

Queering Canadian Development Policy

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Issue

Canada should mirror its domestic progress on support and inclusion based on sexual orientation, gender identity and expression, and sex characteristics (SOGIESC) in its international assistance policy, to combat the marginalization of LGBTQ2I+ individuals globally, and look for opportunities to lead the advancement of human rights, protection and inclusion of LGBTQ2I+ individuals and communities internationally.

Background

A World Hostile to LGBTQ2I+ Rights

Homophobia and transphobia are pervasive throughout much of the Global South, especially in parts of Africa, the Middle East and Asia. This discrimination is seen both socially and legally across the world, with a significant number of restrictive anti-LGBTQ2I+ laws existing in the Global South. As a result, multiple states within the Global South remain some of the most dangerous areas for LGBTQ2I+ individuals to reside. Currently, there are 124 countries with no legal penalties for consenting adults engaging in same-sex sexual activities, but 71 countries that criminalize consensual same-sex sexual activities, and 11 countries where it is punishable by death (Human Dignity Trust 2022).

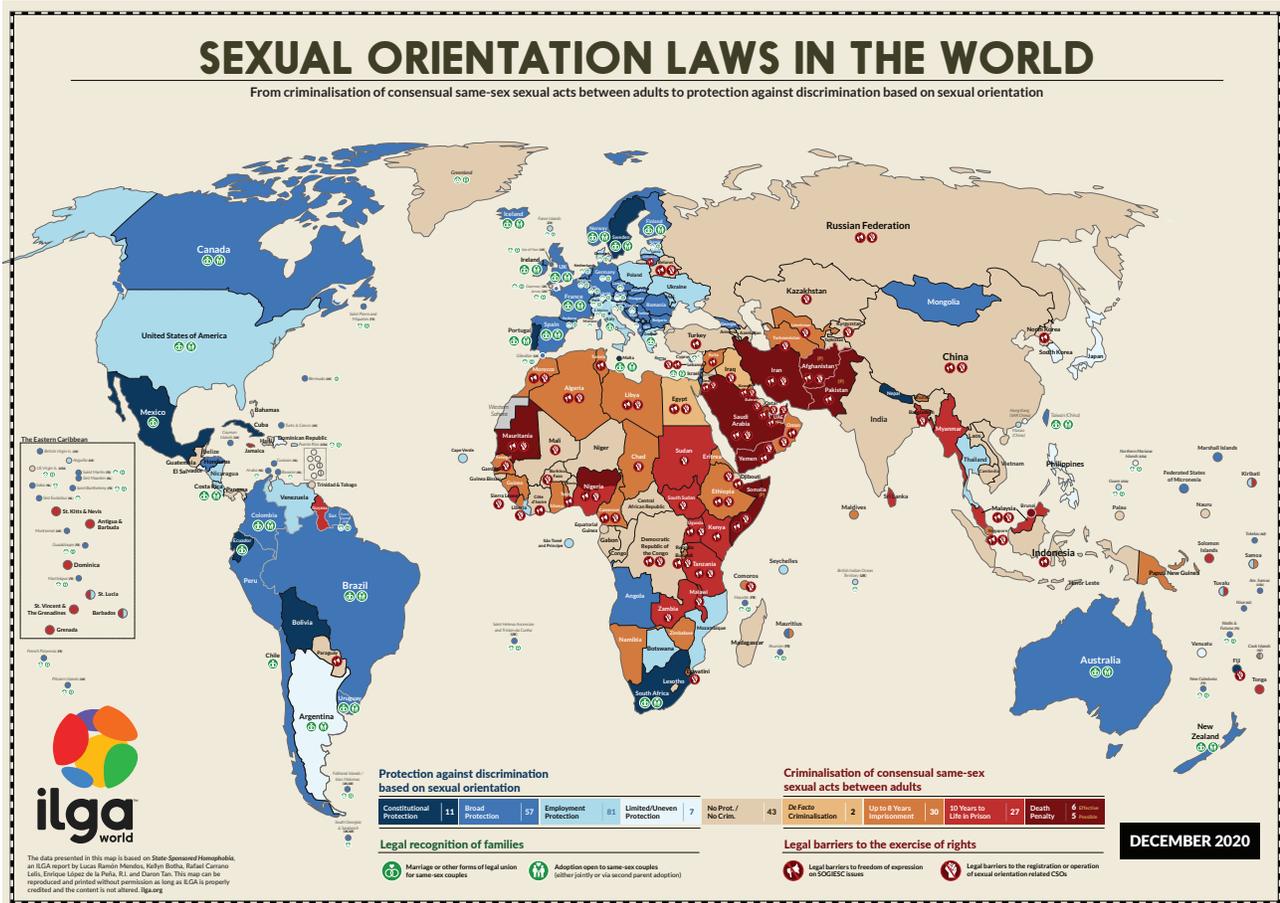
The International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) world map [Figure 1] outlines sexual orientation laws across the globe. The map represents these laws on a scale from criminalization of consensual same-sex sexual acts between adults (indicated

by the red hues) to protection against discrimination based on sexual orientation (indicated by the blue hues). This map provides a visual representation of the divide between states in the Global North and Global South with regard to LGBTQ2I+ rights and criminalization.

LGBTQ2I+ discrimination in the Global South, particularly countries on the Asian and African continents, dates back to their colonization by European powers. For example, in the mid-1800s, British colonizers created several criminal codes to be used around the world. Section 377 of the British colonial penal code criminalized all sexual acts “against the order of nature” (Human Rights Watch 2021). Currently, seven countries still uphold Section 377 within their penal code: Bangladesh, Jamaica, Malaysia, Myanmar, Pakistan, Singapore, and Sri Lanka. Canada must work with these states to repeal Section 377 to ensure the safety of LGBTQ2I+ individuals within these hostile environments.

Discrimination against LGBTQ2I+ people does not occur solely in the Global South, but rather takes a different form in the Global North, with different discriminatory laws and practices. As a former colony and a current Western power, Canada is in the unique position to provide aid to states with restrictive LGBTQ2I+ laws in the Global South (Moreau 2017). Canada invests in multiple programs within the Global South that support LGBTQ2I+ populations. These programs highlight the Global North’s influence on the Global South’s domestic policies, which serves as a controversial point due to the history of colonialism impacting LGBTQ2I+ discrimination.

Figure 1: Current Sexual Orientation Laws in the World, 2020



Data source: ILGA 2020

The Plight of Isolation: The Effects of COVID-19 on LGBTQ2I+ Communities

The COVID-19 pandemic has exacerbated the violence, social disparities, criminalization, demonization, and pathologization that LGBTQ2I+ people already face (Madrigal-Borloz 2020). Lockdowns have increased the risk of violence for LGBTQ2I+ people, forcing them to stay in close proximity to disrespectful and potentially violent family members (ibid.). LGBTQ2I+ individuals who live alone are more prone to isolation and lack of support, as they are less likely to reach out for institutional support for fear of discrimination or harassment. Likewise, complicated family dynamics, including family rejection, limited access to assisted reproductive technologies and discrimination in adoption processes, result in a lack of

younger generations to support aging LGBTQ2I+ people (ibid.). The lack of social and institutional recognition of different family formations impacts the ability of a chosen family to offer the same support as a biological family, leaving many LGBTQ2I+ people without the support from their biological family that their peers receive (ibid.).

The COVID-19 pandemic has also exacerbated the cycles of exclusion and poverty that LGBTQ2I+ people already face. As women face increased negative social, political and economic impacts of COVID-19, so too do LGBTQ2I+ people (Al Ali 2020). The pivot to online, in COVID times, has revealed just how critical safe online spaces are for LGBTQ2I+ individuals, and highlighted the digital divide that prevents many people from accessing these spaces (World Bank Group 2020; Madrigal-Borloz

2020). Indeed they are sometimes the only queer spaces that individuals have access to, and are also pivotal in providing a space for people with disabilities to meet their social needs. Therefore, online spaces can address the intersectional needs of LGBTQ2I+ people with disabilities.

The Unbinding Nature of Global LGBTQ2I+ Rights

There is currently no binding international human rights law codifying the rights of LGBTQ2I+ individuals and communities. Even so, there are multiple normative frameworks in place to ensure the support and inclusion of LGBTQ2I+ people. For example, the Yogyakarta Principles articulate the unique rights of LGBTQ2I+ individuals across the full spectrum of human rights. Multiple states endorsed the 2007 Yogyakarta Principles document which contains recommendations to governments, intergovernmental institutions, and civil society to promote the rights of SOGIESC minorities (Human Rights Watch 2008). In 2017, Yogyakarta added ten additional principles emphasizing state and legal protections, as well as the right to bodily and mental integrity (Yogyakarta Principles Organization 2017).

There are several other international frameworks regarding the human rights of LGBTQ2I+ individuals created through the United Nations (UN) Human Rights Council. These frameworks include the advocacy of the High Commissioner on Human Rights and the explicit inclusion of LGBTQ2I+ rights within the UN Universal Periodic Review. In 2016, the UN established the mandate of Independent Expert on the protection against violence and discrimination based on Sexual Orientation and Gender Identity, otherwise known as the IE SOGI. In short, despite their contentious nature in much of the world, there are well-defined and well-established norms for advancing the rights of LGBTQ2I+ individuals and communities. Canada, through its international assistance programming, is well-placed to lead on this issue. But so much more could be done.

The Absence of Substantial SOGIESC Programming

Although Canada has been among world leaders concerning the human rights of LGBTQ2I+ people, Canada still has room to improve (Cortez, Arzinos and De la Medina Soto 2021; Global Philanthropy Project 2020). Currently, Global Affairs Canada lists 5,620 international

projects, only 18 of which relate to, or even mention, LGBTQ2I+ communities (Global Affairs Canada, n.d.). This represents 0.003% of Canadian programming. Of these 18 projects, only 15 are operational (ibid.). Six of these 15 projects focus on LGBTQ2I+ people's rights and protection exclusively, while two of these projects explicitly focus on LGBTQ2I+ people and women (ibid.). Of the remaining projects, six list LGBTQ2I+ people among their targeted communities or potential beneficiaries, along with an equal emphasis on other groups, such as Indigenous Peoples, women and girls, and ethnic and religious minorities. The final project makes no mention of LGBTQ2I+ people, but still comes up in the search results when filtered for "LGBT" (ibid.). Moreover, Canada's current international assistance programming aimed at addressing support and inclusion based on SOGIESC focuses on receptive (blue) countries, whereas funding to non-receptive (red) countries only passively includes support for, and inclusion of, the LGBTQ2I+ community (Government of Canada n.d.). Canada is funding programs mainly in receptive (blue) countries; however, the threat to these communities is greatest in the red zones on the map. There is a tremendous opportunity for even more direct and targeted funding to meet LGBTQ2I+ needs.

Towards a World Less Hostile: Opportunities for Canadian Leadership

Canada is an early adopter of national measures strengthening LGBTQ2I+ rights, through the addition of the gender neutral option on passports and the criminalization of conversion therapy practices (Department of Justice Canada 2021) (Government of Canada 2019). With these advancements nationally, Canada is well placed to champion them globally. Canada can encourage and aid receptive allies to adopt these measures domestically. The Equal Rights Coalition (ERC) is an intergovernmental body and mechanism "consisting of 42 member states committed to protecting the rights of LGBTI persons" (Equal Rights Coalition, n.d.). Canada is deeply involved in this organization, having previously been the state co-chair with Chile. This organization is an appropriate body for Canada to use to identify receptive allies and encourage national advancements in LGBTQ2I+ rights among those already committed to the cause. The ERC also presents an opportunity for Canada to consult civil society partners and identify areas where they may require more support through spearheading a joint task force on barriers for calls for proposals. Due

to the hostility surrounding LGBTQ2I+ rights, many governments do not recognize LGBTQ2I+ civil society partners and bar them from official registration (Outright Action International, n.d.).

Alongside advocating for these measures, Canada should substantiate its own commitment through increased LGBTQ2I+ programming. With non-receptive countries, Canada can still help LGBTQ2I+ communities indirectly through other development initiatives that simultaneously allow for expression and safe spaces. One such initiative exists in the domain of strengthened broadband and internet connectivity to allow individuals to create communities, find support, and have digital safe spaces (United Nations General Assembly 2020, 4; Lucero 2017, 117; Scheuerman, Branham, and Hamidi 2018, 1). Although a stronger broadband and internet connection is expected to benefit everyone, including LGBTQ2I+ individuals, GAC can ensure that SOGIESC minorities are able to find these digital safe spaces through continuing to work with civil society partners that already help to implement projects on the ground. These partners are well positioned to curate the spaces and direct communities to them (Astraea Lesbian Foundation for Justice 2019).

Another area where Canada has made progress in LGBTQ2I+ development is through the recognition and inclusion of LGBTQ2I+ rights in its guiding Feminist International Assistance Policy (FIAP) (Global Affairs Canada 2021). As a next step, Canada needs to mainstream SOGIESC into non-LGBTQ2I+ programming to ensure compliance with the do no harm principle (Aylward and Brown 2020, 327). The gender-based analysis (GBA+) tool can be reworked to include evaluation of impacts on SOGIESC minorities (Government of Canada 2021). In addition, each community within the LGBTQ2I+ umbrella has different needs and is impacted in different ways. For example, the visibility of gay relationships subjects some men to forced anal examinations, while the invisibility of lesbian relationships prevents some couples from expressing their relationships (Human Rights Watch 2018). With transgender people, this visibility is heightened. As a result, there exists a tension between broadening the definition to be as inclusive as possible, and targeted programming. To overcome this tension, the distinct needs and impacts of sub communities within the LGBTQ2I+ umbrella should be considered in the initial stages of program design via GBA+. Moreover, Canada should assess these needs and

impacts across all GAC programming, not just those focused on LGBTQ2I+ development, to ensure there is no additional harm to this already vulnerable community.

With these acts, Canada can make a significant and systematic impact towards a world less hostile to LGBTQ2I+ people. The recommendations below take into account the sensitivities surrounding LGBTQ2I+ acceptance and offer a feasible strategy to support inclusion based on SOGIESC in Canada's international assistance policy and programming.

Recommendations

1. **Re-evaluate all international assistance programming to ensure that it is LGBTQ2I+ friendly and meets the distinct needs of SOGIESC minorities.** Although GAC revamped its GBA evaluation to include intersectionality with the addition of the plus, SOGIESC minorities are not *explicitly* recognized within the analysis. GAC should also acknowledge the non-monolithic nature of the LGBTQ2I+ community; therefore, GBA+ and FIAP should include explicit evaluation measures to meet their individual community needs. In addition, officials should be trained to ensure the representation of LGBTQ2I+ needs.
2. **Substantiate Canada's commitment to LGBTQ2I+ rights through increased programming.** As it stands, Canada only has 15 operational projects that mention LGBTQ2I+ rights and fewer that explicitly target LGBTQ2I+ development. By 2025, 10% of all projects Canada funds should incorporate explicit LGBTQ2I+ development within its programming. This target should be integrated into global COVID-19 recovery, as the pandemic exacerbated the cycles of exclusion and poverty faced by LGBTQ2I+ individuals.
3. **Advocate for receptive allies (blue states) to adopt national measures such as conversion therapy bans, gender X designation on personal identification, aid for LGBTQ2I+ refugees, and work with non-receptive (red) states to repeal Section 377 laws.** Canada's leadership in LGBTQ2I+ inclusion is an opportunity to pursue these policies in its feminist international assistance policy. Promoting receptive (blue) states to adopt these policies would ensure they strengthen LGBTQ2I+ rights domestically.

Further, encouraging non-receptive (red) states to repeal Section 377 laws to significantly reduce the criminalization and prosecution of LGBTQ2I+ people in order to work towards a world less hostile.

4. **Work with the ERC on joint efforts to consult civil society partners on barriers to accessing calls for proposals.** Many LGBTQ2I+ organizations are unrecognized and unregistered in non-receptive (red) countries, so Canada cannot partner with them directly. The ERC encompasses a range of intergovernmental bodies in both blue and red states dedicated to protecting the rights of LGBTQ2I+ individuals, therefore the creation of a joint task force between GAC and the ERC would ensure programming aligns with the needs of recipient communities.
5. **Use infrastructure development in non-receptive (red) countries with LGBTQ2I+ communities in mind, such as strengthening broadband and internet connectivity to create digital safe spaces.** In many states, it is not safe for individuals to express their sexual orientation and/or gender identity for fear of discrimination and violence. COVID-19 has demonstrated that digital safe spaces are crucial to community connection and support. The digital divide between the Global North and the Global South presents an opportunity for Canada to strengthen broadband and internet connectivity and for GAC to work with civil society partners to increase access to digital safe spaces for LGBTQ2I+ individuals and communities.

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Acknowledgements

The authors would like to thank Andrew Thompson, Felicia Clement, Ben Skinner and officials at Global Affairs Canada for all of their guidance and mentorship throughout the course of the fellowship program.

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