



## LGBT rights

LGBT, or GLBT, is an initialism that stands for lesbian, gay, bisexual, and transgender. In use since the 1990s, the term is an adaptation of the initialism LGB, which was used to replace the term gay in reference to the LGBT community beginning in the mid-to-late 1980s<sup>1</sup>. Activists believed that the term gay community did not accurately represent all those to whom it referred<sup>23</sup>.

Until the 1960s there was no specific name describing the individuals belonging to these groups except for the offensive descriptions of the heterosexual community. The term "third gender" for these people ceased to be used after the Second World War. People started organizing for their sexual rights and needed a name that would positively characterize them<sup>456</sup>. Originally were used the terms homosexual, homophile, gay, lesbian, bi and trans. These terms have sought recognition and thus the acronym LGBT was used.

More specifically in 1988, the term was used by US activists<sup>7</sup>. In the 1990s, the gay, lesbian, bisexual and transgoverned movements claimed equal respect. Although the LGBT community has had a lot of controversy over the general acceptance of its different members (bi and trans were in particular marginalized in the past by the wider LGBT community), LGBT has been a positive symbol of inclusion<sup>89</sup>.

The term LGBT refers to all persons other than heterosexuals and cisgender (individuals who identify themselves by their gender) as these groups are accepted by society and therefore do not face racism. Since 1996 the letter Q has been added to the acronym (LGBTQ) for people who identify themselves as queer or

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<sup>1</sup>Acronyms, Initialisms & Abbreviations Dictionary, Volume 1, Part 1. Gale Research Co., 1985.

<sup>2</sup> Swain, Keith W. (21 June 2007). "Gay Pride Needs New Direction". DenverPost.

<sup>3</sup>Wikipedia.

<sup>4</sup>Kennedy, Hubert C. (1980) "The "third sex" theory of Karl Heinrich Ulrichs", Journal of Homosexuality.

<sup>5</sup> Carpenter, Edward. The Intermediate Sex: A Study of Some Transitional Types of Men and Women.

<sup>6</sup>Wikipedia.

<sup>7</sup> Research, policy and practice: Annual meeting, American Educational Research Association Verlag AERA, 1988.

<sup>8</sup>Shankle, Michael D. (2006). The Handbook of Lesbian, Gay, Bisexual, and Transgender Public Health: A Practitioner's Guide To Service.

<sup>9</sup>Wikipedia.

are questioning their sexual identity<sup>10</sup>. Some include intersex individuals resulting in the LGBTI extension. The acronym can be used together as LGBTQI<sup>11</sup>. Whether these people identify themselves openly as LGBT people depend on the political scene of their place and whether they live in a discriminatory environment or simply from the status of LGBT rights existing in their country of living.

Over the last decades, LGBT communities are fighting to eliminate discrimination against them and to promote equal rights policies with the heterosexual population, so that the vesting of all kinds of rights becomes common to all.

The laws on lesbian, gay, bisexual and transgender people vary greatly from country to country. Legislation concerns issues from marriage of homosexuals or cohabitation agreement up to death penalty, as a punishment for homosexual sexual intercourse or identity. LGBT rights are considered human rights by Amnesty International (AI) and citizens' rights from some. Laws on LGBT rights include, but are not limited to, the following<sup>12</sup>:

- laws concerning the recognition of same-sex relationships, including same-sex marriage, civil unions, domestic partnerships, etc
- laws concerning LGBT parenting, including adoption by LGBT people
- anti-discrimination laws in employment, housing, education, public accommodations, etc
- anti-bullying legislation to protect LGBT children at school
- hate crime laws imposing enhanced criminal penalties for prejudice-motivated violence against LGBT people
- "bathroom bills" affecting access to sex-segregated facilities by transgender people
- laws related to sexual orientation and military service
- laws concerning access to assisted reproductive technology
- sodomy laws that penalize consensual same-sex sexual activity, and age of consent laws that may impose higher ages for same-sex sexual activity
- laws regarding donation of blood by men who have sex with men
- laws concerning access to sex reassignment surgery and hormone replacement therapy
- legal recognition and accommodation of reassigned gender

As of March 2017, 23 countries (in the world), the overwhelming majority of which are developed

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<sup>10</sup> "Civilities, What does the acronym LGBTQ stand for?". Washington Post. Retrieved February 19, 2018.

<sup>11</sup>Wikipedia.

<sup>12</sup>List from wikipedia.

democracies and the rest being developing democracies, recognize same-sex marriage and provide (if not all) the other rights mentioned above to their LGBT citizens.

In 2011, the United Nations Human Rights Council passed its first resolution recognizing LGBT rights, which was followed up with a report from the UN Human Rights Commission documenting violations of the rights of LGBT people, including hate crime, criminalization of homosexuality, and discrimination. Following up on the report, the UN Human Rights Commission urged all countries which had not yet done so to enact laws protecting basic LGBT rights<sup>1314</sup>.

More specifically in the EU LGBT rights are recognized and guaranteed as follows:

- sex intercourse between same sex people is recognized as lawful in all 28 member states
- recognition of homosexual associations is legal in 22 of the 28 member states
- marriage of same-sex couples is legal in 12 of the 28 member states
- adoption by homosexual couples is characterized as a joint adoption lawful in 13 of the 28 member states while the adoption of a partner's child is considered legitimate in 16 of the 28 member states
- the military service for LGBT people is considered legitimate in 27 of the 28 member states
- in order for a state to become an EU member it is necessary to prohibit discrimination against gay people only in the sector of the employment
- as far as the gender expression and identity is concerned, it is recognized as legitimate in all 28 member states

The EU unanimously supported the December 2008 United Nations General Assembly (UNGA) Statement on human rights, sexual orientation and gender identity, supported by 68 countries from five continents. The Statement reaffirms the principle of non-discrimination and condemns executions, arbitrary arrest or violations of human rights on the basis of sexual orientation or gender identity. The EU also supported joint statements at the Human Rights Council in 2006 and 2011, which were made on behalf of 54 and 85 states respectively<sup>15</sup>.

Denmark<sup>16</sup> is the first country to grant rights since 1989 in the same way as in the political marriage to recognized homosexual couples. However, Denmark does not call the official procedure of the couple marriage, but a registered partnership.

The Netherlands is the first country to grant full marriage rights to all couples without any distinction. This legislative measure has been in force since 1 April 2001. After three years of common life, homosexual couples can apply for judicial approval for adoption and all legal ambiguities or gaps relating to legacies, pensions, taxation, divorces are abolished.

Belgium supported marriage in gay and lesbian couples in 2003, as its legislation provided these couples with the same rights and obligations as heterosexual married couples. The main difference compared to the Netherlands is that neither adoption nor common parental responsibility is supported. Also, the married wife of a married woman who childbirths during the marriage is not considered to be the parent of the

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<sup>13</sup> "UN issues first report on human rights of gay and lesbian people". United Nations. 15 December 2011.

<sup>14</sup>Wikipedia.

<sup>15</sup> COUNCIL OF THE EUROPEAN UNION, Brussels, 25.06.2013, 11492/13

<sup>16</sup>PowerPolitics

child, nor to married or registered homosexual couples.

A corresponding with Denmark's contract is also found in the UK. In particular, the Civil Partnership Act has been in force since December 5, 2005. Homosexual couples can declare their affiliation to the Registry. In this way they can exercise the rights and obligations of married heterosexual couples such as accident compensation, life insurance as well as work privileges.

Germany also relies on the institution of the contract. The Life Partnerships Act 2000 has been in effect since August 1, 2001. The law permits joint child custody and adoption of his or her spouse's children. The solution of partnership through a court decision provides for the maintenance of credit obligations for homosexual couples.

In France, homosexual marriage is permitted, as well as adoption by homosexual couples.

Spain has recognized the right to marry since July 2005. It is the third country that has voted to extend all marriage rights to cover lesbian and gay citizens as well. It also includes the right to joint adoption.

On the other side, Italy and Bulgaria are the countries of the European Union where the rights of homosexuals are less respected, according to a survey by the European Union on the above rights.

Regarding the rights of LGBT people, the ECHR<sup>17</sup> has ruled that the right to free personality development is not exhausted by the State's obligation to refrain from unfairly intervening in it. On the contrary, it includes positive obligations, such as legislative measures that guarantee freedom of everyone to freely choose his erotic partner, and even the freedom to live together under the same roof. And this, obviously, without being unfairly discriminated on the grounds of their sexual orientation.

However, it is understood that despite the fact that the domestic legal order of each Member State has ensured that the rights of the LGBT community are guaranteed by law, the needs of reality are much more far from this elementary protection effort.

ILGA-Europe<sup>18</sup> is the European region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association. Its aim is to achieve equality and promote human rights for lesbian, gay, bisexual, transgender and intersex citizens in Europe. This advocacy group is a non-governmental organization representing its members, which are mainly LGBT organizations at European level. It has over 200 member organizations across Europe.

One of ILGA-Europe's actions is to look at the institutional framework and political measures taken and impact on the daily routine of Europeans with "different" sexual orientation. Based on these, the organization ranked 49 countries in Europe on a scale of full equality - serious violations of human rights. At the top is Malta with a percentage of 91%, followed by Belgium, Norway, Great Britain, Finland, France and Portugal<sup>19</sup>.

Despite these statistics, it should be noted that the majority (66%) of homosexuals, bisexuals and transsexuals living in the European Union are still afraid to reveal their sexual identity publicly, and more than 80% are victims of verbal attacks or intimidation, as illustrated by another study conducted by the EU Fundamental Rights Agency<sup>20</sup>. At the same time, according to the results of the survey, which involved 93,000 gays, bisexuals and transsexuals, 26% of respondents revealed that they have been verbally or

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<sup>17</sup>European Court of Human Rights Factsheet-Sexual orientation issues.

<sup>18</sup><https://www.ilga-europe.org/> .

<sup>19</sup>Rainbow Europe Map 2018.

<sup>20</sup><http://fra.europa.eu/en/theme/lgbti> .

physically attacked because of their sexual orientation. At the same time, almost one in five respondents said they feel discriminated against in their search for a job because of their sexual orientation.

All this evidence shows that the issue of claiming equal rights for LGBT communities worldwide remains not a directly achievable goal but a long-term expectation. If the issue is to root out racism against sexual orientation, this long-term expectation has to be promoted, away from extreme conservatism and obsolete homophobic views wherever they come from.

While many Western European countries have recognized several rights for LGBT people in the past, they have remained in them. For example, for couples they recognized equality in marriage, but achieving equality requires far more measures. In many European countries, LGBT activists tend to focus on changing laws, changing legislation and thus they ignore the fact that changing laws is only a part of change for the people. By changing a law you need to make sure that it is already in place and it is applied. It is also necessary to make sure that people agree with changing the laws. This was the awareness and the conclusions reached by the surveys and the efforts of many activists in recent years in Europe in general.

In her interview Evelyne Paradis, executive director of ILGA-Europe, argues that in our societies LGBT people need legal protection. "That's a minimum to make sure that the rights are actually going to be protected". Laws are elements of change that they can be actually measured. The LGBT community has a Rainbow Index which is measuring legal change. Its main use by policymakers, including ministers, is an annual map of what they should do. It is presented annually in forums, where government representatives and NGOs meet. It is presented to ministers and there is a response as they seriously address it and examine where there are good practices and laws in Europe that can be used as models. This map works positively as it helps to start talks with many responsible, high-ranking officials, even governments. A typical example mentioned by Evelyne Paradis is Denmark, which within one year adopted what was the best law then, and so did Malta. Rainbow Index was "a really affective conversation starter"<sup>21</sup>.

The EU is seriously concerned that sexual orientation and gender identity are still used to justify serious violations of human rights around the world. LGBT people are a vulnerable group, are still victims of persecution, discrimination, intimidation and mistreatment, extreme forms of violence are often seen, including incidents of torture or even murder. These discriminations often have their roots in social "norms" and in distinct roles that perpetuate gender inequalities.

The rights of LGBT people are protected under the existing international human rights law, although special actions are often required to ensure full enjoyment of human rights for these people. LGBT people have the same rights as all other people. The EU is committed to the principle of the universality of human rights and reaffirms that references to cultural, traditional or religious values cannot justify any form of discrimination against LGBT.

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<sup>21</sup>The whole interview: <https://www.euractiv.com/section/social-europe-jobs/interview/gay-rights-organisation-the-eu-no-longer-leading-on-lgbt-rights/> .

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