

Under Attack: Safeguarding LGBTQIA+ Rights Worldwide

Morgan Antisdell, Webster University – Saint Louis

The rights of queer individuals are under attack worldwide. Despite the global prevalence of anti-LGBTQIA+ discrimination and human rights abuses, international human rights law has focused little attention toward explicitly protecting people based on their sexual orientation and/or gender identity. This article highlights the widespread anti-LGBTQIA+ discrimination that necessitates specific human rights protections. First, it explores the application of existing international human rights law and norms and how they are being applied to protect LGBTQIA+ individuals. Second, it highlights how LGBTQIA+ people face human rights abuses around the world by using global case studies from the United States, Brazil, and Uganda. Lastly, the author reflects on the role of international law and norms in protecting queer rights and stresses the need for further engagement with the LGBTQIA+ community to safeguard their fundamental rights.

The rights of queer individuals are under attack worldwide. Amnesty International (2001; see also n.d.) contends that LGBTQIA+¹ people are frequently dehumanized and targeted for torture and discrimination. This includes instances of state discrimination and persecution, such as anti-trans policies in public schools and the criminalization of gay sex (see also UN Human Rights n.d.). But it also includes instances of private citizens discriminating against LGBTQIA+ people – and in many of those cases, Amnesty International (2001) argues that the state is accountable for allowing and sometimes aiding in such discrimination. The state has, in a sense, “failed to fulfill its obligation to provide effective

¹ LGBTQIA+ is an acronym for the umbrella of the non-normative sexuality and gender community. LGBTQIA+ stands for lesbian, gay, bisexual, transgender, queer/questioning, intersex, asexual/aromantic, plus (others) (Merriam-Webster, n.d.a). The term “queer” is used frequently throughout this article. While the word was once used as a slur and pejorative for homosexuals in the twentieth century, it has been taken back by the LGBTQIA+ community and is now used in an empowering context when used by community members. The term “queer” may be defined as “of, relating to, or being a person whose sexual orientation is not heterosexual and/or whose gender identity is not cisgender” (Merriam-Webster, n.d.b).

protection” (Amnesty International, 2001, p. 7). This might include refusing people medical care and other services or engaging in violence or harassment against them because of their LGBTQIA+ identities.

Despite the prevalence of anti- LGBTQIA+ discrimination and human rights abuses around the world, international human rights law has paid little attention towards explicitly protecting people because of their sexual orientation and/or gender identity. However, there appears to be a consensus within the international human rights community that the rights of queer individuals are covered by existing human rights frameworks and laws and that there is not a need for a separate, internationally binding legal text to explicitly protect queer rights. International human rights scholar and legal positivist Jack Donnelly (2001), for instance, believes human rights are not valid until they are codified by international law and that using morality and the idea that there is a natural way of being to justify our rights is problematic. This is because they have been used to condone classist, racist, and misogynist doling of rights. He claims that the best avenue for protecting the rights of queer individuals is through interpreting our current international human rights law as including sexual orientation and gender identity on the grounds of discrimination and torture (Donnelly, 2001, p. 563-564). Similarly, Amnesty International does not find it necessary for the international community to create a separate covenant or convention on the rights of queer individuals. They claim this is because sexual orientation and gender identity are integral parts of being a human, and the Universal Declaration of Human Rights (UDHR) asserts that human rights are based on maintaining a respect for the dignity and worth of humans (Amnesty International, 2001, p. 8). Therefore, any threat to an individual's rights based on sexual orientation or gender identity is a violation of their human rights.

This article highlights the widespread anti-LGBTQIA+ discrimination worldwide that necessitates specific human rights protections for LGBTQIA+ people. First, I explore the application of existing international human rights law and norms and how they are being applied to protect LGBTQIA+ individuals. This includes a discussion of the International Covenant on Civil and Political Rights (ICCPR), the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (UN Torture Convention), the International Covenant on Economic, Social, and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Rights of the Child, and the non-legally binding Yogyakarta Principles. Second, I highlight how LGBTQIA+ people face human rights abuses around the world by using global case studies from the United States, Brazil, and Uganda. These cases illustrate how fundamental human rights are violated due to individuals’ sexual orientation and/or gender identity despite international legal guarantees of rights to all people by virtue of being human. Lastly, I offer my reflections on the role of international law and

norms in protecting queer rights and stress the need for further engagement with the LGBTQIA+ community to safeguard their fundamental rights. While international human rights apply to all human beings, regardless of sexual orientation or gender identity, the reality is that LGBTQIA+ people face unique vulnerabilities. Their needs should be a priority to the international human rights community.

Application of International Human Rights Law and Legal Norms

Existing protections for queer individuals center on international human rights laws and legal norms that do not explicitly outline LGBTQIA+ rights. This includes legally binding international law – frequently termed “conventions” and “covenants” within the United Nations system – and non-binding human rights frameworks that represent widely-accepted legal norms, such as the Universal Declaration of Human Rights (UDHR) and other international declarations and principles. Interpreting international law and norms to include protections for queer folks has been effective in multiple international court cases (Simm, 2020), and using these legal foundations to protect LGBTQIA+ people is necessary without an international convention specifically dedicated to queer rights. This section highlights the most important international laws and legal norms for upholding the rights of LGBTQIA+ individuals.

The International Covenant on Civil and Political Rights (ICCPR) was adopted by the UN General Assembly in December 1966. The ICCPR has several articles that can be applied to queer protections, and these are vitally important because most states are party to this convention. That is, states violating the Convention can be held legally accountable. Article 19.2 of the ICCPR states: “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice” (United Nations, 1966a). This Article can be interpreted to mean that queer culture and acts are protected under the freedom of expression. The right to assembly, including queer gatherings, is protected under Article 21, which declares: “The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others” (United Nations, 1966a). Article 22 of the ICCPR is also very valuable because it protects the right to freedom of association, which could be equated to protections for queer community spaces and mutual aid groups. Article 22 stipulates:

1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.

2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right (United Nations, 1966a).

The International Covenant on Economic, Social, and Cultural Rights (ICESCR) was also adopted by the UN General Assembly in December 1966, and most states have ratified it and are therefore party to this international law. Its Article 2.2 asserts: “The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status” (United Nations, 1966b). “Sex” and “other status” are key words here, since these lines protect queer individuals from discrimination under international law.

The Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment was adopted by the UN General Assembly in December of 1984. The UN Torture Convention includes an important component for queer protections by legally banning torture based on discrimination “of any kind,” which can be interpreted to include torture on the grounds of gender and sexuality expression. Article 1.1 states:

For the purposes of this Convention, the term “torture” means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions (UN General Assembly, 1984).

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) was adopted by the UN General Assembly in December 1979. While the Convention pertains to women broadly, protections specific to queer women can also be interpreted from it. And, notably, the influence of patriarchy² affects all people, especially queer individuals, as misogyny and homophobia are closely tied with the overarching idea of CIS-gender, heterosexual male supremacy. Article 5(a) states that States Parties shall take all appropriate measures “to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and

² Patriarchy is a system of society or government in which men hold the power.

all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women” (United Nations, 1988). Article 10(c) furthers this idea but includes education. (This article could be applied to protections for teaching comprehensive sexuality education (CSE), for instance. CSE is based in a non-heteronormativity, which also breaks down gender roles and stereotypes.) Article 10(c) states:

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods (United Nations, 1988).

Following the practice of non-discrimination, CEDAW’s Article 12.1 focuses on preventing discrimination in health care. It contends: “States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning” (United Nations, 1988). This article can be applied to protections for gender affirming care in countries such as the United States. While the focus would be on transgender women and gender non-conforming people assigned female at birth (AFAB), the protected right to healthcare is vital within all LGBTQIA+ communities.

The Convention on the Rights of the Child was adopted by the UN General Assembly in November 1989 and can be applied to protections for queer children. Most states have ratified this convention, as well. Two articles from the Convention can be applied to queer protections. Article 19.1 can also be applied to education, protecting CSE to deter homophobia and transphobia while also providing education on queer rights. It states:

States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child (United Nations, 1989).

Further, Article 29.1 of the Convention on the Rights of the Child protects queer minors by stressing their rights to self-determination, development, and freedom. Note that we can interpret

“different civilizations from his or her own” to include queer cultures, even if those cultures are different from the culture in which the child was raised. Article 29.1 stipulates:

States Parties agree that the education of the child shall be directed to:

(c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;

(d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin (United Nations, 1989).

As noted, non-binding frameworks such as the UDHR offer human rights frameworks that often lead to binding international (and domestic) laws. In the case of queer rights, another source of legal norms is the *Yogyakarta Principles*. In November 2006, the International Service for Human Rights and the International Commission of Jurists assembled a team to create a collection of principles, drawing from international law, on the violations of human rights based on sexual orientation and gender identity. The group was made up of human rights experts, theorists, and activists from 25 countries. They gathered for three days in Yogyakarta, Indonesia, at Gadjah Mada University (International Commission of Jurists, 2007). The resulting principles have been endorsed by non-state human rights groups and experts but are not legally binding, similar to the UDHR (Simm, 2020).

The Yogyakarta Principles outline the rights of queer individuals and the obligations states bear to protect queer individuals' human rights. The document also lists recommendations attached to each principle to guide implementation within states, non-governmental organizations, and the UN human rights system (International Commission of Jurists, 2007). These recommendations are important because they force states to take accountability for the areas where protections for the rights of queer people have been substandard. Each principle precludes a detailed recommendation section that lists multiple ways states can carry out these protections. The Yogyakarta Principles are much like the UDHR as they both outline the fundamental rights of persons and both are living documents (International Commission of Jurists, 2007). For example, Principle Ten (the Right to Freedom from Torture and Cruel, Inhuman, or Degrading Treatment or Punishment) stipulates: “Everyone has the right to be free from torture and from cruel, inhuman or degrading treatment or punishment, including for reasons relating to sexual orientation or gender identity.” Beneath the definition of the right, the following recommendations are listed. They note that states shall:

Take all necessary legislative, administrative and other measures to prevent and provide protection from torture and cruel, inhuman or degrading treatment or punishment, perpetrated

for reasons relating to the sexual orientation or gender identity of the victim, as well as the incitement of such acts;

Take all reasonable steps to identify victims of torture and cruel, inhuman or degrading treatment or punishment, perpetrated for reasons relating to sexual orientation or gender identity, and offer appropriate remedies including redress and reparation and, where appropriate, medical and psychological support;

Undertake programmes of training and awareness-raising for police, prison personnel and all other officials in the public and private sector who are in a position to perpetrate or to prevent such acts (International Commission of Jurists, 2007, p. 17).

Human rights scholars like Jack Donnelly (2001) theorized for decades before the drafting of the Yogyakarta Principles that there would never be an international declaration specifically on the rights of queer individuals because such an immense score of states and cultures viewed homosexuality as “perverted” and wrong (p. 563). And while the Yogyakarta Principles are recognized by multiple UN bodies today, at the time they were drafted in 2006, many states and individuals were deeply troubled by the mere idea of human rights experts gathering to discuss such topics as queer rights. At the time of the conference, 200 armed participants attacked the meeting venue, as well as queer bars and dance clubs. Ten people were severely injured. Despite the large number of criminal perpetrators in this case, only 57 accused individuals were questioned by the police. All suspects were released, and no one was charged (Amnesty International, 2001). These attacks only served to highlight the necessity of defending human rights on the basis of sexual orientation and gender identity. The global case studies discussed in the following section further illustrate the need for such protections.

Human Rights Abuses: Global Case Studies

United States

The United States has a mixed record with ratifying international human rights laws. Indeed, the U.S. is often posited as a global human rights leader – but many are surprised that it has not ratified some key international laws. The U.S. is party to the International Covenant on Civil and Political Rights (ICCPR) and the Convention Against Torture. The U.S. has signed, but not ratified, the International Covenant on Economic, Social, and Cultural Rights (ICESCR) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (Thoreson, 2021). Furthermore, the U.S. is not party to the Convention on the Rights of the Child.

The United States has been prominent in the news recently for the widespread legislative panic regarding the rights of transgender individuals. This includes bans on transgender children participating

in sports that align with their gender identities, as well as preventing trans minors from accessing gender-affirming healthcare. Trans people, especially trans people of color, remain at high risk of discrimination and violence (see Human Rights Watch, 2021). However, this anti-trans rhetoric is not a new development. It gained a footing in national debates and legal discussions, in part, through federal actions taken during the presidency of Donald J. Trump. This includes rescinding protections for transgender students under Title IX legislation.

Prior to Trump's inauguration, the U.S. Department of Justice's Civil Rights Division and the U.S. Department for Education's Office for Civil Rights released a May 2016 document which listed protections for transgender students under Title IX.³ The document asserted that Title IX includes a student's gender identity and transgender status as grounds for federal protection against discrimination in public schools. The document was never legally binding, but it served as a guide for U.S. states' education departments and school districts. The form lists the obligations schools have to protect their transgender students in accordance with Title IX and included four obligations that schools had to protect trans students: 1. Safe and nondiscriminatory environment; 2. identification documents, names, and pronouns; 3. sex-segregated activities and facilities; and 4. privacy and education records. The third point included protections for transgender students participating in athletics (U.S. Department of Justice Civil Rights Division & U.S. Department of Education Office for Civil Rights, 2016).

Those Title IX protections were rescinded during the Trump administration, and legislation targeting trans individuals soon appeared around the country. Twenty-seven states introduced transgender athletic bans in 2022, with states such as South Dakota instituting bans on transgender children from joining and participating in sports teams (Thoreson, 2022a). During that same time, Tennessee enacted their first gender-affirming care⁴ ban, and others soon followed (Thoreson, 2022b). The Tennessee law declared it illegal for medical professionals to prescribe puberty blockers, as well as to participate in surgical or hormonal intervention for transgender minors. In Alabama, medical professionals can face felony charges for assisting a patient with gender affirming care. Texas has begun separating transgender children from their parents when the parents support the child's gender transition using the Texas Department of Social Services (Thoreson, 2022b). In response, the American Medical Association (2021) issued a press release condemning the gender-affirming care bans being

³ Title IX is the most commonly used name for the U.S. federal civil rights law that prohibits sex-based discrimination in any school or any other education program that receives funding from the federal government.

⁴ The World Health Organization (2022) defines gender affirming care as "any single or combination of a number of social, psychological, behavioral or medical (including hormonal treatment or surgery) interventions designed to support and affirm an individual's gender identity."

implemented around the nation. They asserted that “gender-affirming care is medically necessary, evidence-based care that improves the physical and mental health of transgender and gender-diverse people.” They assert that transgender and gender-diverse minors deserve gender affirming care and medical intervention (American Medical Association, 2021).

It is notable that race is a factor in trans rights within the United States, especially when we consider the high rates of violence directed against transgender adults. In 2020, more than 75% of the non-binary and transgender individuals murdered in the United States were a part of the Black, Indigenous, and people of color (BIPOC) community, with Black trans women at the highest level of risk. This illustrates how the brutality and bigotry endured by transgender individuals is rooted in intersectional suffering – that is, influenced by the intersection of gender, race, ability, class, religion, and nationality. Vulnerabilities to assault are elevated by the criminalization of actions necessitated by survival, like sex work, as well as over-policing in majority Black areas (Thoreson, 2021). Transgender individuals are not able to adequately enjoy their international human rights because of discrimination not only on an interpersonal level, but also on a systemic, legislative level.

Brazil

Brazil has ratified multiple conventions that necessitate the maintenance of sexual orientation and gender identity education at the national level. Those include the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Rights of the Child, and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (González Cabrera, 2022). As a result, there are potential avenues to hold Brazil accountable for the harms done to queer students. Brazil should repeal the legislation banning the teaching of CSE in schools, as well as implement laws explicitly protecting queer individuals.

Brazil’s policies regarding queer individuals have changed rapidly over the last two and a half decades. In 2004, under President Luiz Inácio Lula da Silva, Brazil’s federal government founded the Brazil Without Homophobia Program. Funded by the Ministry of Education, the program was devoted to educating youth on sexual orientation and gender identity, while also sparking widespread feelings of opposition against homophobia and transphobia in schools around the country. This program led to the creation of teaching apparatuses on LGBTQIA+ concepts and issues, following the lead of other national educational initiatives. Alongside the classroom programming were open discussion seminars for schools’ faculty to create a deeper understanding of LGBTQIA+ experiences and to brainstorm ways to

best support queer students (Office of the UN High Commissioner for Human Rights, 2016). Encouraging conversations around these topics facilitated safe spaces for young queer individuals in their schools and in their government. During Jair Bolsonaro's presidency starting in 2019, however, the policies providing protections for LGBTQIA+ individuals changed. The Bolsonaro administration repealed the Brazil Without Homophobia Program and worked to alter the rhetoric surrounding queerness on a national level. His administration has worked to ban comprehensive sexuality education (CSE) in Brazilian schools, arguing that it promoted "gender ideology" and "indoctrination" into queer culture (González Cabrera, 2022). This is a striking difference from the focus on gender and sexuality inclusion of the da Silva administration, which went as far as to create a task force to fight against the discrimination of LGBTQIA+ individuals (Office of the UN High Commissioner for Human Rights, 2016). Notably, the term "gender ideology" has been around since the 1990s and has been used to reference a feminist and "gay" attack on "traditional" family values, thereby promoting heteronormativity (Reid, 2018). Hatred of CSE is now directly tied to fear of "gender ideology" in Brazil. As a result, there are now at least 21 laws barring the teaching of CSE in Brazilian schools. In 2020, Brazil's Supreme Court was able to strike down eight previous laws prohibiting CSE.

Bolsonaro used this dialogue against "gender ideology" and CSE as a platform for which he based his political campaign. He claimed that CSE promoted "early sexualization" and the "eroticization of children" in Brazil (González Cabrera, 2022). These terms are frequently used by state officials to create a feeling of fear in their constituents when discussing CSE to avoid accurately depicting what these programs teach. The Bolsonaro administration also supported the School Without Party movement, and multiple members of the Bolsonaro family were early supporters of the quasi-legal organization. School Without Party is the largest advocate against CSE in Brazil (Escola Sem Partido, 2019). They disseminate fear-based rhetoric against "gender ideology" and argue that schools are a place of indoctrination for Brazil's youth. Teachers, who they refer to as an "army," are imposing their beliefs onto students without their informed consent. In contradiction to itself, School Without Party describes on their website why they are frequently discredited as a valid source by outlining how data does not support their claims: "Our attempts to fight [CSE] by conventional means have always come up against the difficulty of proving the facts and the unavoidable refusal of our educators and education entrepreneurs to admit the existence of the problem" (Escola Sem Partido, 2019). School Without Party claims to be defenders of free thinking and cultural pluralism, while simultaneously advocating for secularism and against "ideological contamination." This organization has aided in the codification of

laws banning the teaching of CSE in Brazilian schools (González Cabrera, 2022). The impact of this organization on national policies and against LGBTQIA+ rights should raise concerns globally.

Uganda

Uganda is party to the African Charter on Human and Peoples' Rights – a regional treaty ratified by member states of the African Union, also known as the Banjul Charter – as well as the International Covenant on Civil and Political Rights (ICCPR) (Human Rights Watch, 2023). Both legally binding agreements can be applied to protections for queer individuals. Human rights organizations around the world have spoken out against Uganda's criminalization of queer identity. Recognizing the impacts of colonization in this state is an important first step to understanding the complexity surrounding this issue. Western states and human rights bodies that are trying to force Uganda to change their laws will likely not help the situation, as Uganda is vehemently against Western imperialism. To avoid imposing colonialist practices on Uganda by viewing this issue from a western perspective, the human rights community should focus on amplifying the voices of African human rights theorists and scholars.

Uganda's relationship with homophobia is deeply connected to its history of colonization. Uganda was known as the Kingdom of Buganda until the territory was claimed by the British in 1894, and Uganda claimed independence from the United Kingdom in October 1962 (Embassy of the Republic of Uganda, 2023). In the aftermath of colonization, Uganda was left with several pieces of anti-LGBTQIA+ legislation and anti-sodomy laws. For example, Ugandan Penal Code Act (Cap. 120) was enacted in June 1950 and states:

Section 145. Unnatural offences:

Any person who— (a) has carnal knowledge of any person against the order of nature; (b) has carnal knowledge of an animal; or (c) permits a male person to have carnal knowledge of him or her against the order of nature, commits an offence and is liable to imprisonment for life.

Section 148. Indecent practices:

Any person who, whether in public or in private, commits any act of gross indecency with another person or procures another person to commit any act of gross indecency with him or her or attempts to procure the commission of any such act by any person with himself or herself or with another person, whether in public or in private, commits an offence and is liable to imprisonment for seven years (World Intellectual Property Organization).

While this law was eventually repealed in 2010, a deeply rooted anti-LGBTQIA+ rhetoric has increased rapidly in recent years. Ugandan state officials publicly criticize queer culture as imperialistic and wrong for Africa (National Resistance Movement, 2023). In a report on state-sponsored homophobia, the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) – a

consultant group for the United Nations Economic and Social Council – examined anti-queer legislation in Uganda from the early 2000s (Carroll, 2016). The report discusses the criminalization of LGBTQIA+ culture and actions in Uganda, including the 2013 Anti-Homosexuality Act. This act legally banned non-heteronormative marriage, as well as prohibited queer sexual relations with the penalty of life imprisonment. While this law was repealed in 2014 due to bureaucratic obstacles, a new bill was quickly introduced: The Prohibition of Promotion of Unnatural Sexual Practices Bill. Although this bill never went into effect, it shows Ugandan government officials’ desire to legislate against queerness (Carroll, 2016).

In 2023, the Ugandan parliament passed the strictest anti-LGBTQIA+ legislation in the nation's history. The bill confirms life imprisonment for queer sexual activity and increases sentences for attempted queer sexual activity to ten years imprisonment. It also criminalizes anyone who does not report people they suspect to be engaging in queer sexual activity, meaning family and loved ones can be imprisoned for not reporting the queer individuals in their lives. The penalty for those assisting queer individuals, be it financially, emotionally, or otherwise, is up to 20 years in prison (Nyeko, 2023). The bill passed through Parliament, but was called for edit by President Yoweri Kaguta Museveni, who does not want to criminalize those wishing to undergo conversion therapies to negate their queer identity. At the time of writing, Museveni had returned the bill to parliament for its final vote. Notably, Museveni’s National Resistance Movement political party prides itself on their anti-imperialistic and anti-western values. They claim that queerness is a new, western ideology that is harmful to the African continent (National Resistance Movement, 2023). However, I believe this anti-queer sentiment is a result of British colonization coupled with indoctrination into Christian religious values. It is ironic that Ugandan officials are anti-imperialistic and against LGBTQIA+ identities when homophobia is directly tied to the imperialism imposed by the British and Christianity. It would be more anti-imperialistic for Uganda to be champions of queer rights, as colonization has sought to destroy queer identities and queer ways of being.

Conclusions

This research highlights how existing international human rights law could be used to protect people’s rights worldwide based on their sexual orientation and/or gender identity if interpreted through a queer, feminist lens. However, anti-LGBTQIA+ discrimination remains prevalent worldwide, with harmful rhetoric and legislation occurring in countries such as the United States, Brazil, and Uganda. The fact that there is not international treaty for the protection of queer people – even though

other marginalized minorities have benefitted from binding conventions or normative frameworks – shows how public support remains low for protecting queer rights. In itself, that is a form of discrimination worthy of attention and discussion. If the United Nations and the broader international community is truly committed to upholding human rights standards, I believe that a convention on the rights of queer individuals is necessary.

Global anti-LGBTQIA+ discrimination highlights the need to promote queer rights locally, nationally, and internationally – and always with the direct involvement of queer individuals. At the local level, for instance, the creation and support of non-governmental organizations (NGOs) can highlight community issues and foster collaboration, give voice to marginalized groups and enhance queer dignity, and strengthen local resources and support networks. At the national level, far more laws are needed to effectively protect and support queer people. This includes building LGBTQIA+ protections into federal laws and policies (such as Title IX in the United States) and establishing programs with those goals in mind (such as Brazil's former Brazil Without Homophobia Program). It is also necessary to revoke discriminatory national laws, such as Uganda's criminalization of homosexuality, and replace such legislation with policies that respect fundamental human rights norms. This could be accomplished by understanding Africa's colonial history and by working with African human rights theorists and scholars to show African governments that providing protections for LGBTQIA+ people would be a way of rejecting Western imperialism, not accepting it.

The foundation for such norms already exists in international human rights frameworks and binding international law, even if they do not specifically name LGBTQIA+ individuals. The challenge is that it can be difficult to hold member states accountable to the treaties and covenants they have signed and/or ratified. Queer rights are human rights, and queer people deserve to be protected against state discrimination and violence and social marginalization. They hold the same rights as all other humans, as outlined by frameworks such as the UDHR and ensuing binding international law, and personal views on morality should not negate those protections. Research shows that it is not completely safe to be queer in this world, as some countries actively seek to discriminate against and harm their LGBTQI+ citizens. Given this, specific protections for queer people are long overdue.

References

American Medical Association. (2021, June 15). AMA Reinforces Opposition to Restrictions on Transgender Medical Care. Retrieved from <https://www.ama-assn.org/press-center/press-releases/ama-reinforces-opposition-restrictions-transgender-medical-care>.

Amnesty International. (n.d.). LGBTI Rights. Retrieved from <https://www.amnesty.org/en/what-we-do/discrimination/lgbti-rights/>.

Amnesty International. (2001). Crimes of hate, conspiracy of silence: Torture and ill-treatment based on sexual identity. Retrieved from <https://www.amnesty.org/en/wp-content/uploads/2021/06/act400162001en.pdf>.

Carroll, A. (2016). State-Sponsored Homophobia, A World Survey of Sexual Orientation Laws: Criminalisation, Protection and Recognition of Same-Sex Love. International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA). Retrieved from <https://www.refworld.org/docid/598311a44.html>.

Donnelly, J. (2001). Non-Discrimination and Sexual Orientation: Making a Place for Sexual Minorities in the Global Rights Regime." In P. Hayden (Ed.), *The Philosophy of Human Rights* (pp. 547-573). St. Paul: Paragon House.

Embassy of the Republic of Uganda. (2023). History and Political Situation. Retrieved from <https://washington.mofa.go.ug/uganda/history-and-political-situation>.

Escola Sem Partido. (2019). Quem Somos. Retrieved from <http://escolasempartido.org/quem-somos/>.

González Cabrera, C. (2022, May 12). "I Became Scared, This Was Their Goal": Efforts to Ban Gender and Sexuality Education in Brazil. Human Rights Watch. Retrieved from <https://www.hrw.org/report/2022/05/12/i-became-scared-was-their-goal/efforts-ban-gender-and-sexuality-education-brazil>.

Human Rights Watch. (2021, November 18). United States: Transgender People at Risk of Violence. Retrieved from <https://www.hrw.org/news/2021/11/18/united-states-transgender-people-risk-violence>.

Human Rights Watch. (2023, March 17). Human Rights Watch Submission to the Uganda Parliament Committee on Legal and Parliamentary Affairs on the 2023 Anti-Homosexuality Bill. Retrieved from <https://www.hrw.org/news/2023/03/17/human-rights-watch-submission-uganda-parliament-committee-legal-and-parliamentary>.

International Commission of Jurists. (2007). The Yogyakarta Principles: Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity. Retrieved from <https://www.refworld.org/pdfid/48244e602.pdf>.

Merriam-Webster. (n.d.a). LGBTQ+. Retrieved from <https://www.merriam-webster.com/dictionary/LGBTQ%2B>.

Merriam-Webster. (n.d.b). Queer. Retrieved from <https://www.merriam-webster.com/dictionary/queer>.

National Resistance Movement. (2023, April 20). H.E Museveni to return the Anti-Homosexuality bill to parliament for changes before its signed into law. Retrieved from <https://www.nrm.ug/news/he-museveni-return-anti-homosexuality-bill-parliament-changes-its-signed-law>.

Nyeko, O. (2023, March 24). Ugandan Parliament Passes Extreme Anti-LGBT Bill. Human Rights Watch. Retrieved from <https://www.hrw.org/news/2023/03/22/ugandan-parliament-passes-extreme-anti-lgbt-bill>.

Office of the UN High Commissioner for Human Rights. (2016). Living Free and Equal: What States are Doing to Tackle Violence and Discrimination Against Lesbian, Gay, Bisexual, Transgender, and Intersex People. Retrieved from <https://www.ohchr.org/sites/default/files/Documents/Publications/LivingFreeAndEqual.pdf>.

Reid, G. (2018, December 10). Breaking the Buzzword: Fighting the “Gender Ideology” Myth. Human Rights Watch. Retrieved from <https://www.hrw.org/news/2018/12/10/breaking-buzzword-fighting-gender-ideology-myth>.

Simm, G. (2020). Queering CEDAW? Sexual orientation, gender identity and expression and sex characteristics (SOGIESC) in international human rights law. *Griffith Law Review*, 29(3), 374–400.

Thoreson, R. (2022a, February 8). South Dakota Embraces Attacks on Transgender Kids. Human Rights Watch. Retrieved from <https://www.hrw.org/news/2022/02/08/south-dakota-embraces-attacks-transgender-kids>.

Thoreson, R. (2022b, November 18). US State Readies first Anti-Transgender Bill of 2023. Human Rights Watch. Retrieved from <https://www.hrw.org/news/2022/11/18/us-state-readies-first-anti-transgender-bill-2023>.

Thoreson, R. R. (2021, November 18). “I Just Try to Make It Home Safe” Violence and the Human Rights of Transgender People in the United States. Human Rights Watch. Retrieved from <https://www.hrw.org/report/2021/11/18/i-just-try-make-it-home-safe/violence-and-human-rights-transgender-people-united>.

UN Human Rights. (n.d.). The struggle of trans and gender-diverse persons. Retrieved from <https://www.ohchr.org/en/special-procedures/ie-sexual-orientation-and-gender-identity/struggle-trans-and-gender-diverse-persons>.

United Nations General Assembly. (1984). *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. Retrieved from https://legal.un.org/avl/pdf/ha/catcidtp/catcidtp_e.pdf.

United Nations General Assembly. (1966a). *International Covenant on Civil and Political Rights*. Retrieved from <https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf>.

United Nations General Assembly. (1966b). *International Covenant on Economic, Social, and Cultural Rights*. Retrieved from https://treaties.un.org/doc/Treaties/1976/01/19760103%209-57%20PM/Ch_IV_03.pdf.

United Nations. (1988). *Convention on the Elimination of All Forms of Discrimination against Women*. Retrieved from <https://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>.

United Nations. (1989). *Convention on the Rights of the Child*. Retrieved from <https://www.ohchr.org/sites/default/files/crc.pdf>.

U.S. Department of Justice Civil Rights Division & U.S. Department of Education Office for Civil Rights. (2016). Dear Colleague Letter on Transgender Students Notice of Language Assistance. Retrieved from <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201605-title-ix-transgender.pdf>.

World Health Organization. (2022). Gender Incongruence and Transgender Health in the ICD. Retrieved from <https://www.who.int/standards/classifications/frequently-asked-questions/gender-incongruence-and-transgender-health-in-the-icd>.

World Intellectual Property Organization. (n.d.). Uganda: The Penal Code Act. Retrieved from <https://www.wipo.int/wipolex/en/legislation/details/5241>.

© Copyright 2023 *Righting Wrongs: A Journal of Human Rights*. All rights reserved.

Righting Wrongs: A Journal of Human Rights is an academic journal that provides space for undergraduate students to explore human rights issues, challenge current actions and frameworks, and engage in problem-solving aimed at tackling some of the world's most pressing issues. This open-access journal is available online at www.webster.edu/rightingwrongs.