

GLOBALISATION OF RAINBOW ACTIVISM TOWARDS THE HUMAN RIGHTS DIRECTION OF THE LGBTQ COMMUNITY

Abstract

Rainbow activism is a human rights movement of the LGBTQ community against discrimination and socio-sexual inequality. It is a global socio-political and socio-legal movement aimed at achieving equal opportunities, equal rights, equal benefits, human dignity, and the freedom of choice. The rainbow is the symbol of sexual and gender equality and the symbol of unity. Over the last three decades, global activist and advocating networks centred on the geopolitics of lesbian, gay, bisexual, transgender and Queer (LGBTQ) rights have proliferated. On the one hand, there has been a globalisation of human rights, with human rights becoming a key criterion for measuring nations' "progress." On the other hand, same-sex sexualities as identities have been globalised. Sexual orientation and gender identity are finally getting recognition and depiction in global forums recently. The historical examination of the LGBTQ movement in comparison to the civil rights struggle and local case studies provides new context and significance to the trajectories of misplaced possibilities. In terms of advancing toward greater recognition of LGBTQ rights worldwide, these movements have the potential to clash rather than complement one another. Opposition to cosmopolitan claims to LGBTQ rights is frequently rooted in communitarian claims based on the language of a people's right to self-determination. However, the paper argues primarily through content analysis that, the discourse of equality under the law can and has been successfully used by local LGBTQ rights activists. This has been achieved through several strategies, including

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the recognition of multiple and intersecting identities; the development of a discourse in which global legal standards become part of the "essence of a people," and the re-creation of an authentic past within the context of a national community. As a result, LGBTQ rights activists can now move seamlessly between local and global discourses. Finally, the paper concludes that LGBTQ rights struggles are most effective when they fight not only for the protection of rights for individuals based on the universal declaration of human rights but also for incorporation at the level of community through socio-political discussion within the larger society.

Keywords: LGBTQ; Activism; Movement; Legal; Human Rights; Judiciary.

I. INTRODUCTION

The LGBTQ rights movement is popularly known as "Rainbow activism", which is a human rights movement that fights discrimination and socio-sexual inequality. It is a global socio-political and socio-legal movement aiming for equal opportunities, equal rights, equal benefits, and the freedom to choose their partners. A rainbow is a symbol of gender and sexual equality as well as unity [1]. The worldwide politics of lesbian, gay, bisexual, transgender and queer (LGBTQ) rights has seen the development of transnational activist and support networks during the past three decades. Although sexuality has long been the subject of "fierce ethical and moral debate". sexual politics has only recently begun to take centre stage on political agendas on both a domestic and international scale. LGBTQ rights have been able to enter the "mainstream" largely due to the acceptance of the framework of human rights as the major vehicle for political demands [2]. This represents a major change in the political interests of social movements involved in LGBTQ politics. A noteworthy acceleration and intensification of international struggles by LGBTQ movements can be said to have led to the creation and approval of the Declaration of Montreal (International Conference on LGBT Human Rights, 2006) and the Yogyakarta Principals of the Application of International Human Rights Law in Relation to Gender Identity and Sexual Orientation [3, 4]. Human Rights, Sexual Orientation as well as Gender Identity, which was most recently adopted by the United Nations Human Rights Council (UNHRC), expressed "grave concern at acts of violence and discrimination, in all regions of the world, committed against individuals because of their sexual orientation and gender identity" [5].

In many countries around the world, the lesbian, gay, bisexual, and transgender (LGBT) movement has achieved substantial gains in terms of statutory civil rights and LGBTQ security and social policies. The LGBTQ movement, which got its start in the 1960s in the hazy wake of the feminist and civil rights movements, was unique from the earlier homophile movement since it started to nurture goals for identity politics and queer lifestyle options. It was led by the New Left. Before the lesbian (L) and gay (G) components of "LGB" were consolidated, they were separate movements battling for different rights. However, several historical events, including the HIV and AIDS epidemic and the opening of courts to legal disputes, resulted in a dramatic shift [6]. First, the term "LGBTQ" was used to refer to both the LGBTQ communities and other groups with sexual orientations and gender identities. Second, in what some scholars refer to as establishing assimilationism or homonormativity, utilising the law as a tool to assert equal rights and non-discrimination supplanted the queerer possibilities of challenging heteronormativity [7]. This paper explores potential present scenarios as well as future directions that the LGBTQ movement can take by recovering forgotten portions of its history. The new direction has the potential to advance the cause and revitalise conversations about various identities and related struggles. The LGBTQ movement's legal strategy and the counter-mobilisation forces that emerged in its wake are also addressed in this paper.

II. THE GLOBALISATION OF THE LGBTQ MOVEMENT

In recent years, there has been a connection between sexuality claims and the legal and intellectual interpretations of human rights. Human rights are becoming, as Peter Fitzpatrick (2001) said, the "pervasive standards" by which states approach a worldwide

norm of civilisation, progress, and modernity [8]. As a result, we have seen the globalisation of human rights [9]. Although human rights discourse apparently must originate from a specific location, rights transcend the specific and become the benchmark and standard of a universal civil society, including all "humans" (a historically contested concept). However, there has been another development in globalisation: the universalism of same-sex sexual orientation as a culture. Numerous instances show how the Anglo-American "Stonewall" model of sexuality, identity, and independence has been exported [10]. Despite this globalisation trend, activists in many non-Western nations switch between the Stonewall model's harsh reading of sexuality and a regional, historically and culturally specific reading of sexuality. The universalising vocabulary of human rights, however, conveniently suits the globalising process of sexual identity that appears to be taking place (most visibly in metropolitan places around the world), as LGBTQ people come to appropriate a sexual identity. International human rights experts and human rights law have also contributed to the merging of rainbow activism as a globalised movement. They have helped activists around the world by bringing attention to breaches of inherent dignity that have occurred [11].

Returning to the core issue with human rights as political claims—the conflict between the discourse's constitutively universalising nature (despite being inherently socially constructed and historically relevant reality) and the veracity of assertions regarding cultural diversity and community specificity—the EU's self-image as a civilising non-rights respecting "others"—is what has people thinking about this issue right now. Additionally, the vocabulary of rights can also be used to describe these assertions of difference, underscoring the political ambiguity of the rhetoric surrounding rights in general. This can be seen with the "rights of member states" in the face of EU law, and terminology like "margin of appreciation" and "subsidiarity" emphasise the concern for the right of national identities to be unique [12].

In a variety of diverse cultural situations, the particularised right of the nation frequently demonstrates a highly imaginative use of the language of rights. By defining its "self" and its (homogenised and essentialised) people as victims of the demands of a privileged class undeserving of "special rights," the homophobic state can be seen in these narratives as the source of an anti- LGBTQ rights rhetoric. The specific and distinctive contribution of heterosexuals (and their procreation) to the common good is the foundation of rights. The advancement of the collective good is situated in the heterosexist private domain of the nuclear family, where rights and obligations are connected. These narratives rely on the defence of a people's right to a traditional lifestyle against a wide range of privileged sources that are selectively invoked regarding the political sense: urban elites, liberals, white political correctness, individualism, the West, neo-colonial powers, and wealthy gay or bisexual men. The people in these stories are from heterosexual families [13]. The right to defend a persecuted, geographically based community against powerful forces attempting to sweep away the ways of life and belief systems held by a people who simply want to be left alone and have lives free of LGBTQ rights is the foundation of anti-gay speech in many countries (and, for that matter, modernity). This crucial fact is clearly illustrated by the struggles over sexual orientation rights. In addition to challenging the anti- LGBTQ collectivist discourse, human rights claims made by populations of difference also call into question the global claims made on behalf of a universalising discourse on sexuality rights. Even if the right discourse is the result of transnational consumerist culture and has become "the fate of

postmodernity," it is still accessible to all consumers and its use is only limited by the imaginations of the claim-makers [14].

III. RIGHTS-BASED APPROACHES WORLDWIDE

Our understanding of same-sex sexuality and the social acceptance of it are social constructs [15]. The numerous connotations and interpretations that were linked to homosexuality in premodern society serve as an excellent illustration of this issue. Greenberg (1988) describes some of the many different cultural understandings of homosexuality that existed in tribal, kinship-based communities and ancient civilizations, drawing on anthropological and historical sources. For instance, ritualised sodomy was a common practice in several tribes throughout the world during male initiation rites. For example, when young boys were assigned to an older man for manhood training in some Pacific Island tribes, this involved having a sexual relationship. He emphasises that same-sex relationships never in this history came to imply what we understand them to mean now, which is that they are a component of a larger homosexual identity. In Western nations, it is believed that the modern conception of homosexuality as encompassing not only sexual behaviour but also a person's identity (as a lesbian, gay, bisexual, queer, etc.) began to develop in the late nineteenth and early twentieth centuries. This development was largely a result of a clinical understanding of homosexual behaviour as a "disorder" [16].

A new global cultural acceptance of LGBTQ has emerged remarkably, as evidenced by

1. The recent changes to legal systems;
2. The rise and growth of lesbian, gay, bisexual, transgender and queer (LGBTQ) movement organisations around the world; and
3. The shifting opinions of international expert communities, even though the issue is still contentious.

Although LGBTQ rights have been institutionalised across the globe, there has nonetheless been significant pushback. The Muslim World, sub-Saharan Africa, and the former Soviet and Eastern bloc countries have seen some of the sharpest opposition to the new LGBTQ rights standards at the level of elite cultural discourse [17]. Indeed, LGBTQ people frequently experience prejudice, abuse, torture, and state-sponsored execution in various nations. Many countries have laws that sanction the punishment of those who violate human rights. Most nations do not consider atrocities committed against LGBTQ people to be violations of human rights. Some nations, like Saudi Arabia and Iran, have laws that mandate the death penalty for "practising homosexuality." At least 40 nations have laws against same-sex conduct for both men and women, and another 35 or more do the same for men only. In this regard, Uzbekistan, Pakistan, Nigeria, and Saudi Arabia have recently made headlines. Both civil law and *shari'a* (the laws defining how Islam is to be practised) forbid same-sex conduct in many Muslim-majority nations. Police misconduct against LGBTQ individuals is widespread and frequent everywhere. Nepal, Guatemala, Ecuador, Honduras, Colombia, Peru, India, Taiwan, Cameroon, Uganda, and Zimbabwe are countries with major abuse incidents. Segregation in housing and work is tolerated and legalised in many nations. LGBTQ spouses do not receive the same benefits under laws that grant citizens privileges, especially those in the many states of the USA. Examples include taxation and social security

survivor benefits, which the federal government grants to opposite-sex marriages but not same-sex couples. Likewise, legal protections are lacking. Many countries, do not forbid discrimination based on sexual orientation. Even they don't have "hate crime" legislation that lists sexual orientation as one of the protected classes. Even less protection exists for transsexual identity [18, 19, 20, and 21].

Legal marriage provides couples with a host of additional advantages and safeguards. So far, only a small number of governments (so far, Canada, Belgium, the Netherlands, Spain, etc.) have recognised the rights of LGBTQ people to be married and start families. Recently, India recognised consensual same-sex rights. But the government opposed their marriage. In Brazil, where both state and federal laws forbid discrimination based on sexual orientation, same-sex couples are given inheritance rights. The benefits for same-sex couples are not as great as those for heterosexual couples in several European nations, including Israel, New Zealand, Portugal, Slovenia, Croatia, Iceland, Denmark, Sweden, Norway, and the UK. Regarding the investigation of the political implications of social activity, the instance of LGBTQ rights provides us with a singular opportunity to consider how pre-existing views on human rights can affect the effectiveness of advocacy networks. It is observed that LGBTQ rights organisations work to stop laws prohibiting same-sex intercourse; this is in line with how we perceive the promotion of rights in general [22, 23].

IV. LAW AND RAINBOW ACTIVISM OF THE LGBTQ COMMUNITY

Assimilationism, which placed emphasis on mainstreaming LGBTQ rights through claims of equality and non-discrimination, and radicalism, which imagined various types of non-heterosexual lifestyles while queering and diversifying the normative ideals of sexual orientation and gender identity, are the two strands that emerge from historical analysis of the LGBTQ movement in the second half of the 20th century [24]. Assimilationists used litigation primarily to advance their goals of gaining rights through identity politics. Radicals continued to employ the "culture as politics" method, embracing various standards of sexual orientation and gender identity and employing them as tools of resistance [25]. The varied manifestations of the LGBTQ movement encountered four different sorts of counter-mobilisation forces:

- Religious right groups,
- Nationalist groups,
- Propaganda laws, and
- Postcolonial homophobia.

As a result, non-heterosexual populations experienced varying degrees of cultural marginalisation. The historical development of the LGBTQ movement is examined through its assimilationist legal strategy and the following backlash that resulted from counter-mobilisation. The LGBTQ movement's assimilationist sub-groups emphasised the use of the legal system as a tool for social change and litigation as its primary approach. As a result, under the equality and non-discrimination principles, human rights law and comparative jurisprudence were used to assert LGBTQ rights. These rights include the right to equal marriage and the freedom from workplace discrimination. Due to the employment of law, political disputes over a variety of rights had to be reduced to disputes over a single subject, with the state serving as the primary opponent [26]. Furthermore, because equal rights with others became its prerogative, litigation limited the scope of alteration of the current

normative frameworks. According to cross-country analyses of LGBTQ movements, there was improved camaraderie among various factions within the group and ties with the general public wherever there was LGBTQ activism.

1. The goals of the LGBTQ movements have varied depending on how accepting the local political climate has been, from social acceptance of queer lifestyles,
2. Negotiating for equality and non-discrimination laws,
3. Campaigning alongside other organisations.

Depending on the political environment, a paradigm of LGBTQ politics has developed. A type of "morality politics" develops in an atmosphere where the general public has a negative view of LGBTQ interest organisations, using aggressive protest and public demonstrations as their organisational method, with little room for institutional change. In terms of using the law as a tool to advance LGBTQ rights, there have primarily been two strands.

1. The first is to engage with transnational actors and the global human rights discourse when the local movement is in its infancy or dispersed. When the neighbourhood movement is sufficiently organised to pursue legal action,
2. The second option is to use constitutionalism and judicial interpretation [27].

V. LGBTQ MOVEMENT AND LEGITIMACY OF HUMAN RIGHTS

The basis for asserting LGBTQ rights as minority rights of people is the constitution of contemporary subjects with qualities like reflexivity, self-control, and social and political participation as a result of adopting citizenship. In many situations, homophobic violence is mediated as hate crimes, a kind of misogynistic violence, or active discrimination of minority groups to broaden the legal reach of already-existing LGBTQ-related laws. The way Brazilian LGBTQ activists have lobbied the Brazilian Supreme Court to provide rights traditionally reserved for heterosexual couples is one illustration of this strategy. The demands of the LGBTQ movement include the opportunity to adopt children, access to health insurance, legal acknowledgement of affective relationships, and identity change in papers [28]. India is one country where the conflicts between the homosexual and transgender communities and the larger LGBTQ community have taken different paths. Before 2018, advocates for same-sex rights used the legal system to have Section IPC 377 of the colonial penal code, which criminalised "unnatural penetrative sex," or same-sex acts, readmitted [29, 30]. The legal system separated these "acts" of unnatural sexual behaviour from the actors' identities. The Supreme Court's ruling reversed this legal interpretation by introducing constitutional morality principles and interpreting sexual orientation as a question of "right to privacy," equality, dignity, and non-discrimination. Transgender-related identities and perspectives have approached their battle for rights through social exclusion, such as exclusion from family, the healthcare system, employment, and political participation, whereas the same-sex movement primarily used courtrooms and gender-variant male communities, who have been a part of the Indian cultural milieu [31]. Recent studies have highlighted the tremendous stigma transwomen suffer, which negatively impacts their health and social involvement even though these groups are traditionally given distinct duties [32]. Additionally, traditional transgender people are disciplined with ideas of "socially acceptable

behaviour" and stigmatised within the LGBTQ community as part of the assimilationist approach of the lesbian and gay sub-communities through Rainbow Pride Walks [30].

However, the LGBTQ rights movement has seen counter-mobilisation that refutes their arguments using various narratives [24]. The first story is one of cultural nationalism, which rejects non-heterosexuality as outside the ambit of national culture and, hence, as not being a citizen. The second story is about postcolonial homophobia, which manifests as political homophobia and misinformation. Problems arise with the rigid division between secular and religious practises when vestiges of the previous order persist in the present. For instance, Chowaniec (2021) looks at historical anti-homosexual discourses in Poland to highlight the struggle for authority and ideology between the state and the church. The secular discourse used the language of medicine and law in anti-homosexual discourses, whereas the religious discourse used homosexual activity to denote queer practices beyond homosexuality and assigned punishments using the "penitentiary list" [33]. Similar to this, Poland's "secular" labour code included a morality clause that identified a potential employee's "excellent character" in light of their traditional and religious beliefs as one of the criteria for being employable [34]. Therefore, in reality, both active cultural nationalism and the historical legacies of crime and punishment have served as anti-LGBTQ forces.

VI. THE LONG BATTLE AGAINST SOCIO-POLITICAL HOMOPHOBIA

As a reaction to failing masculinist nationalist discourses, political homophobia is a method of antagonism towards both homosexual people and political opponents by transferring the feature of undesirability to both of them [35]. Scholars have, for instance, attributed the rhetoric of political homophobia in Namibia and Zimbabwe to the failure of democratisation efforts [36]. LGBTQ activists' political entrepreneurship has also created opportunities for institutions to change through issue linking, lobbying benevolent elites, and fostering a stronger resonance of the human rights framework, giving institutions access to agenda setting [37]. However, the assimilationist strategy has steadfastly refrained from its more radical alternative, which can question institutions like family and daily life. Public displays of transgressive sexuality, in particular, can be a creative disorder that critiques citizenship and neoliberal politics by queering urban environments, living spaces, and other capitalist economic manifestations [34].

One of the results of the legalist strategy has been the narrowing of the LGBTQ agenda from prioritising equality (conforming to normative values) to freedom (queering lifestyles). Counter-mobilisation restricts the movement's choice of issue and setting, opening up new windows of opportunity unrelated to the initial goal. The LGBTQ movement has received three standard responses from counter-mobilisation thus far [38].

1. The first type of opposition is "instrumental," based on morality politics that subverts conventional values to advance political goals.
2. The second strategy is "reactive" resistance, which aims to undermine any political, social, or cultural advances made by the LGBTQ community. Voter initiatives have historically been preferred by the reactionary opposition to judicial or legislative measures [39].

3. The third method is "proactive" resistance, which involves counter-mobilisation efforts to pass legislation, cut funding for pro-LGBTQ policies, and forbid state support for the LGBTQ community.

However, a grassroots effort to revive the LGBTQ movement today may be successful because it offers a chance to interact with the public using symbols and rhetoric that courtroom battles rarely do. It is possible to understand the institutional mechanism by which essentialist identities and marginalising political strategies became prevalent in the LGBTQ movement through the institutional and structural elements that restrict the movement's subcultures' ability to further their interests [26]. Additionally, such an understanding places systems (as opposed to people) at the core of intersectionality. The critical race theories that have provided a cohesive theoretical analysis to explain institutional racism are a historical analogue of the civil rights movement. Therefore, it is necessary to incorporate LGBTQ concerns within a significant macro-institutional framework.

The LGBTQ movement's other strategies have been replaced by litigation, pushing aside the more extreme alternatives. Litigation-related problems become the standard movement agenda, preventing more comprehensive social change initiatives. On the other hand, the LGBTQ movement, which advocates sexual emancipation by opposing patriarchal family structures, has suggested that welfare reforms and redistribution can benefit queer working families [40]. Such a broad-based purpose is overshadowed by the litigation's narrow presentation of the issues. It is observed that during the 1970s, litigation received more media coverage than social protests [26]. The "dramatisation effect" that litigation delivers are contrasted with the rising intensity of demonstrations and the presence of numerous, frequently unrelated concerns at stake in a social movement. More than violent protests, a single disruptive occurrence that becomes the focus of attention and the combative personal drama of the litigants fits the media's needs. Formal law is more likely to act first in cases involving the most disadvantaged groups than other legal institutions are [6]. Constitutional litigation is the most promising path to establishing claims for those interest groups whose interests are not effectively protected by electoral representation [41]. The employment of legal categories could unintentionally consolidate them into essentialist identities rather than behavioural patterns, reifying the existing hierarchy of dichotomies (homo/hetero; female/male), sparking "sexual imperialism" [30]. The only way to reframe the human rights debate to include intersectional voices is through politics, so that is where we can turn next.

VII. CONCLUSION

Judicial decisions have sparked counter-mobilisation through political homophobia and radical cultural nationalism, both of which aim to undermine the rights and legitimacy obtained through assimilation. Therefore, it is necessary to prevent the forces of counter-mobilisation from establishing the agenda and condensing the diverse spectrum of claims into isolated conflicts. The establishment of alliances with other civil rights organisations, such as labour unions and feminist groups, would aid in enlarging the priorities at the intersecting points. It is crucial to reframe the problem using institutional frameworks from the legal and medical systems. The incorporation of the LGBTQ community within its fold is articulated in the contemporary human rights discourse using the legal framework already in place.

Although this method has some advantages, new frameworks may be needed if intersectionality is to be expressed in legal language. Contrary to the case with corporal integrity rights, for example, the results of lobbying efforts cannot be evaluated as a reasonably uniform power for legislative change in the context of sexual minorities' rights. Instead, various factions and individuals within civil society may drive in opposite directions on the same legislative subject, particularly when it comes to what is frequently a moral issue of the first order, due to variations in pre-existing sentiments about the rights in question. As is already indicated, there are still disagreements over this moral issue at the national and international levels, so it has not yet become a universal norm. The acts of those opposing forces inside civil society may eventually result in policy outcomes that are in conflict. However, the activism is successful in the context of LGBTQ rights, even concerning the narrow issue of decriminalising sodomy. To satisfy domestic and international advocacy, states appear to advance with strategic concessions.

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