

The background of the slide is a light gray color, overlaid with numerous thin, wavy, and swirling lines in various colors including red, orange, yellow, green, blue, and purple. These lines create a dynamic, abstract pattern that fills the entire frame.

Laws Impacting on LGBT People in S & SE Asia

**Assoc. Professor Paula Gerber
Law Faculty, Monash University,
Australia**

**Kobe, Japan
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What I'm Going to be Talking About

1. Laws persecuting LGBT people around the world generally, and in Asia specifically.
2. Need for nuanced analysis of such laws to determine actual impact.
3. Law reform priorities.



Living a Life of Crime

- 77 countries around the world still criminalise homosexuality. See: <https://antigaylaws.wordpress.com/>
- In 35 of these countries, the laws apply equally to lesbians. In 20 of these countries it is unclear whether laws apply to lesbians.
- 5 of these countries impose the death penalty (will soon be 6 when Brunei implements Sharia law).

Breakdown of Countries

- **Commonwealth** accounts for 41 of the 77 countries.
- **Africa** has the highest number of countries that criminalise homosexual conduct (34)
- **Middle East:** 12
- **Asia:** 11
- **Americas:** 11
- **Pacific:** 8

S & SE Asian Countries that Criminalise:

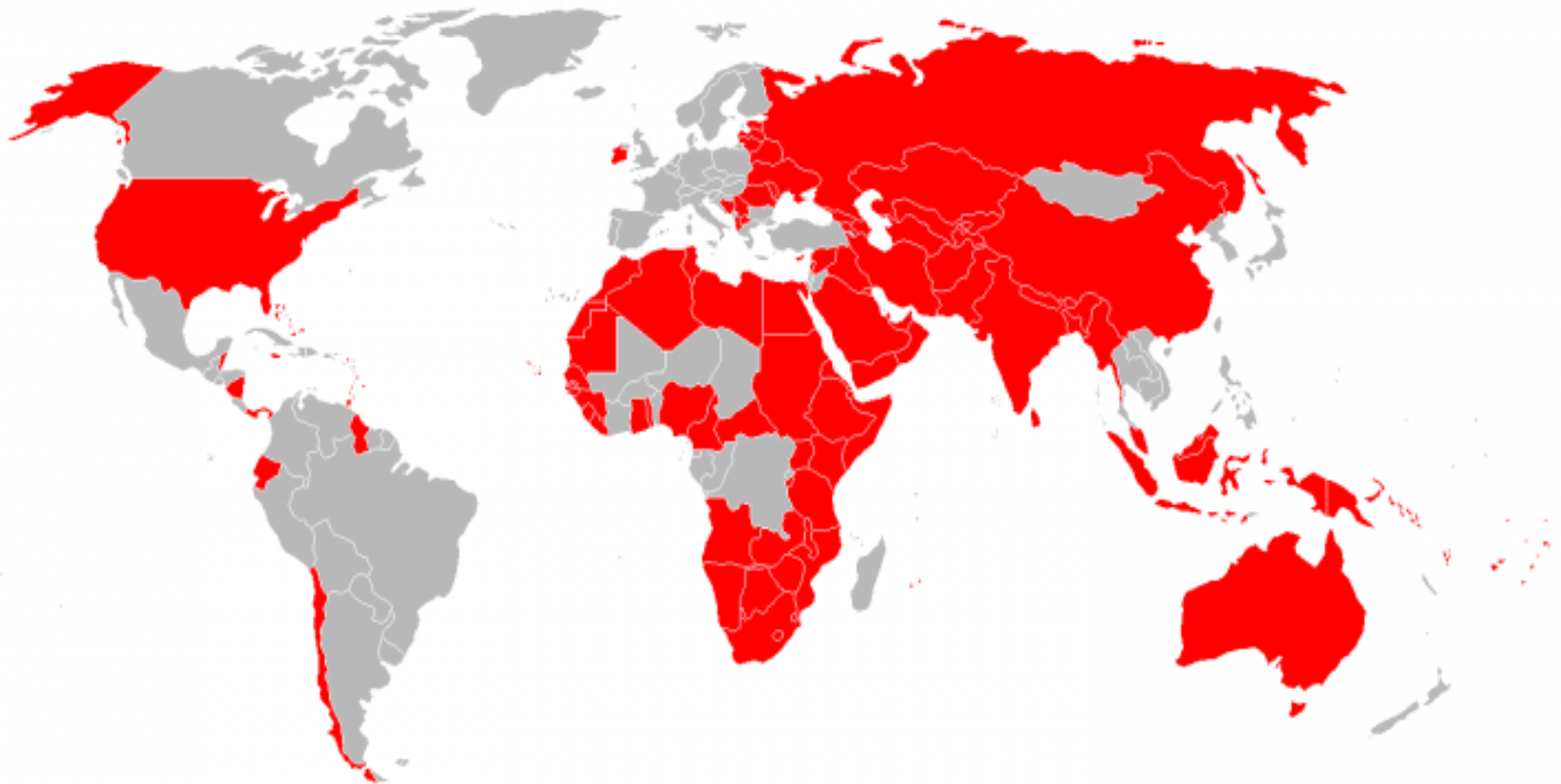
1. Afghanistan
2. Bangladesh*
3. Bhutan
4. Brunei*
5. India*
6. Malaysia*
7. Maldives*
8. Myanmar
9. Pakistan*
10. Singapore*
11. Sri Lanka*

S & SE Asian Countries that do NOT criminalise:

1. Cambodia
2. East Timor
3. Indonesia (except Aceh)
4. Laos
5. Nepal
6. Philippines
7. Thailand
8. Vietnam

* Commonwealth nations

1990: Countries which criminalised homosexual conduct

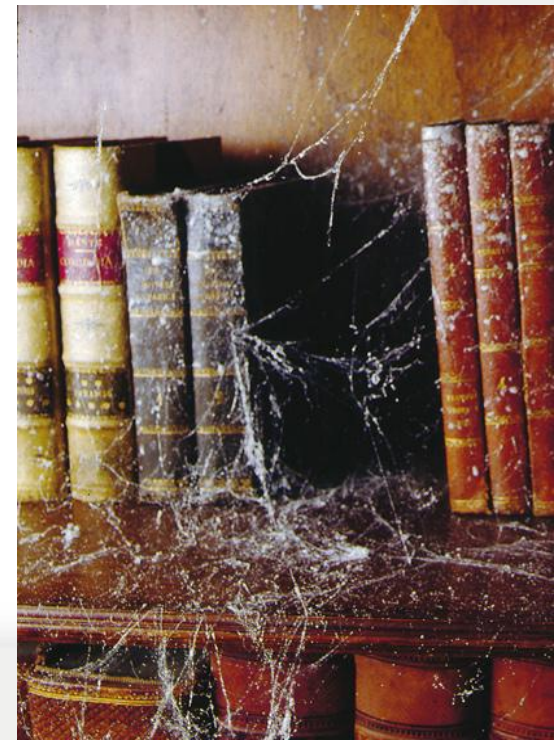


2015: Countries Which Criminalise Homosexuality



Impact of Criminal Laws

- UN has held that even if laws criminalising homosexual conduct are never, or rarely, enforced, they still violate the human rights of LGBT people.
- This is because the very existence of the laws has a chilling effect on the lives of LGBT people.



Criminalisation of Homosexuality NOT only way LGBT People are Persecuted

- Persecution comes in many shapes and sizes!
- **Russia:** decriminalised homosexuality in 1993 and age of consent has been equal since 2003. Homosexuality was declassified as a mental illness in 1999 and trans* people have been able to legally change their gender since 1997.

BUT...

- Russians seeking asylum in USA has risen from 68 in 2012, to 127 in 2013, and 161 in 2014.
- Most recent Russian asylum inquiries came from gay men in their 20s and 30s who had been targeted in anti-gay attacks.
- Why? No anti-discrimination laws and “anti-gay propaganda” laws create a culture of intolerance and are perceived as sanctioning anti-gay violence.



50 Shades of Persecution

- **Mob violence** – LGBT people can be physically and sexually assaulted with impunity.
- **Police harassment** – nobody to turn to when persecution comes from people in authority.
- **Corrective rape** – lesbians raped to change their sexuality. Maybe even arranged by family.
- **Extortion and blackmail.**

To Fully Protect the Human Rights of LGBT need:

- Repeal of criminal laws creating offences such as 'buggery', 'sodomy', 'unnatural offences' and offences 'against the order of nature';
- Equalise age of consent laws;
- Anti-discrimination laws that prohibit discrimination on the grounds of sexual orientation & gender identity;
- Legal recognition of same-sex relationships; and
- Legal recognition of same-sex parents.



But Even then....

Hungary and Croatia have very good anti-discrimination laws, but are both very homophobic societies with significant levels of violence directed at LGBT communities and individuals.



Singapore



- Singapore criminalises homosexual conduct, BUT Pink Dot rally last year was attended by 25,000 LGBT people and allies without any violence or visible counter-protest.
- First Pink Dot event held in 2009.
- Sponsors of the event have included BP, Goldman Sachs and Google Singapore.

Change is Happening



- Bhutan & Laos celebrate IDAHOTB for the first time.
- Tokyo becomes 1st place in East Asia to recognise same-sex marriage.
- Kaohsiung City Govt in Taiwan allows unofficial registration of same-sex couples.
- Malaysian Court finds law banning cross-dressing to be unconstitutional.

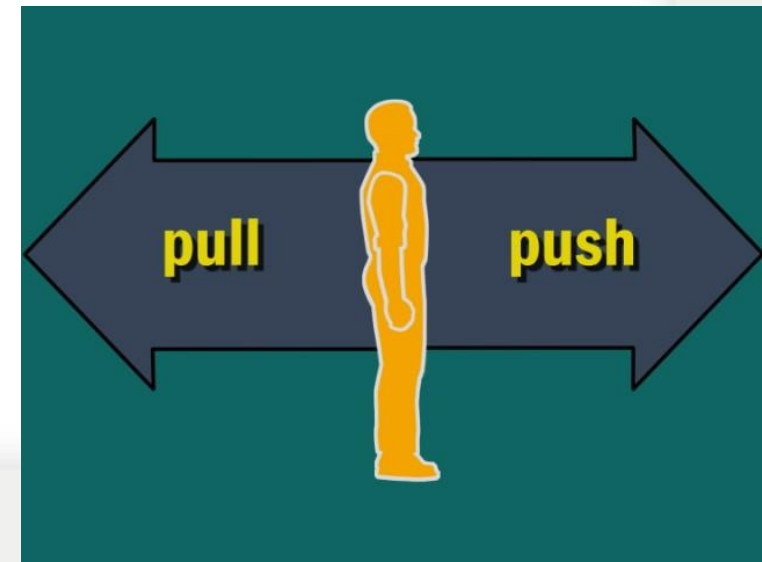
Change is Happening



- Singapore Court of Appeal rules laws criminalising homosexual conduct are constitutional.
- Brunei introducing Sharia law which will punish homosexuality with death penalty.

Demosprudence

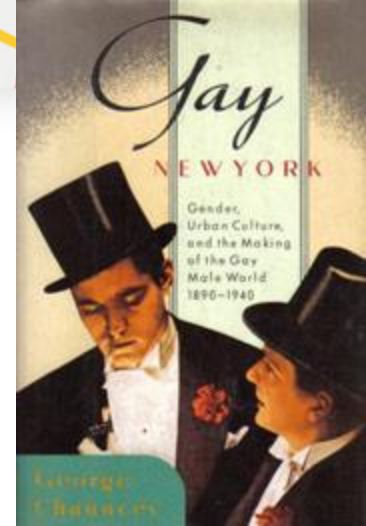
- ‘Demosprudence’ describes the relationship between changes in society and changes in law.
- Social changes pull the law, and the law pushes society – the ‘push and pull’ effect.



Stoddard's trip to New Zealand



- In 1996, Tom Stoddard, an academic and gay activist from NY went to NZ.
- At that time only 9 of the 50 states in America had specifically outlawed discrimination on the basis of sexual orientation, and statute books filled with anti-gay legislation.
- He expected 'gay utopia' in NZ because it's anti-discrimination laws included a category of sexual orientation and the eradication of discrimination against same-sex couples was very much on the govt's legislative agenda.



What Stoddard found...

- From the perspective of a gay man, NZ felt and looked like an average American city ***20 years earlier!***
- NZ's laws were more progressive, but its society was more conservative.
- NY had a much more open and obvious gay culture resulting from 'a quarter of a century of a visible "gay liberation" movement'.

Stoddard's Hypothesis...



- There is a disconnect between law on the books and social reality.
- Social-change and rule-change do not always go hand-in-hand.
- For rule changes to be effective, a shift in social attitudes is required.
- And cultural shift may occur without any formal rule changes.

More recently...

- Torres and Guinier, 2 American academics, concurred with Stoddard that a rule change will have limited effect without a shifting of societal attitudes.
- They coined the term 'demosprudence' – the study of law-making and the democracy enhancing effects of social movements.

Way Forward

- Law reform is essential, BUT is only one piece of the jigsaw puzzle.
- Legal change may come about via a variety of pathways , including:
 - External influences (UN, Commonwealth, regional forums, bilateral negotiations);
 - Judicial progress; and
 - Grassroots activism leading to statutory reform.
- **BUT** will be of limited impact unless accompanied by societal/cultural change.

