

FROM NO RIGHTS TO BEYOND EQUAL RIGHTS

# Gay rights struggle mutates

The French parliament has begun debating gay marriage. Many countries now offer, or are about to offer, genuine equality and freedom for the LGBT community, though this is not yet universal

BY GABRIEL GIRARD AND DANIELA ROJAS CASTRO

As France debates gay marriage and Argentina legalises sex change operations, conditions are improving for the lesbian, gay, bisexual and trans (LGBT) community (LGBT). The days when homosexuals were subject in Spain to the “law on social dangers and rehabilitation”, or were kept under surveillance by a department of the Paris police force, seem long gone (the first was abolished in 1979, the second in 1981). But inequality and discrimination based on sexual orientation persist: in many countries state repression and violence, often encouraged by religious fundamentalism, still condemn the LGBT community to secrecy.

In the 1980s gay demands in most western countries were focused on social and legal recognition. As Aids claimed victims, the lack of rights for surviving same-sex partners caused hardship. The first legislation on gay and lesbian couples was passed in Denmark, Norway, Iceland and Sweden early in the 1990s. This new wave of rights, which included the French civil solidarity pact in 1999, was the result of an approach – supported by social democratic parties – combining tolerance and social recognition. It was based on the principle of difference – same-sex partners did not have the same rights as married couples, particularly parental and adoption rights.

From the late 1990s, LGBT movements concentrated on getting the same rights for gay as for heterosexual couples. Following the example of the Netherlands in 2001, Scandinavian countries gradually modified their legislation. Spain in 2005 and Portugal in 2010 legalised gay marriage and adoption. South Africa and Canada in 2005 and Argentina in 2010 passed equality legislation, as did some states and districts in Brazil (Alagoas), Mexico (the Federal District and Quintana Roo) and the US (Connecticut, District of Columbia, Iowa, Massachusetts, New Hampshire, New York, Washington and Maryland). Homophobia was recognised as an aggravating factor in a crime in some countries.

It would be wrong to suppose that these legal advances were the result of a slow but profound change in attitudes. The position of the Catholic Church in France and Spain towards gay marriage and the fact that US Republican presidential candidate Mitt Romney signed the Federal Marriage Amendment, which sought to limit marriage to heterosexual couples, attest to strong resistance to gay rights. And many members of the LGBT community suffer physical and verbal abuse daily.

Recognition of gay rights is still far from universal. Homosexual relations are illegal in 78 countries, where those found guilty can be sentenced to prison or death. Homosexuality is a favourite target of political regimes and religious movements wanting to impose “moral” authority. In the last decade many African and Middle Eastern countries have demonstrated virulent homophobia, led by fundamentalist currents of Islam. In Saudi Arabia, Iran, Yemen, Nigeria, Sudan, Afghanistan and Mauritania, homosexual acts are punishable by death. Three men were beheaded in Saudi Arabia in 2002. In Iran, two teenagers were executed in July 2005 and a third, sentenced in 2010, was only spared after an international protest. Homosexuality may be legal in Iraq, but Islamist militias have killed several hundred suspected homosexuals since 2004 (2). Other religions are equally guilty. Evangelical Christian preachers in Uganda are furious that the law is so “indulgent” as to merely sentence homosexuals to life in prison: they lobby for the death penalty.

In such climates, homosexuals are condemned to a clandestine life, sometimes suppressed or denounced by their own families, who fear

disgrace. Organising locally is dangerous: activists risk insults and violence, or even assassination (3). Solidarity networks formed over the internet are fragile, since denouncing homosexuality is often seen as a way of defying “western” values. This was the excuse the government of Cameroon used in 2011 to criticise EU funding for programmes supporting the rights of sexual minorities. In Uganda, several international NGOs were recently accused of recruiting young homosexuals, and were banned from the country.

Groups with a “despised sexuality” (4) also face discrimination in healthcare. Data on HIV infection reveal how vulnerable this group is. According to the World Health Organisation, in Latin America and the Caribbean, HIV is 5-20% more prevalent among men who have sex with men (MSM) (5) than among the general population. The WHO says stigma and discrimination linked to homophobia feed the epidemic (6). Globally, most MSM are outside the reach of Aids prevention programmes (7). Faced with stigma, violence or legal penalties, they often choose not to seek medical help, rather than risk revealing their sexuality to their family, their community or the authorities. This is why it is so difficult to get accurate data on the epidemic among MSM in many West African countries. In countries such as Russia, denial of the epidemic by the authorities means the figures can only be estimated, which undermines prevention and treatment programmes.

The line between the ‘progressiveness’ of the West and the ‘obscurantism’ of other countries becomes blurred when western countries refuse or restrict asylum applications from people persecuted for their sexuality elsewhere

Even when members of the LGBT community do have access to health care, they often face ignorance and prejudice from the medical profession. A doctor might not refer a patient for an HIV test because “he doesn’t look gay” or is married. Some dentists will try to put off HIV positive patients by making them wait, or by taking ostentatious safety precautions. Lesbians do not escape unequal treatment: very few go for gynaecological examinations, because they have experienced discrimination or they anticipate it, and this has a direct impact on the treatment of sexually transmitted diseases such as human papilloma virus (HPV) and some cancers. Transidentity is still considered a mental illness, and is referred to as such in internationally recognised textbooks such as the *Diagnostic and Statistical Manual of Mental Disorders*.

The emergence of the “gay men’s health” (or “LGBT health”) movement in the US in the 1990s revived a critical attitude to medical care. Although the movement was mostly male, white, urban and affluent, it linked with a history of collective action. Post-1968 gay and lesbian movements had begun a new form of struggle, based on making the personal political, and questioning the established left. Gay liberation movements started in the US and then sprang up all over Europe, including the Gay Liberation Front in the UK and the Front Homosexuel d’Action Révolutionnaire in France (8). Through the 1980s, like other social movements, they gradually transformed and became institutionalised. In France the movement blossomed after the Socialists came to power in 1981 and equalised the age of consent for homosexual relations. Elsewhere, conservative governments passed anti-gay measures. In

the UK, Section 28 of the Local Government Act passed in 1988 banned the “promotion” of homosexuality by local authorities. Ronald Reagan’s presidency in the US (1981-89) was marked by policies particularly detrimental to the fight against Aids.

Everywhere the tone of the protest shifted from questioning norms to demanding reforms and rights. HIV/Aids had a huge impact on the gay rights struggle, and the fight against the epidemic became the focal point, with organisations such as the Terrence Higgins Trust in the UK (1982), Gay Men Health Crisis in the US (1982), and Aides in France (1984).

The creation of Act Up in New York in 1987, and in Paris in 1989, symbolised the anger of gay Aids sufferers. Homosexual militancy evolved, with growth in the numbers of associations fighting discrimination or providing social opportunities, such as sports clubs (the European Gay and Lesbian Sport Federation) and professional organisations (the Syndicat National des Entreprises Gaiés), community centres and student organisations. Being gay and lesbian became less about sexual oppression and more about identity.

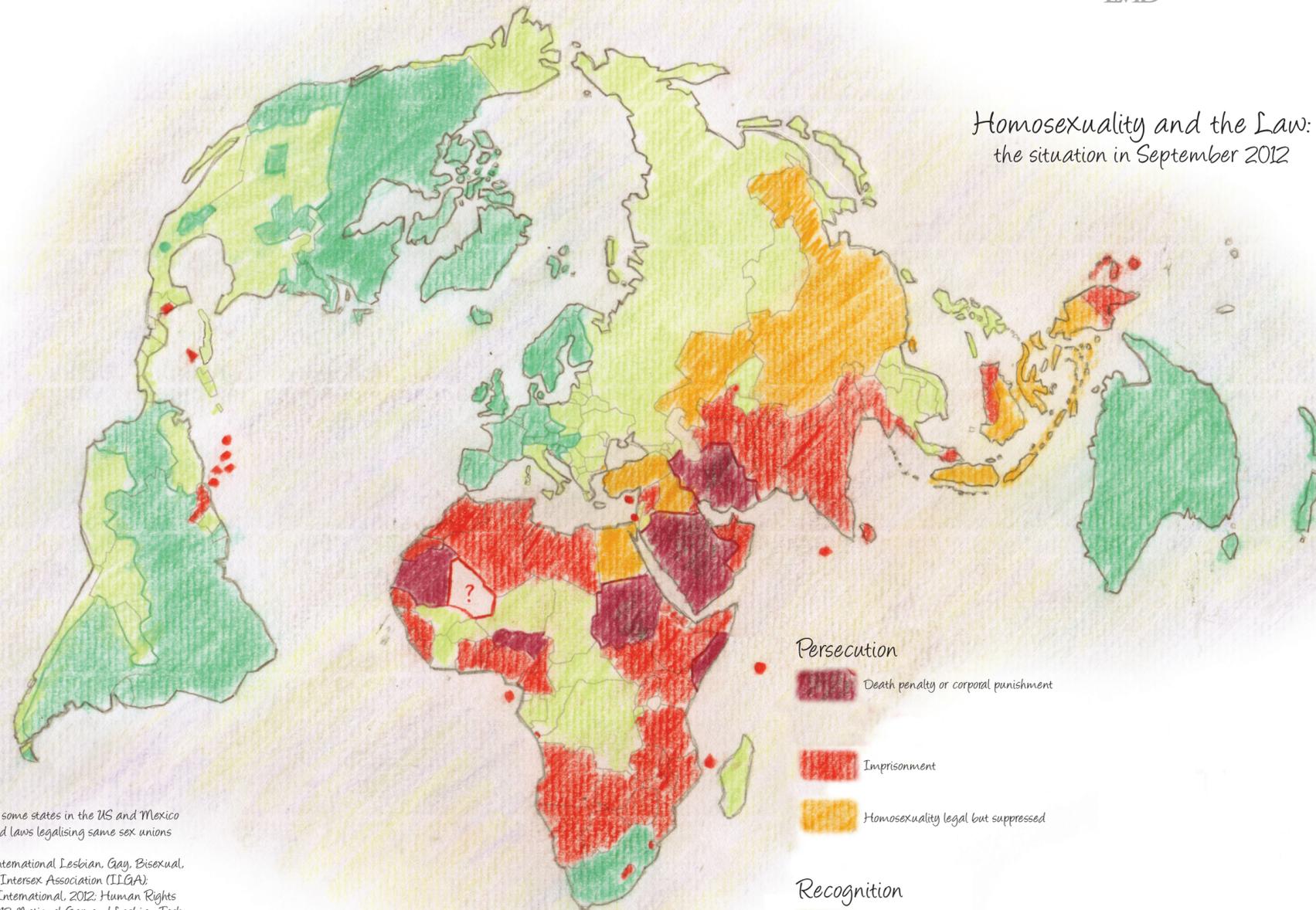
The internationalisation of the struggle is the significant development in the contemporary movement. There have of course been contacts between gay rights campaigners since the 1970s: the Stonewall riots in New York in June 1969 were heard about globally, and annual Gay Pride marches around the world commemorate them. But over the last decade there has been major mobilisation to support victims of homophobia, helping to create liberation movements in repressive countries. This solidarity has had notable successes against state homophobia; in Senegal in 2009 international pressure forced the release of Aids activists. These campaigns have publicised repression, such as the violence against Gay Pride marches in Belgrade and Moscow, and exposed a homophobic law in Ukraine. They have also created support networks for people who are forced to flee and request asylum.

The fight against homophobia has also been used as a political tool, as in the recent controversy over “homonationalism” (9). The word was coined as a critical term in the 2000s to describe the tendency among fringes of the LGBT movement in the north to label immigrants, particularly Muslims, as a threat to its way of life. It enlists legitimate concerns about the persecution by some governments, and the homophobia of some reactionary sections of Islam. Pim Fortuyn, the Dutch far-right politician and open homosexual who was assassinated in 2002, took it to an extreme. But the line between the “progressiveness” of the West and the “obscurantism” of other countries becomes blurred when western countries refuse or restrict asylum applications from people persecuted for their sexuality elsewhere.

The globalisation of concern is symbolised by the adoption of an international resolution in Yogyakarta, Indonesia, in 2007 (10). Drafted by experts in human rights, this declaration aims to mobilise international institutions to end discrimination based on sexual orientation and gender identity. Fifty-four countries lent their support when it went before the UN on 26 March 2007.

Moves are under way to make it possible for the UN to adopt a resolution on human rights, sexual orientation and gender identity. But the protest movement is fragmented. Human rights groups such as the International Lesbian, Gay, Bisexual, Trans and Intersex Association lobby governments and institutions. They are trying to develop solidarity campaigns but, as they see it, the demand for rights is connected to the recognition of identity, which largely ignores the issues of class, gender and race fracturing the LGBT communities.

TRANSLATED BY STEPHANIE IRVINE



Note: Only some states in the US and Mexico have passed laws legalising same sex unions

Sources: International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGAT); Amnesty International, 2012; Human Rights Watch, 2012; National Gay and Lesbian Task Force, 2012

- (1) The authors prefer the term “trans” to “transsexual” or “transgender” because it encompasses all types of gender change and is the term used by most organisations working in this field.
- (2) See the International Lesbian, Gay, Bisexual, Trans and Intersex Association’s country-by-country survey.
- (3) Such as David Kato, killed in Uganda in 2011 after a local newspaper published his name and photograph (along with those of 99 other homosexuals) under the headline “Hang them!” or Quetzalcoatl Leija Herrera, beaten to death the same year in Mexico for having given information about 16 homophobic crimes committed in 2009 to the Guerrero state prosecutor.
- (4) See the writings of Nancy Fraser, such as *The Radical Imagination: Between Redistribution and Recognition*, 2003.
- (5) The term MSM, which refers to sexual practice, includes men who do not necessarily consider themselves to be homosexual.
- (6) “Towards universal access: scaling up priority HIV/Aids interventions in the health sector”, World Health Organisation, Geneva, 2009.
- (7) “Report on the global AIDS epidemic: Executive Summary”, UNAIDS, Geneva, 2006.
- (8) See Karla Jay and Allen Young (eds), *Out of the Closets: Voices of Gay Liberation*, New York University Press, 1992.
- (9) See Jasbir K. Puar, *Terrist Assemblages: Homonationalism in Queer Times*, Duke University Press, North Carolina, 2007.
- (10) www.yogyakartaprinciples.org

Homosexuality and the Law:  
the situation in September 2012

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## The loudest voices

The identity of the lesbian, gay, bisexual and trans (LGBT) community has largely been formed by western culture and the western markets. Films, magazines, internet sites and tourism all spread norms of sexuality and identity. But in some parts of the world expressions of gender and sexual orientation are more diverse and fluid: for the *hijra* in India, who see themselves as neither male nor female, being homosexual or heterosexual is irrelevant. Coming out, regarded in the West as essential, is hard in a repressed societies, where different strategies for emancipation and resistance need to be worked out. “Queer” theories over the last 20 years have developed the argument that gender and sexuality are not “natural” (1) but socially constructed, diverse and fluid. This intellectual current is associated with the emergence of radical political movements

such as Queer Nation in the US, Queers for BDS (boycotting Israeli products) or the French Canadian gay movement Les Panthères Roses, who describe themselves as “transfagdykes” (*transpédégouines*). Like the militants of the 1970s, these activists want to combine feminist, antiracist, and anticapitalist struggles. They challenge the institutionalisation and commodification of gay and lesbian identity.

The main strategic questions today concern ways of organising. In the northern hemisphere in the 1970s, militant lesbians formed separate structures in reaction to the misogyny they encountered in groups formed with gay men. Linked to feminism, these structures were one of the main political characteristics of the lesbian movement, although there were strategic alliances with mixed-gender organisations. In the 1990s, trans people felt the need

to set up separate groups. Ultimately, the issue is whether LGBT groups, dominated by gay men, can be as universal, as they claim to be. Gay men continue to dominate the public arena, contributing to the invisibility of other struggles.

The importance given to the struggle for rights overshadows another fundamental dimension of emancipation: economic equality. Gays, lesbians and trans often do not have the support of their families, and are vulnerable to cuts in public services and welfare provision. Over the last years the experience of these groups has varied enormously. In the South, the financial crisis has made them even more economically dependent on traditional support networks, hampering individual or collective attempts at emancipation.

In the North, for an urban and affluent minority, being homosexual no longer means significant discrimination.

For women, trans, the young and the poor, it is still hard to access the resources offered by the gay and lesbian commercial world; asserting your identity is hindered by lack of job security and economic dependence on your family. Interests no longer converge solely within the traditional gay movement: in many countries “pink blocs” highlight sexual orientation issues during protests against cuts, racism or imperialism, emphasising how closely connected these struggles are. This convergence also takes place within trade union committees or collectives like Queers Against the Cuts in the UK.

Winning legal victories and transforming the social order are not mutually exclusive goals. The issue is the ability of these movements to define inclusive identity policies and form alliances with other social organisations. Although the recent debate

about homonationalism has been confined to a small circle, it could open up new strategic and political perspectives. We could see a historic and healthy challenge to the hegemony of gay white men from the North over the homosexual movement. Other groups asserting themselves usefully call into question the limits of what L, G, B and T people have in common, so coalitions can be redefined. The danger is fragmentation or separatism, which would make forming alliances more difficult. Campaigns in the South that combine the struggle against oppression, the fight for rights and the desire to transform an unequal system are perhaps the crucible for the political strategies of the future.

G G AND D R C

(1) See Judith Butler, *Gender Trouble: Feminism and the Subversion of Identity*, Routledge, New York and London, 1990.