

Increased Awareness about Gay Rights

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Honors Contemporary Perspectives
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Spring 2013**

Section I: A Global History

Throughout history, many groups of people have been denied rights and liberties. Gay individuals have consistently faced discrimination and persecution globally. In the period following World War II, awareness about the importance of gay rights increased tremendously. However, the rights of gay individuals are often a point of tension for many and awareness of gay rights throughout the world can take many forms. Since WWII, homosexual activity has been decriminalized in every country in Europe, all of North America and in many countries throughout Asia. However, gay rights in Africa, the Caribbean and the Middle East are still somewhat limited (Itaborahy 11-12). According to the report "State-sponsored Homophobia," published by the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), homosexual acts are still considered illegal in 78 countries (Itaborahy 12). There has been an increase in gay related groups, media presence and support from various religious organizations throughout the world, indicating a rise in global awareness of the issue. As more awareness is brought to the rights of the gay population, many groups continue to voice their opposition. Ironically, this criticism and conflict surrounding gay individuals have the unintended consequence of furthering international awareness of equal rights.

Before the twentieth century a small, but notable gay rights movement emerged as a response to discriminatory laws in Germany. In 1869, Hungarian doctor, Karoly Maria Benkhert, first introduced the term "homosexual" to describe same sex attraction as a sexual dysfunction ("What Is Sexual Orientation?"). Within two years, the word was incorporated into the German Criminal Code (known as Paragraph 175), which

outlawed so-called unnatural sexual acts between men, punishing the crime with a mandatory prison sentence of “no less than three years” (Kaczorowski). In 1897, after a series of medical studies on homosexuality, German doctor Magnus Hirschfeld founded the Scientific Humanitarian Committee to challenge anti-gay discrimination and reform the law (Kollman and Waites 3; Haeberle 272). Hirschfeld’s studies sparked a small gay rights movement in Germany. However, when Hitler took power in 1933, he banned all gay rights organizations and ordered the demolition of Hirschfeld’s works, and by 1935, the entire reform movement was suppressed. From 1939 to 1945, the government persecuted 50,000 to 70,000 men it identified as being gay and forced the men to wear pink triangles on their arms during the Nazi takeover of Germany (Haeberle 270-287).

In other parts of Europe, gay rights had historically been limited. In England, the Buggery Act of 1533 introduced by Henry VIII criminalized homosexual acts. The Buggery Act made sodomy a hanging offense in England (Asal, Sommer, and Harwood 325). Homosexual conduct again became an issue for national attention in the United Kingdom beginning with the Wolfenden Report in 1957. This report concluded homosexuality was not a disease and homosexuality could not legitimately be regarded as a disease (Blasius and Phelan 255), nearly sixteen years before the American Psychological Association removed homosexuality from Diagnostic and Statistical Manual of Mental Disorders in 1973 (Lyons 1,25). The Wolfenden Report created a variety of positive responses from the British public. One such response was from The Archbishop of Canterbury Dr. Fisher. Dr. Fisher supported the Wolfenden Report in

1957 stating, "There is a sacred realm of privacy... into which the law, generally speaking, must not intrude. This is a principle of the utmost importance for the preservation of human freedom, self-respect, and responsibility" ("Timeline"). The support from Dr. Fisher is notable because it marks an early awareness of gay rights from a prominent religious leader.

In 1968, the French and Italian student movements gave rise to gay activism throughout Europe, spawning gay groups in Germany, Netherlands, Switzerland and France (Altman 195). Another well-known spark of the modern gay movement globally was the Stonewall riots in NYC. In June 1969, a police raid on the Stonewall Inn provoked rioting by sexual and other minorities and served as another catalyst for the international gay rights movement (Matzner). Before 1969, there were few gay rights groups in the U.S., but within three months of the raid, over fifty organizations formed, including the International Gay Liberation Front (Matzner). Although usually attributed to U.S. activism, it is clear that the gay rights movement also had global roots before Stonewall.

Following Stonewall, the late 1960s and early 1970s saw the formation of many formal international groups focused on gaining human rights for the gay community (Kollman and Waites 4). The book *Global Emergence of Gay and Lesbian Politics* pinpoints gay movements in Canada, Brazil, Argentina, The United Kingdom, the Netherlands, France, and Spain, to name a few (Adam, Duyvendak, and Krouwel). Since then, gay groups have sprouted up in many other parts of the world, particularly in the 1990s. For instance, an interview with Claudia González indicates there are gay

organizations in Guatemala (Mantilla 27-30). Research also indicates there are gay advocacy groups in developing countries, such as Uganda, which has at least five groups (Dicklitch et al.460-461). The global increase in organizations specifically focused on gay rights is further evidence that awareness of gay rights has dramatically increased in the late twentieth and early twenty first centuries.

The addition of gay rights as a global issue for intergovernmental agencies such as the World Health Organization and the United Nations also shows this increase in attention. In the early 1990s, the World Health Organization voted to remove homosexuality from the International Classification of Diseases (Barris). In 1992, the first openly gay man addressed the U.N.'s Sub-Commission on the Prevention of Discrimination and Protection of Minorities, requesting recognition of equal rights protections for sexual minorities (Sanders). In 2003, with the support of twenty-six other states, Brazil introduced a U.N. resolution that would have granted sexual minorities international human rights protections. Although it initially failed, the resolution was passed in 2011 ("Historic Decision at the United Nations"). In addition to international declarations, national governments are passing legislation in support of gay rights. For example, In South America, Uruguay has recently legalized same sex marriage (Hernandez).

As well as legislation passed over the past 60 years, an increasing awareness of gay rights can be seen through a variety of non-legislative ways. In Brazil, the city of São Paulo hosts the largest gay pride parade in the world, with over 4 million attendants with support from the local and federal government ("Gay Pride São Paulo"). Even a

notably anti-gay nation like Uganda has hosted its own pride parade (St. Amand). Gay awareness is also beginning to make its way into the international media. At the International LGBT Film festival in 2012, Frameline, LGBT films from countries across the globe, such as Belgium, Cuba, Myanmar, Indonesia and Israel were featured ("World Cinema"). In the United Kingdom, television programs have featured prominent gay characters since the 1980s in shows such as *Brookside*, *Queer as Folk*, *Sugar Rush* and *Skins* (Edwards). This increase in attention for gay rights shows how mainstream gay issues and perspectives are becoming in some societies, and provides the backdrop to the growing concern for equality.

Despite this apparent move towards more tolerance of gay rights, several communities are deeply suspicious of the trend. These include many in religious communities. The topic is controversial, however, since some religious organizations like the Episcopal Church in the United States voted in 2012 to bless same-sex marriages (Pearson et al.). A statement by the Church of England House of Bishops issued in 1991 goes much further towards a positive recognition of homosexuality. The House of Bishops proclaimed that a homosexual orientation does not affect a person's dignity or worth, since everyone is made in God's image. Although their statement is progressive, there is still discrimination against homosexuals, since the Church will not actually bless the lifelong unions of homosexuals, as the statement denies that homosexual orientation and behavior is equal to its heterosexual counterpart (Church of England House of Bishops). A more ardent critic of gay rights has been the Catholic Church, which has issued statements justifying the discrimination of homosexual

individuals if it promotes the “common good” (“Unfortunately, Santorum, Vatican in Step.” 20). However, several Catholic priests in Argentina, the first Latin American country to legalize same sex marriage, have supported gay marriage, stating it is in line with the Gospel of Jesus (“Gay Marriage”). Even Islam is split on how to respond to gay rights. According to sociologist Maarten Schild, cited in the Immigration and Refugee Board of Canada’s report on Iran, many Muslims turn a blind eye on homosexual activity so long as it takes place in private (Immigration and Refugee Board of Canada 1). However, homosexuality is official condemned throughout Islam (“Straight but Narrow” 63-64). On the other hand, Amy Teibel writes in The Huffington Post that The Conservative Jewish movement in Israel has also supported gay rights by allowing gays and lesbians to be ordained as rabbis (Teibel). Conversely, Orthodox Judaism officially views homosexuality as an abomination (Amsel 1). In addition, the following religious groups all support gay rights: the Reconstructionist Jewish Movement, the United Church of Christ, the Evangelical Lutheran Church in America and more (“Religious Groups”). The wide range of responses from the world’s religions is evidence that gay rights is a topic of concern. Ironically, by arguing about gay rights, these religious organizations are adding to the discourse surrounding the issue in addition to encouraging followers to speak out, ultimately raising more awareness.

The response to increased awareness of gay rights can be negative. Violence is a major issue facing the gay community. In 2011, the United Nations issued a report on the global human rights of lesbian, gay, bisexual and transgender (LGBT) people (Taglioli). The UN reported there were at least 31 murders of LGBT individuals in

Honduras during an 18-month period (UN Human Rights Council 9). Additionally, In the United Kingdom, there were 988 criminal cases involving LGBT hate crimes in 2007, which resulted in 759 convictions (UN Human Rights Council 11). These acts of violence are often intended to diminish the power of the gay community by invoking fear. Ironically, aggressors are creating international awareness from those supporting the rights of the gay minority.

The violence against gay people inevitably brings more awareness towards the gay plight. In 2010, activists in Washington, DC organized a protest in response to the homophobic murders in Honduras (“TOMORROW!”). Even infamous ex-gay Christian group Exodus International released a statement in opposition of Ugandan and Jamaican violence against gays (Exodus Policy Statements). Homophobic violence is abhorrent; however, when the public responds it creates a dialogue, ultimately raising the awareness of the need for gay rights.

Worldwide support for gay rights is growing rapidly. Groups have formed to promote the rights of gay individuals. What began as a street battle in most countries has become an international human rights concern. As more people become aware of the need for gay rights, conflicts, and criticisms attempt to overshadow the issues. However, this criticism and conflict surrounding gay individuals actually have the unintended consequence of furthering international awareness of equal rights.

Section II: The International Legal Community’s Response

The international legal community has tackled various human rights issues since World War II. However, legal professionals have only recently begun to fight for the rights of gay individuals throughout the world. For many in the legal field, gay rights are synonymous with human rights. By focusing on human rights, legal professionals are bringing the fight for equal rights for homosexual individuals into the international arena. Legal professionals worldwide are creating more awareness towards gay rights by challenging laws individually, advocating change and lobbying governments to grant equal rights. Additionally, these legal professionals are stepping outside of the courtroom to further the awareness of gay rights by creating a dialogue in which gay rights can be discussed. Although progress is being made, many local traditions, culture, religion and legal systems are oppressive towards gay individuals and their advocates leading to legal and physical threats and creating barriers for change. Despite the challenges they may face, human rights attorneys, legislators, lobbyists and activists are working towards equal rights for gay individuals in countries across the globe.

Throughout the world, activists and lawyers are fighting for the rights of gay individuals. Increased awareness about gay rights has created a variety of approaches to how the legal field addresses lesbian, gay, bisexual, transgender (LGBT) equality. Law firms throughout the world are seeking ways to advance LGBT equality in the workplace. Large law firms, such as Herbert Smith Freehills (HSF) in Australia, are implementing practices to eradicate discrimination based on sexual orientation or gender identity. According to an article written in Lawyers Weekly, an Australian

publication for lawyers, HSF created a Lesbian, Gay, Bisexual and Transgender Network to create more LGBT diversity amongst its employees and to raise awareness about LGBT prejudices (Mezrani 1). This approach is mainly reliant on the culture of Australia. In Australia, LGBT individuals have more rights compared to countries such as Cameroon where gay people are often persecuted. ("Australia Country Report", "Cameroon Country Report").

Hence, in areas around the world where homosexual individuals are persecuted and imprisoned, legal professionals face several barriers in their attempts to gain equal rights. In Cameroon, where homosexual relationships are illegal, attorneys Alice Nkom and Michel Togue are known internationally for supporting gay rights (Bowcott 1-2; AFP 1). However, defending those LGBT individuals charged with a crime has its costs. The minister of justice in Cameroon has threatened to disbar Nkom, claiming she is promoting homosexuality (Bowcott 1). Togue has been the victim of death threats, in addition to a threat to abduct his children (AFP 1). These threats provide evidence that culture and location can hinder an attorney's ability to fight for gay rights.

In many nations, religious beliefs affect the viewpoint of legal professionals in regards to gay rights. In the Muslim country Malaysia, legal professionals are engaging in open debate regarding gay rights. In a letter to Malaysian newspaper Malaysiakini, Azril Mohd Amin, vice-president of the Muslim Lawyers Association of Malaysia responded to the possible inclusion of LGBT rights in a human rights declaration drafted by the Association of Southeast Asian Nations (ASEAN). Amin wrote, "Malaysians and those who are against LGBT rights are thereby protecting the human race from the

secular fallacy, perpetrated by the United Nations, that human beings may do as they please, within their so-called 'sovereign borders'..." (Amin). The response from Amin is notably anti-gay. However, this is not the only kind of response seen in Malaysia, since the response from legal professionals tends to divide into two camps. Human rights activist Pang Khee Teik, founder of annual sexual rights festival Seksualiti Merdeka in Malaysia, has rebutted Amin's statement arguing, "The very exercise of the ASEAN Human Rights Declaration is ultimately to protect our rich Asian diversity, all our ethnicities, cultures, beliefs, ages, sexual orientations, gender identities" (Leach). The Muslim culture in Malaysia is relatively homophobic, as seen by Amin's statement. However, homophobic ideology does not impede the work of legal professional defending the rights of the gay minority.

In addition to activism, gay individuals are taking the fight for equality into the legal arena. By challenging the laws that bar individuals from obtaining equal rights, homosexual individuals are forcing legal professionals to review the laws, which can ultimately lead to reform. For instance, Victor "Juliet" Mukasa, a transgender lesbian and leader of the gay rights movement in Uganda and throughout Africa, recently sued the Ugandan government in the Ugandan Constitutional Court for violating her right to privacy stemming from a search of her apartment and the detainment of her friend for the sole reason that Mukasa was known to be gay. In what was perhaps a surprise to the government and the gay rights activists, the constitutional court ruled in favor of the petitioners, ruling that the government's conduct violated a number of constitutional provisions (Hivos). By suing the Ugandan government, Mukasa forced the Justice to

rule on gay issues, a process that is occurring in courtrooms around the world. In Uganda, homosexual activity is punishable by up to 14 years in prison (“Uganda”). Recently a bill was introduced in the Ugandan parliament to change the punishment from 14 years in prison to life imprisonment or the death penalty (Dicklitch et al.449-450). Despite the homophobic nature of Uganda, Mukasa and the presiding judge confronted the government of Uganda on its discriminatory practices, which shows that the legal fight for gay rights is not thwarted by an anti-gay culture or government.

As individuals begin to challenge discriminatory laws around the world, legal organizations are also responding to this trend by providing representation in cases that surround gay issues. In India, the Lawyers Collective, a non-governmental organization that provides legal resources for women rights, HIV/AIDS cases and civil rights, teamed up with Naz India, a non-profit advocacy group to repeal Section 377 of the Indian Penal Code, which criminalizes homosexual conduct (Ganz). In July 2009, the Delhi High Court announced that Section 377 should be interpreted to exclude consensual sex between adults. The reasoning was that criminalization of consensual sexual conduct violates Articles 21, 14 and 15 of the Indian Constitution. The success of the Lawyers Collective and Naz India is a result of direct legal intervention and an open challenge to discriminatory laws and shows how much power lawyers can have to respond to this trend and also to help LGBT individuals fight discrimination.

The legal profession can be viewed as a wide network of practicing attorneys, legislators, non-profit advocacy groups, lobbyists and activists. As more attention is being brought to the rights of gay individuals, the legal community must respond

accordingly. Legal professionals throughout the world are working to eradicate discrimination and secure equal rights for homosexuals. Although the oppressive nature of many local customs, traditions, cultures and religions often create barriers to progress, legal professionals are defending the rights of the gay minority through a variety means. In addition to litigation, lawyers are showing that local customs and governments cannot halt progress, as they continue to advocate and educate on behalf of gay individuals.

Section III: Lebanon's Mixed Response

Throughout the world, many nations are divided over the issue of gay rights. Over the past few decades, Lebanon has emerged as a model for gay rights in the Middle East. However, Lebanon is far from perfect. The history of Lebanon includes periods of occupation and conflict. The French colonization of Lebanon created a government that discriminates against gay people. This complicated history has created mixed responses from the Lebanese legal community in reaction to the increase of awareness of gay rights. The legal community in Lebanon consists of human rights attorneys, prosecutors, activists, legislators and judges. Human rights attorneys and activists are educating Lebanese individuals about the necessity for gay rights. In response, some legal professionals are prosecuting individuals for their sexuality. Although Lebanon is now an independent nation, it continues to maintain vestiges of its colonial past. The work of Lebanese legal professionals is indicative of a movement

away from outdated views and thus, creating a more modern Lebanese society in relation to gay rights.

The present-day country of Lebanon was formerly part of the Ottoman Empire. Following the Allied victory in World War I, France received a mandate over the areas of what are now Syria and Lebanon (Salibi). Because of this history of colonialism, some French laws remained in effect far after Lebanon gained its independence in 1943 (Makarem 99). One particular law, Article 534 of the Lebanese Penal Code is a remnant of the French Mandate. Article 534 is a proscription against “intercourse contrary to nature” (Abbani). The law also imposes a one-year prison sentence on those deemed in violation. Police officials in Lebanon have perpetuated the intent behind Article 534 by strictly enforcing it. The French occupation of Lebanon created the legal battle against Article 534 and which paved the way for the Lebanese equal rights movement.

One example of this is that in the summer of 2012, law enforcement officials conducted a raid on a gay movie theatre in Beirut, arresting 36 people. Acting on hidden camera footage provided from the Lebanese MTV affiliate, police officials arrested individuals and charged them with Article 534 violations (Weinthal). The men arrested were subjected to anal examinations to provide forensic evidence of same sex sexual relations at the request of the prosecutor-general (Torbey). This shocking event shows how much the legal community has to do to fight anti-gay prejudice in Lebanon. Although Beirut has become very gay-friendly in comparison to its Middle Eastern counterparts (Healy), law enforcement officials continue to harass and persecute gay

individuals. It is clear from the actions of the police that the anti-gay sentiments that existed during the passage of Article 534 persist today.

Not surprisingly, many lawyers, activists and policymakers in Lebanon are responding against the actions of the police. For instance veteran lawyer Shakib Qortbawi, Lebanon's Minister of Justice, and has condemned the actions of the police officials involved in the movie theater raid (Torbey). Additionally, former Justice Minister Ibrahim Najjar has spoken out against the "anal probing," calling it "horrible" ("Lebanon's Invasive Sex Exams"). High-ranking Lebanese attorneys like Qortbawi and Najjar are opening the dialogue for equal rights by condemning these prejudicial actions. These responses support the need for Lebanon to move away from its colonial roots and into an era of equal rights.

An even more aggressive approach than that of these government officials is taken by other lawyers and activists. Thus, in the early 2000s, a non-profit activist group known as Helem was founded to advocate on behalf of the Lebanese LGBT population (Makarem 104). Helem has been advocating against Article 534 since its inception and raising awareness about LGBT issues. A close, frequent collaborator with Helem is human rights attorney Nizar Saghieh. As an example of another way that the legal profession has responded to the trend, in 2005 he helped Helem to organize the first International Day against Homophobia in Lebanon in an attempt to dispel the anti-gay rhetoric in Lebanon (Makarem 105). Saghieh acts as the attorney for Helem ("Lebanon's Invasive Sex Exams"), but is also a crucial player in raising awareness and advocating on behalf of the Lebanese LGBT.

Through his work with Helem, Nizar Saghieh has become a crusader for gay rights in Lebanon. Saghieh has advocated on behalf of the LGBT community in a variety of ways. In 2009, Saghieh co-authored a report on the legal situation of LGBT individuals throughout the Arab world (Joelle). Saghieh has offered his interpretation of Article 534 in “Arab queer and feminist” magazine Bekhsoos (“Top Human Rights Lawyer Discusses Article 534”). Saghieh is also denouncing the anal exams required of men suspected of homosexual conduct by organizing conferences to educate the public (Morgan). Saghieh is a prime example of a legal professional taking a multidimensional approach to increasing the awareness of gay rights. By working outside the courtroom, Sagheigh is proving that lawyers can use their legal expertise as a bully pulpit to further the awareness of the need for gay rights.

The challenge facing the legal community regarding Article 534 lies in its broad interpretation by the judiciary. However, judges are beginning to set precedent in favor of gay individuals. In 2009, Judge Mounir Suleiman from the Batroun court district ruled against Article 534 holding that consensual same sex relations are not considered “contrary to nature” and should not be penalized (“Landmark Decision”). This is one step towards equality in Lebanon. Judge Suleiman’s decision serves several purposes. The decision helps set a legal precedent in Lebanon. It also indicates a growing support for gay rights by the Lebanese government. Furthermore, the court’s decision supports the notion that Lebanon is beginning to move away from its French heritage into a more progressive era.

The role the legal community plays in raising awareness and responding to the awareness of LGBT rights is an instrumental one. The attitudes towards LGBT rights vary from persecution to support. This is in part due to the political history in Lebanon, which initially created the prejudicial Article 534. Lebanon still has more progress to make in terms of gay rights. However, the work of legal professionals like Nizar Saghieh is a clear example of how to open the dialogue and change the discourse surrounding gay rights. Although the remnants of the French Mandate are still present in Lebanese law, legal advocates are continuing to fight for the rights of individuals. These crusaders for equality continue to face strong opposition from many legal professionals who are determined to retain outdated laws that do not reflect the Lebanese culture. The responses by Helem, Nizar Saghieh and Judge Suleiman are steps in the right direction.

Gay rights are an issue of concern for many and will continue to be so in the future. The cultural and religious opposition to gay rights present barriers to equality for the legal profession. Lawyers must not only litigate against homophobic legislation, but also confront opposition from the public. Although the future of gay rights throughout the world is unclear, legal professionals will continue to advocate on behalf of those desiring equality. Legal professionals must also begin to think outside their traditional role as a litigator and move towards being an advocate and educator. The fight for gay rights should be taken outside the courtroom. In order to progress into more equal society, legal professionals in Lebanon and abroad will continue to raise awareness about the necessity for equal human rights for everyone, regardless of sexuality or gender status.

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