
- Mao Zedong, 1:356
- Maori people, 1:459–60, 463
- “Mapping Homophobia in Australia.” 1:326
- Maps: Andorra, 2:13; Australia, 1:317; Austria, 2:23; Bangladesh, 1:333; Belarus, 2:35; Belgium, 2:49; Belize, 1:13; Bolivia, 1:25; Botswana, 3:11; Brazil, 1:37; Bulgaria, 2:65; Cambodia, 1:347; Cameroon, 3:23; Canada, 1:49; Chile, 1:73; China, 1:355; Columbia, 1:89; Croatia, 2:80; Czech Republic, 2:101; Denmark, 2:111; Ecuador, 1:107; Egypt, 3:29; El Salvador, 1:115; Ethiopia, 3:41; Finland, 2:147; France, 2:163; Georgia, 2:177; Germany, 2:191; Ghana, 3:47; Greece, 2:203; Guatemala, 1:125; Haiti, 1:135; Honduras, 1:141; Hong Kong, 1:375; Hungary, 2:219; India, 1:391; Indonesia, 1:403; Iran, 3:163; Ireland, 2:235; Italy, 2:251; Jamaica, 1:151; Kenya, 3:55; Kyrgyzstan, 2:269; Lebanon, 3:175; Liberia, 3:69; Malaysia, 1:439; Mexico, 1:199; Moldova, 2:277; Mongolia, 1:447; Morocco, 3:75; Namibia, 3:87; the Netherlands, 2:289; New Zealand, 1:459; Nicaragua, 1:213; Nigeria, 3:97; Norway, 2:305; Panama, 1:241; Paraguay, 1:248; Poland, 2:321; Portugal, 2:337; Romania, 2:347; Russia, 2:357; Saudi Arabia, 3:193; Singapore, 1:475; Slovenia, 2:373; South Africa, 3:113; Spain, 2:393; Switzerland, 2:413; Taiwan, 1:487; Tanzania, 3:123; Thailand, 1:505; Trinidad and Tobago, 1:256; Tunisia, 3:129; Turkey, 2:427; Uganda, 3:135; United Kingdom, 2:440; Uruguay, 1:288, 289; U.S., 1:263; Venezuela, 1:297; Vietnam, 1:523; Zimbabwe, 3:147
- Mapuche people, 1:74–75
- Maquiladora* (assembly plants), 1:204
- Maraco*, 1:82
- Maria Theresa (empress), 2:373
- Marica*, 1:81
- Mariposón*, 1:81
- Mariquita*, 1:81
- Maronite, Christian, 3:176
- Marriage: in Africa with adoption, 3:5; in Americas/Caribbean and child adoption, 1:8; in Asia and Oceania, 1:313; bride price and, 3:16, 61, 91, 127; in Colombia, 1:94–95; common-law, 1:137; in Denmark, 2:117; DOMA and, 1:8; in EU, 2:136–38; in Europe, 2:7–8; within families, 3:183; in Finland, 2:156; gender-specific initiation rites of, 3:16; in Hungary, 2:227–28; interfaith, 3:2, 188; in Ireland, 2:242–43; Islam's views on, 3:31; in Lebanon, 3:186; Mayan, 1:13–14; in Middle East, 3:5; in Norway, 2:313–14; as obligatory for most Arabs, 3:79; problems with transgendered and intersexed people, 2:7–8; in Russia, 2:368; same-sex, 1:8, 10, 108, 3:25, 103, 105, 120, 138, 152; in U.S., 1:273–74; women engaging in homosexual acts and, 3:32, 78. *See also* Family; Same-sex marriages
- Martí Alanis, Joan, 2:17
- Maruko, Tadao, 2:133
- Marx, Karl, 2:221, 359
- Mások*, 2:224
- Massacres, 3:148
- Masturbation, 1:9, 20, 360, 450, 477
- Matyszak, Derek, 3:147
- Mau Mau rebellion of 1952, 3:56
- Maxwell, John, 1:185

- Mayans, 1:3; Belize and, 1:13–16; depopulation of, 1:14; family, 1:18; homosexuals, 1:13; marriages, 1:13–14
- MB (money boy), 1:360, 361
- McNally, Nicholas (justice), 3:156
- Me Magazine*, 2:179
- Mecca, 3:193, 213
- Media, 3:5; in Botswana, 3:13; in Egypt, 3:30; in Ghana, 3:48; in Greece, 2:210; in Jamaica, 1:184–90; in Kenya, 3:57; in Lebanon, 3:179–80; in Morocco, 3:76; in Saudi Arabia, 3:210; treatment of homosexuality, 2:24; in Tunisia, 3:129; in Zimbabwe, 3:153
- Medina, 3:194, 213
- Medina, Javier, 1:144
- Medvedev, Dmitry A., 2:360
- Meem, 3:179, 184, 185, 187
- Meléndez, Eduardo Alfonso Caro, 1:107, 125, 241, 249
- Memra, 2:76
- Men: honor killings and, 3:1, 3, 33, 82, 171, 183; Lebanese gay, 3:184; machismo's influence on, 1:5–6; MTF, 1:5–6, 11; Muslim gay, 3:76. *See also* Family
- Men who have sex with men.
See MSM
- Menchú Tum, Rigoberta, 1:131
- Mendoza Ralph, Roberto, 1:204
- Mengistu Haile Mariam, 3:41
- Mental health, 2:297; in Belgium, 2:56–57; Netherlands and, 2:155. *See also* Depression
- Mestizos*, 1:108
- Methodists, 1:153, 276, 326, 2:262, 315
- Mette-Marit (princess), 2:305
- Mexico:** Catholic Church's influence in, 1:200, 206; community in, 1:206–7; education in, 1:201–3; employment and economics in, 1:203–5; family in, 1:206; Gay Pride festival in, 1:207; GDP, 1:199; health in, 1:207–8; HIV/AIDS and, 1:202–3, 207–8; LGBT issues in, 1:199–212; map of, 1:199; outlook for 21st century in, 1:209; overview, 1:199–201; politics and law in, 1:208–9; population of, 1:200; sexuality/sexual practices in, 1:205; social/government programs in, 1:205; textbooks and, 1:202; violence in, 1:209; workplace, homosexual rights and, 1:204–5
- Micheletti, Roberto, 1:142
- Miches* (homosexual prostitution), 1:44
- Middle East: antidiscrimination statutes and violence in, 3:4–5; education in, 3:5; HIV/AIDS in, 3:5–6; intersexed people in, 3:7; introduction to Africa and, 3:1–8; Iran and, 3:163–73; Lebanon and, 3:175–92; LGBT issues in, 3:4–7; marriage and adoption in, 3:5; outlook for 21st century in, 3:7–8; religion in, 3:6; Saudi Arabia and, 3:193–223; sexual and relationship arrangement in, 3:2–3; sodomy in, 3:4; transgender people in, 3:6–7
- Mieszko I, 2:3, 321
- Military: in Belarus, 2:36, 41; Bolivia and homosexuals in, 1:26–27; in Bulgaria, 2:76; Canada and homosexuals in, 1:54; Colombia and homosexuals in, 1:92; coup d'état in Uruguay, 1:290; in Croatia, 2:79; Ecuador and homosexuals in, 1:112; gays in, 3:101; in Greece, 2:207; in Norway, 2:308; in Russia, 2:362; spending in Belize, 1:17–18; in Switzerland, 2:414–15; U.S. and “don't ask, don't tell” policy with, 1:265, 268
- Minos (king), 2:207
- de Miranda, Francisco, 1:299
- Miss Gay Bolivia pageant, 1:28
- Mithuna, Jr.*, 1:514
- Mitterrand, François, 2:17
- Mizielinska, Joanna, 2:321
- Moawad, Nadine, 3:175
- Mogae, Festus, 3:12
- Mohamad, Mahathir, 1:443, 444
- Mohamed VI (king), 3:75
- Moi, Daniel Arap, 3:56, 57
- Moldova, 2:6;** adoption in, 2:279–80; Christian Orthodox Church's influence in, 2:282; community in, 2:280; education in, 2:278–79; employment and economics in, 2:279; Gay Pride festivals/parades in, 2:284; GDP of, 2:279; health in, 2:280–81; HIV/AIDS in, 2:280–81; languages and dialects spoken in, 2:278; LGBT issues in, 2:277–87; map of, 2:277; outlook for 21st century in, 2:285–86; overview, 2:277–78; politics and law in, 2:281–82; population of, 2:277; religion and spirituality in, 2:282; sexual practices in, 2:279–80; social and government programs in, 2:279; violence in, 2:282–85
- Mon people, 1:505
- Money boy. *See* MB
- Mongolia:** community in, 1:453–55; education in, 1:450; employment and economics in, 1:450–51; family in, 1:452–53; GDP of, 1:451; health in, 1:455; HIV/AIDS and, 1:450, 451–52, 454–55, 456–57; languages/dialects spoke in, 1:448; LGBT issues in, 1:447–58; map of, 1:447; outlook for 21st century in, 1:456–57; overview, 1:447–50; politics and law in, 1:455; population of, 1:447; provinces in, 1:457 n.9; religion and spirituality in, 1:455–56; sexuality/sexual practices in, 1:451–52; social/government programs in, 1:451–52; violence in, 1:456
- Monsen, Nina Karin, 2:314
- de Montherlant, Henry, 2:164
- Montoya, Alba, 1:100
- Montreuil, Micheline, 1:61
- Morales, Evo, 1:25
- Morgan, Henry, 1:242
- Morínigo, Higinio, 1:250
- Mormons, 1:73
- Morocco:** asylum cases in, 3:82; bisexuals in, 3:76–77; community in, 3:79; education in, 3:77; employment in, 3:77; family in, 3:78–79; government programs in, 3:77; health in, 3:80; HIV/AIDS in, 3:80, 81; homosexuality criminalized in, 3:81; languages and dialects spoken in, 3:75; LGBT issues in, 3:75–85; map of, 3:75; media in, 3:76; Muslims in, 3:75; outlook for 21st century in, 3:83; overview, 3:75–77; politics and law in, 3:80–81; pregnancy out of wedlock in, 3:82; religion and spirituality in, 3:81–82; sexual practices in, 3:78; violence in, 3:82
- Morrissens, Elian, 2:50
- Moscati, Maria Federica, 3:41
- Moscato, Mireya, 1:242
- Mott, Luiz, 1:41, 44
- Mouloodzadeh, Makvan, 3:171
- Mouta, Joao, 2:341
- Mouta v. Portugal*, 2:341

- MOVILH (Homosexual Liberation Movement), 1:76, 83, 84
- Mozetič, Brane, 2:375
- Msae, Torai, 1:428
- MSM (Men who have sex with men), 1:21, 343 n.7, 482, 2:9, 40, 52, 72, 89, 113, 182, 273, 326, 351, 378, 398, 446, 3:3, 63, 103, 149, 184–85; HIV/AIDS and, 1:55; networks, 1:22; social implications in machismo culture and, 1:5–6; Uruguay and, 1:294
- MTF (Male-to-female): surgeries, 1:272, 482; transsexuals and, 1:5–6
- Mu Sochua, 1:350
- Mubarak, Hosni, 3:29
- Mugabe, Robert, 3:2, 148, 152, 154, 155, 158
- Mulher-macho* (male woman), 1:37
- Musango, Gertrude, 3:153
- Museveni, Yoweri, 3:137, 138–39, 140, 141, 142, 143
- Muslims, 1:113, 260, 333, 404, 430, 467, 2:6, 10, 29, 60, 65, 79, 164, 171, 178, 198, 214, 273, 290, 405, 450, 3:26, 29, 36, 49, 51, 65, 118, 129, 132, 170; dietary restrictions, 3:211; in Ethiopia, 3:45; historical tolerance of homosexual practice, 3:75–76, 133; HIV/AIDS, “war of the beaches” and, 3:80; interfaith marriages prohibited for, 3:188; in Kenya, 3:56; law, 3:70, 81, 102, 109, 131, 163, 164, 169, 195, 209–10, 211; in Lebanon, 3:176; LGBT, 3:216; LGBTIQ, 3:33–34; lifestyle, 3:205, 213; in Namibia, 3:93; in Nigeria, 3:108; non, 3:214; religious duties of, 3:98–99, 213; religious persecution of, 3:109, 177; Sunni, 3:194, 210; traditional families and, 3:32–33. *See also* Iran; Saudi Arabia
- Mussolini, Benito, 2:251, 252
- Mwamba, Trevor (bishop), 3:19
- My Sister Zabra*, 2:60
- Myal (revivalism), 1:154
- Myrie, Phoebe, 1:157
- Nabozny v. Podlesny*, 1:267
- Namibia:** bisexuals in, 3:90; community in, 3:92; education in, 3:89; employment and economics in, 3:89–90; family in, 3:91–92; health in, 3:92; HIV/AIDS in, 3:87–89, 91–92, 94; homophobia in, 3:91; languages and dialects spoken in, 3:88; LGBT issues in, 3:87–96; map of, 3:87; Muslims in, 3:93; outlook for 21st century in, 3:94; overview, 3:87–89; politics and law in, 3:92–93; population and ethnic makeup of, 3:88; religion and spirituality in, 3:93; sexual practices in, 3:90–91; social and government programs in, 3:90; violence in, 3:93–94
- Nanda, Serena, 1:343 n.4
- Naraa, 1:449
- Nasrallah, Hassan, 3:177
- National Church Alliance, 1:181
- Native Americans, 1:3; culture and same-sex eroticism, 1:14; Mayans, 1:13–16
- Natural Law Theory, 3:181
- Nazis, 1:349, 2:24, 27, 147–48, 321
- Ncube, Pius (Roman Catholic archbishop), 3:158
- Nedbálková, Kateřina, 2:101
- Negroponte, John, 1:142
- Nehanda (spirit-medium leader or shaman), 3:147
- Neon*, 1:514
- Nero, 2:7
- the Netherlands:** adoption in, 2:291; community in, 2:296–99; doing “normal” in, 2:294; drag queens, transsexuals and transgender people in, 2:298; education in, 2:292; employment and economics in, 2:293; as EU member, 2:116; family in, 2:294–96; health in, 2:300; HIV/AIDS in, 2:291, 295, 300; LGBT issues in, 2:289–304; map of, 2:289; mental health in, 2:155; outlook for 21st century in, 2:302–3; overview, 2:289–92; politics and law in, 2:300–301; population of, 2:289; public sex in, 2:293–94; religion and spirituality in, 2:301; same-sex marriage in, 2:7, 8, 32; sexual practices in, 2:293–94; social and government programs in, 2:293; spaces in, 2:297–98; violence in, 2:302; visibility of gays in public in, 2:299; young queers in, 2:299
- das Neves, Cesar, 2:342
- New York Times*, 1:188
- New Zealand:** community in, 1:464; education in, 1:460–61; employment and economics in, 1:461–62; family in, 1:463–64; Gay Pride and, 1:464; GDP of, 1:461; health in, 1:464–65; HIV/AIDS and, 1:460, 462–63, 465; LGBT issues in, 1:459–73; Maori people and, 1:459–60; map of, 1:459; outlook for 21st century in, 1:468–69; overview, 1:459–60; politics and law in, 1:465–67; religion and spirituality in, 1:467–68; sexuality/sexual practices in, 1:462–63; social/government programs in, 1:462; suicide and, 1:461; violence in, 1:468
- Newspapers. *See specific newspapers*
- Nicaragua:** antidiscrimination legislation in, 1:228; antigay culture in, 1:7; bisexuals in, 1:222–23; CAFTA and, 1:220; Catholic Church’s influence in, 1:235 n.51, 237 n.96; church, state and reparative therapy in, 1:230; community in, 1:224–26; Contra War and, 1:215; education in, 1:219; employment and economics in, 1:220–21; ethnic makeup of, 1:214; family in, 1:223–24; gay marriage in, 1:229; health in, 1:226–27; HIV/AIDS and, 1:218, 226–27; intersexed people in, 1:225; lesbians in, 1:225–26; LGBT issues in, 1:213–40; map of, 1:213; NGOs and, 1:234 n.30; outlook for 21st century in, 1:232; overview, 1:213–19; politics and law in, 1:227–30; population of, 1:213; religion and spirituality in, 1:230–32; Sandinista Revolution and, 1:216, 220, 226, 228; sexuality/sexual practices in, 1:222–23; social/government programs in, 1:221–22; sodomy laws in, 1:227–28; speech and association in, 1:229–30; transsexuals in, 1:225; violence in, 1:232
- Nicholas II, 2:359
- Nicolosi, Joseph, 2:76
- Nigeria:** adoption in, 3:103; bisexuals in, 3:102; children in, 3:105–6; criminalization of homosexuality in, 3:98; education in, 3:98–100; employment and economics in, 3:100–101; family and community in, 3:105–6; health

- in, 3:106–7; HIV/AIDS in, 3:102–3, 106–7; homophobia in, 3:99; LGBT issues in, 3:97–111; map of, 3:97; Muslims in, 3:108; outlook for 21st century in, 3:109–10; overview, 3:97–98; politics and law in, 3:107–8; population and ethnic makeup of, 3:97–98; religion and spirituality in, 3:108–9; same-sex marriage in, 3:105; sexual practices in, 3:102–5; Sharia Law in, 3:109; social and government programs in, 3:101–2; sodomy in, 3:103; violence in, 3:109
- 9/11. *See* September 11, 2001
- Nirban* (freedom from worldly desires), 1:335
- Njeim, Ziad, 3:187
- Njenga, Frank, 3:64
- Nkom, Alice, 3:27
- Nkomo, Joshua, 3:148
- Nondiscrimination and civil union contracts, 1:84–85
- Noriaki Fushimi, 1:421
- Noriega, Manuel Antonio (general), 1:242
- “Normal,” 2:294
- Norodom Sihamoni (prince), 1:350
- Norris, David, 2:237, 242
- Norway:** abortion in, 2:315; adoption in, 2:309; antidiscrimination statutes in, 2:313; community in, 2:310–11; education in, 2:307–8; employment and economics in, 2:308; family in, 2:309–10; foster care in, 2:309; hate crimes in, 2:313; health in, 2:311–12; LGBT issues in, 2:305–20; map of, 2:305; marriage in, 2:313–14; military in, 2:308; outlook for 21st century in, 2:315–16; overview, 2:305–7; politics and law in, 2:312–14; population of, 2:305; prostitution in, 2:308–9; Protestant Church of Norway’s influence in, 2:306, 307; religion and spirituality in, 2:314–15; same-sex marriage in, 2:7, 8; sexual practices in, 2:308–9; speech and association in, 2:314; suicide by youths in, 2:150; transsexuals in, 2:314; violence in, 2:315
- Not in My Family*, 1:22
- Notes of a Desolate Man* (Chu T’ien-wen), 1:494
- Nteere, Nancy, 3:11, 55, 87
- Nuances, 1:38
- Nujoma, Sam, 3:89, 91, 93–94, 155
- Numbers, 1:360–61
- Nuremberg Laws, 2:80
- Nyerere, Mwalimu Julius, 3:124
- O Lampião (The Lantern)*, 1:38, 41
- O Salish Kendro, Ayeen, 1:339
- OASIS, 1:129
- Obama, Barack, 1:265
- O’Brien, Kate, 2:237
- October Revolution, 2:359
- Odinga, Raila, 3:56
- Odumuye, Oludare, 3:102, 103
- OECD. *See* Organization for Economic Cooperation and Development
- Olea, Paloma, 2:16
- Oliveira, Nuno Miguel, 2:19
- de Oliveira Salazar, António, 2:337
- On Being a “Lesbian”* (Hiroko), 1:421
- Online dating, police taskforce against, 3:34
- Operation Save Jamaica, 1:181
- Operations. *See* Surgeries
- Opus Dei, 1:85, 119, 294
- Oral sex, 1:476; criminalization of, 1:20; between men, 1:495
- Organization for Economic Cooperation and Development (OECD), 2:14
- Organizations, for LGBTs. *See* Community
- Orishas* (religious deities), 1:44
- Ormrod (lord), 2:447
- Orozco, Caleb, 1:13
- Ortega, Daniel, 1:235 n.47
- Orthodox Christianity, 1:61
- Orthodox Church, 2:45, 59, 157; in Bulgaria, 2:75; in Georgia, 2:186; in Romania, 2:353–54. *See also* Religions
- Orzechowski, Mirosław, 2:8, 324
- Ottoman Empire, 2:65, 203, 277
- Oungans* (religious leaders), 1:138
- Outlawed*, 2:45
- OutRage, 1:187
- L’Ouverture, Toussaint, 1:135
- Ovoos*, 1:457 n.10
- Özen, Emreçan, 2:427
- P (femme lesbians), 1:360
- Pageants. *See* Beauty pageants
- Paiderastia* (homosexual love), 2:206, 207
- Paisley, Ian, 2:447
- Palacio, Pablo, 1:111
- Palestinians, 3:1, 175, 177, 201
- Pan Suijing, 1:359, 362
- Panama:** antigay culture in, 1:7; community in, 1:245; education in, 1:243; employment and economics in, 1:243–44; family in, 1:244–45; health in, 1:245–46; HIV/AIDS and, 1:242; LGBT issues in, 1:241–47; map of, 1:241; outlook for 21st century in, 1:247; overview, 1:241–43; politics and law in, 1:246; religion and spirituality in, 1:246; sexuality/sexual practices in, 1:244; social/government programs in, 1:244; violence in, 1:246–47
- Panthis*, 1:334, 340
- Papandreou, George Andreas, 2:209
- Paradis, Evelyne, 2:123
- Paraguay:** community in, 1:252–53; as drug hub, 1:9; early stages of gay civil rights in, 1:4; education in, 1:251; employment and economics in, 1:251; family in, 1:252; health in, 1:253; HIV/AIDS and, 1:253; indigenous population of, 1:249–50; LGBT issues in, 1:249–55; map of, 1:248; outlook for 21st century in, 1:254; overview, 1:249–51; politics and law in, 1:253; population of, 1:249; religion and spirituality in, 1:253–54; sexuality/sexual practices in, 1:252; social/government programs in, 1:252; violence in, 1:254; War of Three Alliances and, 1:254
- Parajanov, Sergei, 2:179
- Paredes, Julieta, 1:29
- Parental responsibility, 2:39, 135–38
- Parenting, 2:53; in Austria, 2:28–29; in Czech Republic, 2:104; in Finland, 2:151–52; foster, 2:28; in France, 2:164
- A Parent’s Guide to Preventing Homosexuality* (Nicolosi), 2:76
- Parik*, 1:334
- Parsis, 3:213
- Partnership legislation, 2:27–28. *See also* Laws
- Paternotte, David, 2:49
- Patil, Pratibha Devisingh, 1:392
- Patiño, Ricardo, 1:110
- Patroclus, 2:206
- Patterson, P. J., 1:155, 176

- Paulk, Anne, 1:276
 Paulk, John, 1:276–77
 Pavelič, Ante, 2:80
Pédé (pejorative French term for gay), 1:136
 Pederasty, 2:7, 428
 Pedophilia, 2:8, 41, 53, 75, 102, 206, 299, 323
 Pejorative language, 1:31, 81–82, 136
 Pell, George (archbishop), 1:326
 Penal codes: of 1810, 2:3, 5; age of consent and, 2:252, 388.
See also Laws
 Penetration: *activo/pasivo* model of, 1:94; *bichas* and, 1:38, 40; *bofê* and, 1:38; forced anal/oral, 1:178; hierarchy of, 1:5–6; *macho* and, 1:40, 111; male views on, 1:81
 Penguin revolution, 1:77–78
 Penises: carved stone, 1:348; worship of, 1:506. *See also* Genitalia
 Pentecostals, 1:113, 260, 3:51
Perestroika (restructuring), 2:359, 363
 Pérez, Nicolás, 2:16
 Pérez Balladares, Ernesto, 1:242
 Pérez de Guzmán, Don Juan, 1:242
 Persecution: death and, 3:33, 81, 100; religious, 3:109, 177
 Pestalozzi, Johann, 2:414
 Peter (the Great) I, 2:358, 366
 Phidias, 2:207
 Pichardo Galán, José Ignacio, 2:393
 Pierce, Joseph M., 1:73, 199
 Pilar Riba, Maria, 2:17
 Pindar, 2:207
 Pink Pound, 2:441
 Pink Saturday, 2:298
 Pink triangle, 1:441, 443
 Pink Triangle concentration camp survivor, 2:24, 388, 431
 Pinochet Ugarte, Augusto (general), 1:74, 75
 Pintat, Albert, 2:15, 17, 18
 Pirates, 1:242; homosexual relationships among, 1:14
 Piskaneva, Monika, 2:65
 Planeta Paz, 1:96
Plasaj (common-law marriage), 1:137
 Pocomania, 1:154
 Pol Pot, 1:349
Poland, 2:8; abortion in, 2:324; adoption in, 2:328; Catholic Church's influence in, 2:322, 332–33; community in, 2:329; education in, 2:323–24; employment and economics in, 2:324–25; as EU member, 2:116; family in, 2:328; health in, 2:330; HIV/AIDS in, 2:327, 330; LGBT issues in, 2:321–36; map of, 2:321; outlook for 21st century in, 2:334; overview, 2:321–23; politics and law in, 2:330–32; religion and spirituality in, 2:332–33; sexual practices in, 2:326–28; social and government programs in, 2:325–26; sociopolitical forces and history of, 2:3–4; violence in, 2:333–34
 Polášková, Eva, 2:101
 Police, 3:26, 77, 154; abuse of power, 3:127; brutality, 3:27, 142; fear of, 3:114; in Ghana, 3:47; in Kenya, 3:57; raid, 3:165; Saudi Arabia's religious, 3:203; taskforce against online dating, 3:34; in Tunisia, 3:130; undercover, 3:35
 Police brutality, 2:284, 354
 Policies, in EU, 2:133
 Politics: in Andorra, 2:17–18; in Australia, 1:324–26; in Austria, 2:26–29; in Bangladesh, 1:341; in Belarus, 2:42–44; in Belgium, 2:57–59; in Belize, 1:19–20; in Bolivia, 1:30; in Botswana, 3:18–19; in Brazil, 1:43; in Cameroon, 3:25–26; in Canada, 1:59–61; in Chile, 1:84–85; in China, 1:363–65; in Colombia, 1:97–100; in Croatia, 2:90–95; in Czech Republic, 2:106; in Denmark, 2:117–18; in Ecuador, 1:112–13; in Egypt, 3:35; in El Salvador, 1:119; in Ethiopia, 3:44–45; in EU, 2:126–30; in Finland, 2:155–57; in France, 2:169–71; in Georgia, 2:185–86; in Germany, 2:198; in Ghana, 3:50–51; in Greece, 2:213; in Guatemala, 1:130; in Haiti, 1:138; in Honduras, 1:145–46; in Hong Kong, 1:384–85; in Hungary, 2:226–28; in India, 1:397–98; in Indonesia, 1:411–12; in Iran, 3:168–70; in Ireland, 2:242–43; in Italy, 2:258–62; in Jamaica, 1:177–84; in Japan, 1:430; in Kenya, 3:64–65; in Kyrgyzstan, 2:273; in Lebanon, 3:186–88; in Liberia, 3:72; in Malaysia, 1:443–44; in Mexico, 1:208–9; in Moldova, 2:281–82; in Mongolia, 1:455; in Morocco, 3:80–81; in Namibia, 3:92–93; in the Netherlands, 2:300–301; in New Zealand, 1:465–67; in Nicaragua, 1:227–30; in Nigeria, 3:107–8; in Norway, 2:312–14; in Panama, 1:246; in Paraguay, 1:253; in Poland, 2:330–32; in Portugal, 2:341–42; in Romania, 2:352–53; in Russia, 2:366–69; in Saudi Arabia, 3:209–12; in Singapore, 1:483; in Slovenia, 2:383–85; in South Africa, 3:119; in Spain, 2:403–4; in Switzerland, 2:420–21; in Taiwan, 1:496–98; in Tanzania, 3:126; in Thailand, 1:515–17; in Trinidad and Tobago, 1:259–60; in Tunisia, 3:132; in Turkey, 2:432–33; in Uganda, 3:142; in United Kingdom, 2:446–49; in Uruguay, 1:295–96; in U.S., 1:272–76; in Vietnam, 1:530–32; in Zimbabwe, 3:153–58. *See also* Laws
 Poll, Christabel, 1:324
 Polygamy, 3:49, 51, 91, 115–16
 Pons, Marc, 2:16
 Population: Andorra's, 2:13; Australia's, 1:317; Austria's, 2:23; Belarus', 2:35; Belize's, 1:13; Botswana's, 3:11–12; Brazil's, 1:38; Brazil's transsexual, 1:42; Bulgaria's, 2:65; Cameroon's, 3:23; Canada's, 1:49; Chile, 1:73; China's, 1:356; Colombia's, 1:89–90; Czech Republic's, 2:101; Denmark's, 2:111; Ecuador's, 1:107–8; Egypt's, 3:29; El Salvador's, 1:115; EU's, 2:116; Finland's, 2:147; France's, 2:163; Georgia's, 2:178; Germany's, 2:191; Greece's, 2:117; Guatemala's, 1:125; Honduras', 1:141; Hungary's, 2:219–20; India's, 1:391; Indonesia's, 1:403; invisible, 3:7, 48; Iran's, 3:164; Italy's, 2:251; Jamaica's, 1:152; Japan's, 1:419; Kenya's, 3:55–56; Kyrgyzstan's, 2:269; Lebanon's, 3:175; Malaysia's, 1:439; Mexico's, 1:200; Moldova's, 2:277; Mongolia, 1:447; Namibia's, 3:88; the Netherlands', 2:289; Nicaragua's, 1:213; Nigeria's, 3:97–98; Norway's, 2:305; Paraguay's, 1:249; Portugal's,

- 2:337; Romania's, 2:347; Russia's, 2:357; Saudi Arabia's, 3:193, 201; Singapore's, 1:475; Slovenia's, 2:373; South Africa's, 3:113–14; Spain's, 2:393; Switzerland's, 2:413; Taiwan's, 1:487; Trinidad and Tobago's, 1:257; Turkey's, 2:427; Uganda's, 3:135–36; UK's, 2:439; Uruguay's, 1:289; U.S. immigrant, 1:263–64; Vietnam's, 1:523
- Portugal:** abortion in, 2:336; adoption in, 2:341; Catholic Church's influence in, 2:342; civil unions/partnerships in, 2:7; community in, 2:340; education in, 2:338; employment and economics in, 2:338–39; as EU member, 2:116; family in, 2:340; health in, 2:341; HIV/AIDS in, 2:339, 341; LGBT issues in, 2:337–46; map of, 2:337; outlook for 21st century in, 2:343; overview, 2:337–38; politics and law in, 2:341–42; population of, 2:337; religion and spirituality in, 2:342; social and government programs in, 2:339; violence in, 2:342–43
- Poveda, Toni, 2:396
- Poverty: children in Belize and, 1:17; influence on education, 1:9
- Power, machismo culture and, 1:5–6
- Pregnancy, 1:78, 2:311, 3:60, 204; Colombia's working women and, 1:92; El Salvador, HIV/AIDS and, 1:119; out of wedlock, 3:50, 82; teen, 2:238, 292, 341, 3:15; unplanned, 3:49; Uruguay and teen, 1:291
- Prem Tinsulanonda (general), 1:516
- Presbyterians, 1:326, 467
- Prescod, John, 1:179
- Press: Saudi Arabia, freedom of speech and, 3:210. *See also* Media
- Priests/bishops, gay, 3:6, 19, 51, 65, 126
- Prisons, 3:171; African American males in, 1:277; Colombia and LGBT persons in, 1:100; condoms in, 3:6, 153, 168; HIV/AIDS in, 3:6, 20; lesbians and rights to intimate visits in, 1:100
- Private Gay Life* (Noriaki), 1:421
- Prodi, Romano, 2:254
- Programs, in EU, 2:133
- Project Watercolor, 1:39
- Prostitutes, 3:81, 140, 180, 188; homosexuals in Belize equated with, 1:20; *kothi* and *hijra* as, 1:337; male, 1:363; MBs as, 1:360, 361; *miches* and, 1:44
- Prostitution: male-to-male, 2:27; in Norway, 2:308–9; in Slovenia, 2:379
- Protestant Church of Norway, 2:306, 307
- Protestants, 1:113, 303, 2:4, 29, 45, 59, 106, 148, 164, 194, 246, 289, 290, 306, 373, 414, 3:56, 93, 114, 176
- Proust, Marcel, 2:164
- Provincial charters, 1:60
- Psychopatia Sexualis* (von Krafft-Ebing), 2:221
- Puranas*, 1:398
- Putin, Vladimir, 2:360
- Qaddafi, Muammar, 3:137
- Qahwaji, Jean, 3:176
- Qassir, Samir, 3:178
- Qing* (deep sentiment or passion), 1:360
- Qinshihuang (emperor), 1:355
- Quakers, 1:326
- Quechua, 1:25
- Queen Boat Affair, 3:4, 30, 31, 33, 34, 35, 37
- Queen of Sheba, 3:41
- Queer*, 2:105
- Queer as Folk*, 2:376, 445
- Queer Bulgaria Foundation, 2:67
- Queer theory, 3:181
- Queers, 2:375; festival of, 2:375; homophobia and fear of, 2:37; the Netherlands and young, 2:294, 299; violence and, 2:244
- Queiruga, Álvaro, 1:289
- Quilter v. AG*, 1:466
- Quinceañeras* (fifteenth birthday), 1:111
- Quintela, Manuel, 1:294
- Quoc ngu*, 1:524
- Qur'an. *See* Koran
- Rainbow curriculums, 1:9
- Rama I (king), 1:507
- Rama IX (king), 1:508
- Rama V (king), 1:507
- Rama VI (king), 1:507
- Ranariddh (prince), 1:350
- RAND Corporation, 1:21
- Rape, 1:6, 19, 146, 342, 364, 518, 2:60, 86, 263, 342, 3:127, 165, 171, 189; in Belarus, 2:42; bullying and mock, 1:267; Cambodia and, 1:353; El Salvador and, 1:121; Indonesia and, 1:413; Jamaica and definition of, 1:178; male-on-male, 2:367; Taiwan and, 1:491; U.S. and, 1:267
- Rastafarianism, 1:154
- Ratnam, S. S., 1:482
- Ratzinger, Joseph (pope), 2:196
- Reagan, Ronald, 1:116, 3:69
- Real* magazine, 1:489
- Real Women, 1:62
- Rebić, Niko, 2:92
- Reece, Richard, 1:179
- Relationships: in Africa with sexual arrangements, 3:2–3; in Americas/Caribbean with machismo culture and sex, 1:5–6; in Middle East with sexual arrangements, 3:2–3
- Religions: in Africa, 3:6; Afro-Brazilian, 1:44; in Americas and Caribbean, 1:10–11; in Andorra, 2:18–19; in Asia and Oceania, 1:314–15; in Australia, 1:326–27; in Austria, 2:29; in Bangladesh, 1:341–42; in Belarus, 2:45; in Belgium, 2:59–60; in Belize, 1:20–21; in Bolivia, 1:31; in Botswana, 3:19; in Brazil, 1:43–44; in Cambodia, 1:352–53; in Cameroon, 3:26; in Canada, 1:61–62; in Chile, 1:73–74, 85; in China, 1:365–66; in Colombia, 1:100–101; in Croatia, 2:95–97; in Czech Republic, 2:106–7; in Denmark, 2:118–19; in Ecuador, 1:113; in Egypt, 3:36–37; in El Salvador, 1:115, 119–20; in Ethiopia, 3:44–45; in Europe, 2:9–10; in Finland, 2:157–58; in France, 2:171–72; in Georgia, 2:186; in Germany, 2:198; in Ghana, 3:51; in Greece, 2:213–14; in Guatemala, 1:130–31; in Haiti, 1:138; *hijras* and, 1:341–42; in Honduras, 1:146–47; in Hong Kong, 1:385; in Hungary, 2:228; in India, 1:398; indigenous, 3:6, 19, 93, 108, 118; in Indonesia, 1:412; interfaith marriages and, 3:2, 188; in Iran, 3:170; in Ireland, 2:243–44; in Italy, 2:262; in Jamaica, 1:184; in Japan, 1:430–31; in Kenya, 3:65; in Kyrgyzstan, 2:273–74; in

- Lebanon, 3:188–89; in Liberia, 3:72; in Malaysia, 1:444; in Middle East, 3:6; in Moldova, 2:282; in Mongolia, 1:455–56; in Morocco, 3:81–82; in Namibia, 3:93; in the Netherlands, 2:301; in New Zealand, 1:467–68; in Nicaragua, 1:230–32; in Nigeria, 3:108–9; in Norway, 2:314–15; in Panama, 1:246; in Paraguay, 1:253–54; in Poland, 2:332–33; in Portugal, 2:342; in Romania, 2:353–54; in Saudi Arabia, 3:212–15; in Singapore, 1:483–84; in Slovenia, 2:385–86; in South Africa, 3:119–20; in Spain, 2:404–5; in Switzerland, 2:421–22; in Taiwan, 1:498; in Tanzania, 3:126; in Thailand, 1:517–18; tolerance of, 1:10; in Trinidad and Tobago, 1:260; in Tunisia, 3:132; in Turkey, 2:433; in Uganda, 3:142–43; in United Kingdom, 2:450; in Uruguay, 1:296; in U.S., 1:276–77; in Venezuela, 1:303; in Vietnam, 1:532–33; Voodoo, 1:4, 10–11; in Zimbabwe, 3:158. *See also specific religions*
- Religious Society of Friends.
See Quakers
- Rembrandt, 2:289
- Reparative therapy, 1:230
- Report of the Departmental Committee on Homosexual Offences and Prostitution*, 2:446
- Reproductive Medicine Act of 1992, 2:29
- Revenin, Régis, 2:163
- Reza Shah, 3:164, 169
- Rhodes, Cecil John, 3:12, 147
- de Rhodes, Alexandre, 1:524
- Ribas, Óscar, 2:14
- Richard, Gabrielle, 1:49
- Rig Veda*, 1:392, 398
- Rights: Canada and equal, 1:4; Canada and gay-friendly culture and, 1:7; Canada and transsexuals', 1:61; Colombia, transgendered and transsexuals', 1:99; Colombia and same-sex couples', 1:98–99; Uruguay and gay-friendly, 1:7; women and voting, 1:289; workplace and homosexual, 1:204–5
- RISK, 2:363
- Roberto Mendoza Ralph vs. Coca-Cola/FEMSA*, 1:204
- Robertson, Pat, 3:71
- Robinson, Gene, 3:6, 19, 51, 65
- Robinson, Mary, 2:237
- Rocha, Anabela, 2:342
- Rode, Franc (archbishop), 2:386
- Rojas, Belén, 2:16
- Romania**: adoption in, 2:351; community in, 2:351–52; discrimination in, 2:353; education in, 2:348–49; employment and economics in, 2:350; as EU member, 2:116, 348; family in, 2:351; GDP of, 2:350; HIV/AIDS in, 2:350, 352; LGBT issues in, 2:347–56; map of, 2:347; as most homophobic country in Europe, 2:5, 348; Orthodox Church's influence in, 2:353–54; outlook for 21st century in, 2:355; overview, 2:347–48; politics and law in, 2:352–53; population and ethnic makeup of, 2:347; religion and spirituality in, 2:353–54; sexual practices in, 2:350–51; social and government programs in, 2:350; transsexuals in, 2:353; violence in, 2:354
- Romanov, Michael (tsar), 2:358
- Romeva, Raül, 2:14
- Roth report, 2:6
- Rousseau, Jean-Jacques, 2:414
- Rowallan (baron), 2:447
- Royal Palm Estate*, 1:188
- Russia**, 2:3, 6; abortion in, 2:362; adoption in, 2:363; antidiscrimination statutes in, 2:362, 367; antigay culture in, 2:9; community in, 2:363; education in, 2:361–62; employment and economics in, 2:362; family in, 2:363; forced medical treatment of lesbians in, 2:365; health in, 2:363; HIV/AIDS and STDs in, 2:361, 362, 364–65; LGBT issues in, 2:357–72; map of, 2:357; marriage in, 2:368; military in, 2:362; outlook for 21st century in, 2:369–70; overview, 2:357–61; political history of, 2:358–60; politics and law in, 2:366–69; population of, 2:357; sexual practices in, 2:362; social and government programs in, 2:362; speech and association in, 2:368–69; violence in, 2:369
- Ryan, Bill, 1:49
- Sa'at, Alfian, 1:478
- Saavedra, Jerónimo, 2:404
- Sabelashvili, Paata, 2:176
- Sado-masochism, 1:320
- Saint Mark's Square, 2:94–95
- Salek, Fabiola Fernández, 1:25
- Salloom, Al, 3:196
- Salvation Army, 1:18
- Same-sex eroticism, 1:14
- Same-sex marriages, 1:4, 3:25, 103, 105, 120, 138, 152; Belgium and, 2:7, 8, 32; Belize and, 1:16; Bolivia and, 1:26; Brazil and, 1:41; Canada and, 1:8, 10, 50–51, 57, 60; Canada and spouse recognition in, 1:60; Ecuador and, 1:108; historical acceptance of, 2:7; Indonesia and, 1:409; legal contracts in 14th century France and, 2:7; the Netherlands and, 2:7, 8, 32; Nicaragua, 1:229; Norway and, 2:7, 8; political support for, 2:19–20; Spain and, 2:7, 8, 32; Uruguay's legislation on, 1:292–93; U.S. and, 1:265, 270. *See also* Marriage
- Same-sex relations: in Greece, 2:209–10; in Italy, 2:259–60
- Samper Marbà, Joel, 2:13
- Sánchez Silva (lieutenant colonel), 2:397
- Sandels, Alexandra, 3:175
- Sandinista Revolution, 1:216, 220, 226, 228
- Sangomas* (shamans), 3:118, 147
- Sanguinetti, Julio María, 1:290
- Santos, Ana Cristina, 2:337
- Sappho, 2:207
- Sarkozy, Nicolas, 2:172
- Saudi Arabia**: as birthplace of Islam, 3:193; bisexuals in, 3:200; community in, 3:206–7; death penalty for homosexuals in, 3:216–17; education in, 3:195–98; employment and economics in, 3:198–202; family in, 3:205–6; freedom of speech and press in, 3:210; freedom to assemble in, 3:210–11; health in, 3:207–8; HIV/AIDS in, 3:202–3, 208; homosexuality criminalized in, 3:194; legal restrictions and sodomy in, 3:211–12; LGBT issues in, 3:193–223; map of, 3:193; media in, 3:210; outlook for 21st century in, 3:217–18; overview, 3:193–95; politics and law in, 3:209–12; population of, 3:193, 201; religion and spirituality

- in, 3:212–15; religious police in, 3:203; sexual practices in, 3:203–5; Sharia Law in, 3:195, 209–10, 211; social and government programs in, 3:202–3; violence in, 3:215–17; women in, 3:196–98
- Schools: bullying in, 1:52, 62, 291, 2:83–84, 150; discriminating against students, 1:64; sex education and church-affiliated, 1:16; shooting deaths in, 2:150; violence in, 2:149–50. *See also* Education; Textbooks
- Schorer, Jacob Anton, 2:291
- Schröder, Gerhard, 2:194
- Schüssel, Wolfgang, 2:31
- Sempol, Diego, 1:289
- Seniors, 1:57–58
- September 11, 2001, 2:4, 95
- Serhane, Abdelhak, 3:79
- Seri Wongmontha, 1:516
- SERPJA (Servicio de Paz y Justicia), 1:294
- Serrano, Fernando, 1:89
- Seventh Day Adventists, 1:153, 164, 246, 260
- Severinets, Pavel, 2:37
- Sex: in Americas/Caribbean with machismo culture and relationships, 1:5–6; crimes, 2:75; criminalization of oral, 1:20; doctors, 1:362; drugs and, 2:53; industry, 1:292; in Netherlands and public, 2:293–94; oral, 1:20, 476, 495; tourists, 1:482; toys, 3:2, 185; workers, 1:530, 3:49, 130
- Sex education: church-affiliated schools and limited, 1:16; history of Chile's, 1:78. *See also* Education
- Sex reassignment surgery, 2:18, 42
- Sexual arrangements: in Africa with relationships, 3:2–3; in Middle East with relationships, 3:2–3
- Sexual harassment, 1:267. *See also* Bullying
- Sexual intercourse. *See* Intercourse; Penetration
- Sexual practices: in Andorra, 2:15; in Australia, 1:320; in Bangladesh, 1:337–38; in Belarus, 2:38–39; in Belgium, 2:52–53; in Belize, 1:18; in Bolivia, 1:27–28; in Botswana, 3:14–15; in Brazil, 1:40; in Cambodia, 1:352; in Cameroon, 3:24; in Canada, 1:54–57; in Chile, 1:81–82; in Colombia, 1:94; in Croatia, 2:85–86; in Czech Republic, 2:103; in Denmark, 2:113–14; in Ecuador, 1:111; in Egypt, 3:32, 36; in El Salvador, 1:118; in Ethiopia, 3:43; in France, 2:166; in Georgia, 2:181–82; in Germany, 2:195; in Ghana, 3:49; in Greece, 2:207–9; in Guatemala, 1:128; in Haiti, 1:136–37; in Honduras, 1:144; in Hong Kong, 1:380–81; in Hungary, 2:223; in India, 1:395; in Indonesia, 1:407–8; in Iran, 3:167; in Ireland, 2:239–41; in Italy, 2:256–57; in Japan, 1:424–26; in Kenya, 3:60–61; in Kyrgyzstan, 2:271; in Lebanon, 3:182; in Liberia, 3:71; in Malaysia, 1:442; in Mexico, 1:205; in Moldova, 2:279–80; in Mongolia, 1:451–52; in Morocco, 3:78; in Namibia, 3:90–91; in the Netherlands, 2:293–94; in New Zealand, 1:462–63; in Nicaragua, 1:222–23; in Nigeria, 3:102–5; in Norway, 2:308–9; in Panama, 1:244; in Paraguay, 1:252; in Poland, 2:326–28; in Romania, 2:350–51; in Russia, 2:362; in Singapore, 1:480; in Slovenia, 2:378–79; in South Africa, 3:117; in Spain, 2:398–99; in Switzerland, 2:417; in Taiwan, 1:491; in Tanzania, 3:125; in Thailand, 1:510–12; in Trinidad and Tobago, 1:258; in Tunisia, 3:131; in Turkey, 2:430; in Uganda, 3:140; in United Kingdom, 2:444; in Uruguay, 1:292; in U.S., 1:269; in Venezuela, 1:302; in Vietnam, 1:526–27; in Zimbabwe, 3:151
- Sexuality. *See* Sexual practices
- Sexually Transmitted Diseases (STDs): in Belarus, 2:41–42; in Bulgaria, 2:73; in Denmark, 2:114; in Russia and HIV/AIDS, 2:361, 364–65
- Shah, Shivali, 3:193
- Shakespeare, William, 2:291
- Shamanism: *ovoos* and, 1:457 n.10; Thailand and, 1:505; women and, 1:448
- Shamans, 3:118, 147
- Sharia Law: in Iran, 3:163, 164, 169; in Nigeria, 3:109; in Saudi Arabia, 3:195, 209–10, 211; in Tunisia, 3:131
- Sheba. *See* Queen of Sheba
- Shebada (fictional character), 1:189
- Shenouda III (pope), 3:36
- Shilts, Randy, 1:138
- Shintoism, 1:420, 430
- Shiva, 1:347, 348, 398
- Shock therapy, 3:189
- Shudo, 2:7
- Sielatycki, Mirosław, 2:324
- Sihamoni (king), 1:352
- Sihanouk (king), 1:349–50, 352
- Sikhism, 1:61, 385
- Sikhs, 2:450, 3:213
- Sikhism, 3:56, 65
- Silence of the Lambs*, 2:445
- de Simone, Titti, 2:263
- Simpson-Miller, Portia, 1:155, 158, 176
- Singapore**: community in, 1:481–82; education in, 1:477–78; employment and economics in, 1:478–79; family in, 1:480–81; health in, 1:482; HIV/AIDS and, 1:480, 482; LGBT issues in, 1:475–86; map of, 1:475; outlook for 21st century in, 1:484–85; overview, 1:475–77; politics and law in, 1:483; population of, 1:475; religion and spirituality in, 1:483–84; sexuality/sexual practices in, 1:480; social/government programs in, 1:479–80; suicide and, 1:479; violence in, 1:484
- Singh, Manmohan, 1:392, 394
- Šinkovec, Janez, 2:383
- 69 (mutual, simultaneous oral sex), 1:360
- Siyachitema, Jonathan (Anglican bishop), 3:158
- “Skittles,” 1:18
- Slaves, 3:2, 69; Brazil and legacy of, 1:37; freed, 1:15; homosexual behavior among African, 1:14–15; revolt in Haiti, 1:135
- Sleiman, Michel, 3:178
- Slovakia, 2:116
- Slovenia**: abortion in, 2:385; adoption in, 2:380; artificial insemination in, 2:380; Catholic Church's influence in, 2:385–86; civil unions/partnerships in, 2:7; community in, 2:380–81; education in, 2:376–77; employment and economics in, 2:377–78; as EU member, 2:116; family in, 2:379–80; foster care in, 2:380; Gay Pride festivals/parades in, 2:374, 386; health in, 2:381–83; HIV/

- AIDS in, 2:378, 381–83; LGBT issues in, 2:373–91; map of, 2:373; outlook for 21st century in, 2:387; overview, 2:373–76; politics and law in, 2:383–85; population of, 2:373; prostitution in, 2:379; religion and spirituality in, 2:385–86; sexual practices in, 2:378–79; social and government programs in, 2:378; suicide rate in, 2:386; violence in, 2:386–87
- Smith, Ian, 3:147
- Smith, Jake, 1:479
- Smuts, Johan H. B., 3:113
- Social orphans, 2:39
- Social programs. *See* Government programs
- Society, Vietnam, gender and, 1:528
- Sodom and Gomorrah, 1:198 n.81
- Sodomy, 2:269; in Africa, 3:4; in Americas and Caribbean, 1:6–7; in Asia and Oceania, 1:312; in Bolivia, 1:30; in Botswana, 3:148; in Brazil, 1:37; in Chile, 1:84; in Colombia, 1:97; criminalization of, 3:168; decriminalization of, 2:3; in Denmark, 2:117; dens of, 1:14; in El Salvador, 1:119; in Ethiopia, 3:45; in Europe, 2:5–6; in Finland, 2:155–56; in Honduras, 1:145; in Iran, 3:168, 171; in Ireland, 2:242; in Italy, 2:258; in Jamaica, 1:7; laws against, 2:19; laws in English colonies, 1:14–15; in Lebanon, 3:186; in Liberia, 3:72; in Middle East, 3:4; in Nicaragua, 1:227–28; in Nigeria, 3:103; in Saudi Arabia with legal restrictions, 3:194, 211–12; in South Africa, 3:115; statutes, 1:4, 6–7; in Trinidad and Tobago, 1:7; in Tunisia, 3:130; in Uganda, 3:138; in Uruguay, 1:295; in U.S., 1:272–73; witchcraft and, 1:75
- Solomon (king), 3:41
- Som Com Som (We Are Like We Are), 2:16, 17
- Somos (We Are), 1:38, 41
- Somoza, Anastasio, 1:215, 230
- Sophocles, 2:207
- Sotiria* (becoming whole), 2:213
- South Africa:** community in, 3:118; education in, 3:115–16; employment and economics in, 3:116; family in, 3:117–18; health in, 3:118–19; HIV/AIDS in, 3:115, 117–19; LGBT issues in, 3:113–22; map of, 3:113; as only nation with equality and sexual orientation written into constitution, 3:1; outlook for 21st century in, 3:121; overview, 3:113–15; politics and law in, 3:119; population and ethnic makeup of, 3:113–14; religion and spirituality in, 3:119–20; sexual practices in, 3:117; social and government programs in, 3:116–17; sodomy in, 3:115; violence in, 3:120
- Soviet Union, 2:3–4, 8
- Soyinka, Wole, 3:154
- Spaces, 2:297–98
- Spain:** adoption in, 2:399; Catholic Church's influence in, 2:395–96, 399–400, 404–5; community in, 2:401–2; education in, 2:395–96; employment and economics in, 2:396–97; as EU member, 2:116; family in, 2:399–400; health in, 2:402–3; HIV/AIDS in, 2:402–3; LGBT issues in, 2:393–411; map of, 2:393; outlook for 21st century in, 2:406; overview, 2:393–95; politics and law in, 2:403–4; population of, 2:393; religion and spirituality in, 2:404–5; same-sex marriage in, 2:7, 8, 32; sexual practices in, 2:398–99; social and government programs in, 2:397–98; violence in, 2:405
- Speech: association and, 3:186–87; hate, 2:29–30, 180, 338, 375; in Hungary with association, 2:228; legislation for hate, 2:338; Nicaragua, association and, 1:229–30; in Norway with association, 2:314; in Russia with association, 2:368–69; Saudi Arabia and freedom of press and, 3:210; Uruguay, association and, 1:295; U.S., association and, 1:274–75; Vietnam, association and, 1:531–32
- Spellmant, Claudia, 1:144
- Spirituality: in Andorra, 2:18–19; in Australia, 1:326–27; in Austria, 2:29; in Bangladesh, 1:341–42; in Belarus, 2:45; in Belgium, 2:59–60; in Bolivia, 1:31; in Brazil, 1:43–44; in Bulgaria, 2:75–76; in Cambodia, 1:352–53; in Canada, 1:61–62; in Chile, 1:85; in China, 1:365–66; in Colombia, 1:100–101; in Croatia, 2:95–97; in Czech Republic, 2:106–7; in Denmark, 2:118–19; in Ecuador, 1:113; in El Salvador, 1:119–20; in Europe, 2:9–10; in Finland, 2:157–58; in France, 2:171–72; in Georgia, 2:186; in Germany, 2:198; in Greece, 2:213–14; in Guatemala, 1:130–31; in Haiti, 1:138; in Honduras, 1:146–47; in Hong Kong, 1:385; in Hungary, 2:228; in India, 1:398; in Indonesia, 1:412; in Ireland, 2:243–44; in Italy, 2:262; in Jamaica, 1:184; in Japan, 1:430–31; in Kyrgyzstan, 2:273–74; in Malaysia, 1:444; in Moldova, 2:282; in Mongolia, 1:455–56; in the Netherlands, 2:301; in New Zealand, 1:467–68; in Nicaragua, 1:230–32; in Norway, 2:314–15; in Panama, 1:246; in Paraguay, 1:253–54; in Poland, 2:332–33; in Portugal, 2:342; in Romania, 2:353–54; in Singapore, 1:483–84; in Slovenia, 2:385–86; in Spain, 2:404–5; in Switzerland, 2:421–22; in Taiwan, 1:498; in Thailand, 1:517–18; in Trinidad and Tobago, 1:260; in Turkey, 2:433; in United Kingdom, 2:450; in Uruguay, 1:296; in U.S., 1:276–77; in Venezuela, 1:303; in Vietnam, 1:532–33.
- See also* Religions
- Stable Union of Couples Act, 2:15
- Stalin, Joseph, 1:455, 2:179, 359, 361, 366
- Stalinism, 1:349
- Statutes, sodomy, 1:4, 6–7
- STDs. *See* Sexually Transmitted Diseases
- Stewart, Chuck, 1:263
- Stonewall Riots of 1969, 2:10, 237, 418, 447
- Street, Maryann, 1:465
- Stroessner, Alfredo, 1:250, 251
- Students: antigay messages fostered against, 2:8; discrimination against, 2:68; Internet and risks for LGBT, 3:31; ratio of graduating female and, 3:13.
- See also* Education
- Suganuma, Katsuhiko, 1:419
- Sugiura, Ikuko, 1:419
- Suharto, 1:404, 408
- Suicide, 1:52, 422, 456, 2:225, 239, 296, 328, 414, 3:26; Australia and, 1:323; Belgium's

- youth and, 2:57; Brazil and, 1:43; Ethiopia and, 3:45; Guatemala and, 1:126; Hong Kong and, 1:384; Indonesia and, 1:409; Islam and, 3:80; Italy and, 2:263; lesbians and, 1:396; New Zealand and, 1:461; Norway's youth and, 2:150; prevention, 2:51; Singapore and, 1:479; Slovenia and, 2:386; Taiwan and, 1:499; teen, 3:124, 167
- Sukarno, 1:404
- Sukhragchaa Mijidsuren, 1:447
- Sullivan, Gerard, 1:317
- Sun Yat-sen, 1:356
- Sunni Muslims, 3:194, 210
- Surgeries: dangerous practices with transgender, 1:11; gender reassignment, 1:527, 3:7, 132, 165–66, 168, 170; MTF, 1:272, 482; transsexuals and free sex reassignment, 1:294–95. *See also* Transgender people; Transsexuals
- Sutherland v. the United Kingdom*, 2:31
- Sweden: civil unions/partnerships in, 2:7; as EU member, 2:116
- Switzerland**: adoption in, 2:420; Catholic Church in, 2:421–22; civil unions/partnerships in, 2:7; community in, 2:418–19; education in, 2:415; employment and economics in, 2:416–17; family in, 2:417–18; Gay Pride festivals/parades in, 2:418; health in, 2:419–20; HIV/AIDS in, 2:417, 419–20; LGBT issues in, 2:413–25; map of, 2:413; military in, 2:414–15; outlook for 21st century in, 2:422; overview, 2:413–15; politics and law in, 2:420–21; population of, 2:413; religion and spirituality in, 2:421–22; sexual practices in, 2:417; social and government programs in, 2:417; violence in, 2:422
- Sydney Star Observer*, 1:322, 325
- T (butch lesbian), 1:360
- Taboo*, 2:40
- Taino people, 1:151
- Taiwan**: community in, 1:493–95; education in, 1:488–89; employment and economics in, 1:489; family in, 1:492–93; health in, 1:495–96; HIV/AIDS and, 1:488, 491, 495–96; LGBT issues in, 1:487–503; map of, 1:487; outlook for 21st century in, 1:499; overview, 1:487–88; politics and law in, 1:496–98; population of, 1:487; rape and, 1:491; religion and spirituality in, 1:498; sexuality/sexual practices in, 1:491; social/government programs in, 1:489–91; suicide and, 1:499; violence in, 1:499
- Takács, Judit, 2:219
- Tamaki, Brian, 1:467
- Tamayo, Marta, 1:100
- Tantawi, Mohammed Sayed (sheik), 3:31
- Tanzania**: community in, 3:125–26; education in, 3:124; employment and economics in, 3:124; family in, 3:125; health in, 3:126; HIV/AIDS in, 3:125–26; homophobia in, 3:126; homosexuality criminalized in, 3:123; LGBT issues in, 3:123–28; map of, 3:123; outlook for 21st century in, 3:127; overview, 3:123; police in, 3:127; politics and law in, 3:126; religion and spirituality in, 3:126; sexual practices in, 3:125; social and government programs in, 3:125; violence in, 3:127
- Taoism, 1:356, 365, 385, 498, 523
- Tatchell, Peter, 1:187
- Taylor, Charles, 3:70, 71
- Teen pregnancies, 2:238, 292, 341, 3:15
- Teen suicide, 3:124, 167
- Tell, William, 2:413
- Tema*, 2:363
- Terminology, gay identifying, 3:2, 30–31, 76–77, 104, 141, 180, 184, 187, 215
- Terrorist attacks, 2:4
- Textbooks: controversial, 1:52, 291; gender stereotypes in, 2:82; Mexico's, 1:202; omission of LGBT people/concerns in, 2:67, 307–8
- Thailand**: Bronze Age and, 1:505–6; Buddhism and, 1:506, 517, 518; community in, 1:514; education in, 1:508–9; employment and economics in, 1:509–10; family in, 1:512–14; health in, 1:514–15; HIV/AIDS and, 1:515; LGBT issues in, 1:508–21; map of, 1:505; outlook for 21st century in, 1:518–19; overview, 1:505–8; politics and law in, 1:515–17; religion and spirituality in, 1:517–18; sexuality/sexual practices in, 1:510–12; shamanism and, 1:505; social/government programs in, 1:510; violence in, 1:518
- Thajib, Ferdiansyah, 1:403
- Thatcher, Margaret, 2:448
- Theban Sacred Band, 2:207
- Thio-Li Ann, 1:483
- Thirty-three Monsters* (Zinov'eva-Annibal), 2:363
- Thunderball*, 2:445
- Time*, 1:188, 479
- Tipping the Velvet*, 2:445
- Tito, Josip Broz, 2:80
- Tito, Marshal, 2:375
- "To bow," 1:198 n.81
- To Go*, 1:489
- Tobago. *See* Trinidad and Tobago
- Tobi (brother), 1:120
- Tomislav (duke), 2:79
- Tong Ge, 1:359
- Torture, 2:36, 285, 342, 3:35, 36, 169, 171, 212, 216
- Tourism, in Belize and gay tourist dollars, 1:12
- Tran Hung Dao (general), 1:523
- "Trans Stage," 1:29
- Transgender people: in Africa, 3:6–7; in Americas and Caribbean, 1:11; in Asia and Oceania, 1:315–16; Colombia and rights of transsexuals and, 1:99; Colombia's education system and, 1:92; in Europe, 2:10; in Italy, 2:261; marriage problems with, 2:7–8; in Middle East, 3:6–7; in the Netherlands, 2:298; in Uruguay, 1:295–96; violence against, 1:120–21
- Transsexuals, 2:402, 404; Americas/Caribbean creation myths and, 1:3; in Brazil, 1:42; Canada and rights of, 1:61; Colombia and rights of transgendered people and, 1:99; in Denmark, 2:117–18; discrimination against transvestites and MTF, 1:5–6; in Hungary, 2:228; in Iran, 3:170; in Ireland, 2:243; in Italy, 2:261; in Lebanon, 3:188; legally unrecognized in Bolivia, 1:30; in the Netherlands, 2:298; in Nicaragua, 1:225; in Norway, 2:314; in Romania, 2:353; sex reassignment surgery for, 2:44; Uruguay and free sex reassignment operations for, 1:294–95; in U.S., 1:275

- Transvestites, 1:27–28, 95, 2:10, 66, 116, 211, 431; discrimination against MTF transsexuals and, 1:5–6; El Salvador and, 1:118; Honduras and, 1:146
- Trasovares, Manuela, 2:404
- Travestis*. See Transvestites
- Triângulo Rosa (Pink Triangle), 1:38
- Trinidad and Tobago:** antisodomy statutes in, 1:7; community in, 1:259; early stages of gay civil rights in, 1:4; education in, 1:258; employment and economics in, 1:258; family in, 1:258; health in, 1:259; HIV/AIDS and, 1:258, 259, 261; LGBT issues in, 1:257–61; map of, 1:256; outlook for 21st century in, 1:260–61; overview, 1:257–58; politics and law in, 1:259–60; population of, 1:257; religion and spirituality in, 1:260; sexuality/sexual practices in, 1:258; social/government programs in, 1:258; violence in, 1:260
- Trubar, Primož, 2:373
- Trudeau, Pierre-Elliott, 1:51
- Trung Sisters, 1:528
- Tsvangirai, Morgan, 3:148
- Tudman, Franjo, 2:80–81
- Tueni, Gebran, 3:177
- Tunisia:** community in, 3:131; education in, 3:130; employment and economics in, 3:130; family in, 3:131; health in, 3:132; HIV/AIDS in, 3:131–32; LGBT issues in, 3:129–34; map of, 3:129; media in, 3:129; outlook for 21st century in, 3:132–33; overview, 3:129–30; police in, 3:130; politics and law in, 3:132; religion and spirituality in, 3:132; sexual practices in, 3:131; Sharia Law in, 3:131; social and government programs in, 3:131; sodomy in, 3:130; violence in, 3:132
- Turkey:** community in, 2:430–31; education in, 2:428–29; employment and economics in, 2:429; family in, 2:430; Gay Pride festivals/parades in, 2:431; health in, 2:431–32; HIV/AIDS in, 2:431–32; LGBT issues in, 2:427–37; map of, 2:427; outlook for 21st century in, 2:434; overview, 2:427–28; politics and law in, 2:432–33; population of, 2:427; religion and spirituality in, 2:433; sexual practices in, 2:430; social and government programs in, 2:429; violence in, 2:433–34
- 21st century: Africa's outlook for, 3:7–8; Andorra's outlook for, 2:19–20; Asia and Oceania's outlook for, 1:316; Australia's outlook for, 1:327–28; Austria's outlook for, 2:30–32; Bangladesh's outlook for, 1:342–43; Belarus' outlook for, 2:45–46; Belgium's outlook for, 2:61, 61; Belize's outlook for, 1:22; Bolivia's outlook for, 1:31; Botswana's outlook for, 3:20; Brazil's outlook for, 1:44–45; Bulgaria's outlook for, 2:76–77; Cambodia's outlook for, 1:353–54; Cameroon's outlook for, 3:28; Canada's outlook for, 1:64; Chile's outlook for, 1:85–86; China's outlook for, 1:366; Colombia's outlook for, 1:102; Czech Republic's outlook for, 2:107–8; Denmark's outlook for, 2:119; Ecuador's outlook for, 1:113; Egypt's outlook for, 3:37; El Salvador's outlook for, 1:121–22; Ethiopia's outlook for, 3:45; Europe's outlook for, 2:11; EU's outlook for, 2:141; Finland's outlook for, 2:158–59; France's outlook for, 2:172–73; Georgia's outlook for, 2:187; Germany's outlook for, 2:199; Ghana's outlook for, 3:51–52; Greece's outlook on, 2:215; Guatemala's outlook for, 1:132; Haiti's outlook for, 1:139; Honduras's outlook for, 1:148; Hong Kong's outlook for, 1:385–86; Hungary's outlook for, 2:229; India's outlook for, 1:399; Indonesia's outlook for, 1:414; Iran's outlook for, 3:171–72; Ireland's outlook in, 2:245; Italy's outlook for, 2:264; Jamaica's outlook for, 1:190–91; Japan's outlook for, 1:431–32; Kenya's outlook for, 3:66; Kyrgyzstan's outlook for, 2:274; Lebanon's outlook for, 3:190; Liberia's outlook for, 3:72; Malaysia's outlook for, 1:444–45; Mexico's outlook for, 1:209; Moldova's outlook for, 2:285–86; Mongolia's outlook for, 1:456–57; Morocco's outlook for, 3:83; Namibia's outlook for, 3:94; the Netherlands' outlook for, 2:302–3; New Zealand's outlook for, 1:468–69; Nicaragua's outlook for, 1:232; Nigeria's outlook for, 3:109–10; Norway's outlook for, 2:315–16; Panama's outlook for, 1:247; Paraguay's outlook for, 1:254; Poland's outlook for, 2:334; Portugal's outlook for, 2:343; Romania's outlook for, 2:355; Russia's outlook for, 2:369–70; Saudi Arabia's outlook for, 3:217–18; Singapore's outlook for, 1:484–85; Slovenia's outlook for, 2:387; South Africa's outlook for, 3:121; Spain's outlook for, 2:406; Switzerland's outlook for, 2:422; Taiwan's outlook for, 1:499; Tanzania's outlook for, 3:127; Thailand's outlook for, 1:518–19; Trinidad and Tobago's outlook for, 1:260–61; Tunisia's outlook for, 3:132–33; Turkey's outlook for, 2:434; Uganda's outlook for, 3:143; United Kingdom's outlook for, 2:451; Uruguay's outlook for, 1:296; U.S.'s outlook for, 1:277–78; Venezuela's outlook for, 1:303–4; Vietnam's outlook for, 1:533–34; Zimbabwe's outlook for, 3:158–59
- “Twinks,” 1:320
- Two-spirited persons, 1:3, 14; HIV/AIDS and, 1:62
- Uganda:** adoption in, 3:141; bisexuals in, 3:138; community in, 3:141; divorce rate in, 3:141; education in, 3:138–39; employment and economics in, 3:139–40; family in, 3:141; health in, 3:141–42; HIV/AIDS in, 3:137–39, 141–43; LGBT issues in, 3:135–45; map of, 3:135; outlook for 21st century in, 3:143; overview, 3:135–38; police in, 3:142; politics and law in, 3:142; population and ethnic makeup of, 3:135–36; religion and spirituality in, 3:142–43; sexual practices in, 3:140; social and government programs in, 3:140; sodomy in, 3:138; violence in, 3:143
- UK. See United Kingdom
- Ulrichs, Karl Heinrich, 2:220
- Um Outro Olhar (Another Look), 1:38

- UN. *See* United Nations
- Undercover police, 3:35
- Unitarian Church, 1:61
- United Church, 1:61, 276
- United Kingdom (UK):**
 adoption in, 2:443; civil unions/partnerships in, 2:7; community in, 2:445–46; education in, 2:442; employment and economics in, 2:442–43; family in, 2:444–45; Gay Pride festivals/parades in, 2:449; health in, 2:446; HIV/AIDS in, 2:441, 446; LGBT issues in, 2:439–52; map of, 2:440; outlook for 21st century in, 2:451; overview, 2:439–42; politics and law in, 2:446–49; population of, 2:439; religion and spirituality in, 2:450; sexual practices in, 2:444; social and government programs in, 2:443–44; violence in, 2:450
- United Nations (UN), 2:14, 38
- United States:** antidiscrimination statutes in, 1:273; bisexuals in, 1:275; community in, 1:271; education in, 1:266–67; employment and economics in, 1:267–68; equal rights in, 1:4; family in, 1:269–71; health in, 1:271–72; HIV/AIDS and, 1:264, 268–69, 271–72; homosexuals in military and, 1:265, 268; immigrant population and, 1:263–64; intersexuals in, 1:275–76; LGBT issues in, 1:263–88; map of, 1:263; marriage in, 1:273–74; outlook for 21st century in, 1:277–78; overview, 1:263–66; politics and law in, 1:272–76; rape and, 1:267; religion and spirituality in, 1:276–77; same-sex marriage and, 1:265, 270; sexuality/sexual practices in, 1:269; social/government programs in, 1:268–69; sodomy in, 1:272–73; speech and association in, 1:274–75; transsexuals in, 1:275; violence in, 1:277
- Unspoken Facts: A History of Homosexualities in Africa*, 3:154
- Upanishads*, 1:398
- “Urban tribes,” 1:82
- Uribe, Alvaro, 1:98
- Uruguay:** adoption in, 1:293; bisexuals in, 1:295; Catholic Church in, 1:296; community in, 1:293–94; coup d’état and military reign in, 1:290; decriminalization of sodomy in, 1:295; divorce rate in, 1:292; as drug hub, 1:9; education in, 1:290–91; employment and economics in, 1:292; family in, 1:292–93; Gay Pride festival in, 1:294; gay-friendly culture/rights in, 1:7; health in, 1:294–95; HIV/AIDS and, 1:292, 294; *latifundios* and, 1:290; LGBT groups in, 1:293; LGBT issues in, 1:289–98; map of, 1:288, 289; MSM and, 1:294; outlook for 21st century in, 1:296; overview, 1:289–90; politics and law in, 1:295–96; population of, 1:289; religion and spirituality in, 1:296; religious makeup of, 1:290; same-sex marriage in, 1:292–93; sexuality/sexual practices in, 1:292; social/government programs in, 1:292; speech and association in, 1:295; as “Switzerland of South America,” 1:289–90; teen pregnancy and, 1:291; transgendered population in, 1:295–96; transsexuals and free sex reassignment operations in, 1:294–95; violence in, 1:296; voting rights for women in, 1:289
- USAID, 1:220
- The Vagina Monologues*, 3:180
- van Duin, André, 2:292
- Vanneste, Christian, 2:170
- Varnas* (caste system levels), 1:392
- Vásquez, Manuel Amador, 1:208
- Vatican, 1:62, 2:18–19, 253, 257.
- See also* Catholic Church
- Vázquez, Jesús, 2:398, 402
- Vendola, Nichi, 2:253–54
- Venezuela:** abstinence and, 1:301; colonial, 1:299–300; community in, 1:303; as drug hub, 1:9; education in, 1:301; employment and economics in, 1:301; family in, 1:302–3; HIV/AIDS and, 1:300–301, 303, 304; LGBT issues in, 1:299–304; map of, 1:297; outlook for 21st century in, 1:303–4; overview, 1:299–300; religion and spirituality in, 1:303; sexuality/sexual practices in, 1:302; social/government programs in, 1:301; violence in, 1:303
- Vermeer, 2:289
- Victoria (queen), 1:259
- Victoria Mercado Brigade, 1:234 n.30
- Vietnam:** community in, 1:528–29; education in, 1:525; employment and economics in, 1:525–26; family in, 1:527–28; fertility rate in, 1:528; gender and society in, 1:528; health in, 1:529–30; HIV/AIDS in, 1:525–29, 530, 534; LGBT issues in, 1:523–35; literacy rate in, 1:525; map of, 1:523; outlook for 21st century in, 1:533–34; overview, 1:523–24; politics and law in, 1:530–32; population of, 1:523; religion and spirituality in, 1:532–33; sexuality/sexual practices in, 1:526–27; social/government programs in, 1:526; speech and association in, 1:531–32; violence in, 1:533
- Vietnam War, 1:524
- Villegas-Perez, Larry, 1:299
- Violence: in Africa with antidiscrimination statutes, 3:4–5; in Americas/Caribbean and antidiscrimination statutes, 1:7–8; in Andorra, 2:19; in Asia and Oceania, 1:312–13; in Australia, 1:327; in Austria, 2:29–30; in Bangladesh, 1:342; in Belarus, 2:45; in Belgium, 2:60–61; in Belize, 1:21–22; in Bolivia, 1:25; in Botswana, 3:19–20; in Brazil, 1:44; in Cambodia, 1:353; in Cameroon, 3:26–28; in Canada, 1:62–64; child soldiers and, 3:71; against children, 2:40; in Chile, 1:85; in China, 1:366; in Colombia, 1:101–2; in Croatia, 2:97–98; in Czech Republic, 2:107; in Denmark, 2:119; domestic, 2:214, 3:20; in Ecuador, 1:113; in Egypt, 3:37; in El Salvador, 1:120–21; in Ethiopia, 3:44–45; in EU, 2:140–41; in Europe, 2:6–7; family, 3:33, 171; in Finland, 2:158; in France, 2:172; in Georgia, 2:186–87; in Germany, 2:198–99; in Ghana, 3:51; in Greece, 2:214–15; in Guatemala, 1:131; in Haiti, 1:138; as hallmark of machismo culture, 1:5–6, 7; in Honduras, 1:147–48; in Hong Kong, 1:385; in Hungary, 2:228–29; in India,

- 1:398–99; in Indonesia, 1:413–14; in Iran, 3:170–71; in Ireland, 2:244–45; in Italy, 2:262–63; in Japan, 1:431; in Kenya, 3:65–66; in Kyrgyzstan, 2:274; in Lebanon, 3:178, 189–90; against lesbians, 2:405, 3:65; against lesbians in Canada, 1:63–64; in Liberia, 3:72; in Malaysia, 1:444; in Mexico, 1:209; in Middle East with antidiscrimination statutes, 3:4–5; in Moldova, 2:282–85; in Mongolia, 1:456; in Morocco, 3:82; in Namibia, 3:90; in the Netherlands, 2:302; in New Zealand, 1:468; in Nicaragua, 1:232; in Nigeria, 3:109; in Norway, 2:315; in Panama, 1:246–47; in Paraguay, 1:254; in Poland, 2:333–34; police brutality and, 2:284, 354, 3:27; in Portugal, 2:342–43; in Romania, 2:354; in Russia, 2:369; in Saudi Arabia, 3:215–17; in schools, 2:149–50; in Singapore, 1:484; in Slovenia, 2:386–87; in South Africa, 3:120; in Spain, 2:405; in Switzerland, 2:422; in Taiwan, 1:499; in Tanzania, 3:127; in Thailand, 1:518; against transgendered people, 1:120–21; in Trinidad and Tobago, 1:260; in Tunisia, 3:132; in Turkey, 2:433–34; in Uganda, 3:143; in United Kingdom, 2:450; in Uruguay, 1:296; in U.S., 1:277; in Venezuela, 1:303; in Vietnam, 1:533; against women, 3:171; against women in Honduras, 1:147; against women in Jamaica, 1:157; in Zimbabwe, 3:158
- Virgen de los Deseos (Virgin of Desires), 1:29
- Virginity: abstinence and, 1:478; Guatemala and social views on, 1:128
- Višeslav (duke), 2:79
- Vitamine O, 2:211
- Vjesnki, 2:87
- Volunteers without Borders, 2:40
- von Bismarck, Otto, 2:194
- von Krafft-Ebing, Richard, 1:362, 2:221
- von Praunheim, Rosa, 2:193
- von Sinnen, Hella, 2:193
- Voodoo, 1:260; as gay-friendly, 1:4, 10–11; Haiti and, 1:10, 138–39; *ounfos* and, 1:138
- Vstrecha* (Meeting) magazine, 2:40
- Vybz Kartel, 1:187
- Waldensian Church, 2:262
- Wan Yanhai, 1:361
- War crimes, 1:290
- War of Three Alliances, 1:254
- Ware, John, 1:324
- Warren, Murray, 1:52
- Water spirits, 3:108
- Wei Wei, 1:359
- Westmoreland Bouchard, Jen, 3:29, 75
- Weye* (homosexuals), 1:75
- WHO. *See* World Health Organization
- Wilets, James D., 3:69
- Wilets, James Daniel, 1:115, 141
- Will, Anne, 2:198
- Will and Grace*, 2:376
- William and John*, 1:324
- Williams, Candice, 1:157
- Williams, Walter, L., 1:13, 347, 505
- Williamson, Brian, 1:157, 179
- Williman, José Claudio, 1:291
- Wilson, James A. Jr., 3:135
- Wings* (Kuzmin), 2:363
- Winter, Sam, 1:375
- Witchcraft, 1:75, 2:5
- Wittig, Monique, 2:165
- W.J. and D.P. v. the United Kingdom*, 2:129
- Wolfenden, John, 2:446
- Women: antisodomy laws and exclusion of, 2:5; bride price and, 3:16, 61, 91, 127; Canada and lack of attention to health issues for, 1:55–56; criminalization of sexual acts between, 3:18, 92–93; genital mutilation and, 3:61; HIV/AIDS and, 1:55–56, 130; homosexual activities among married, 3:32, 78; machismo's influence on, 1:5–6; male, 1:37; marginalized in society, 3:14, 151; pregnancy and, 1:78, 92, 119, 291; in Saudi Arabia, 3:196–98; as second-class citizens in Islamic countries, 3:6; sexual/reproductive health and, 1:17; shamanism and, 1:448; social dictates constraining, 3:32; violence against, 1:147, 157, 3:171; voting rights for Uruguay's, 1:289. *See also* Family
- World Economic Situation and Prospects* 2006 (UN), 2:38
- World Health Organization (WHO), 1:294, 2:17; “sexual deviation” removed from illness list by, 1:27
- World War I, 2:3, 4, 66, 80, 277, 359
- World War II, 1:242, 2:4, 24, 55, 66, 101, 147–48, 192, 251–52, 277, 321, 359
- Wowercit, Klaus, 2:198
- Wu Zongjian, 1:362
- X, Y, Z v. the United Kingdom*, 2:128
- Xing* (sex), 1:360
- Yahoo Group, 3:1–2, 178
- Yang* (masculine energy), 1:365
- Yeltsin, Boris, 2:360, 367
- Yin* (feminine energy), 1:365
- Youth Development Strategy Aotearoa*, 1:461
- Youth Health: A Guide to Action*, 1:461
- Youths. *See* Children
- Zambos*, 1:108
- Zapatero, Rodríguez, 2:403
- Zaremba, Aleksandr, 2:363
- Zelaya, Manuel, 1:142
- Zenawi, Meles, 3:42
- Zerolo, Pedro, 2:404
- Zhang Beichuan, 1:359
- Zhang Jingsheng, 1:362
- Zhirinovskiy, Vladimir, 2:369
- Zhuk, Olga, 2:368
- Zhvania, Zurab, 2:179, 180
- Zimbabwe**: asylum cases in, 3:151; bisexuals in, 3:152; community in, 3:152; cultural views of homosexuality in, 3:149; education in, 3:150; employment and economics in, 3:150; family in, 3:151–52; health in, 3:152–53; HIV/AIDS in, 3:148–53; LGBT issues in, 3:147–60; map of, 3:147; media in, 3:153; outlook for 21st century in, 3:158–59; overview, 3:147–49; political history of, 3:147–48; politics and law in, 3:153–58; religion and spirituality in, 3:158; sexual practices in, 3:151; social and government programs in, 3:150–51; violence in, 3:158; women marginalized in, 3:151
- Zinov'eva-Annibal, Lidiia, 2:363
- Zoroastrianism, 3:170, 213
- Zuazo, Hernán Siles, 1:26
- Zuo* (have sex), 1:360