**An Analysis of the Freedom of Religion or Belief and Sexual Orientation and Gender Identity**

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1. What are the actual or perceived points of tension (if any) between the right to manifest one’s freedom of religion or belief, and freedom from violence and discrimination based on sexual orientation and gender identity? Are there any areas in which they are mutually exclusive?
2. Christianity
	1. Across the United States and Beyond, views of Christian individuals and sexual minorities have become increasingly positive, with statistics in 2014 indicating that, on average, 54% of Christians believe that homosexuality should be accepted in society; however this is widely stratified by denomination with acceptance rating ranging from 16% to 70%.[[1]](#footnote-0) Similar statistics exist in other countries with majority Christian populations where this rating tends to become increasingly positive.[[2]](#footnote-1)
	2. However, Christian views on transgender and gender diverse people tends to be more divisive with many statistics indicating that a majority of almost all denominations of Christians believe that gender is immutable after birth; at the same time, this divide is not as pronounced as many would assume.[[3]](#footnote-2)
	3. These pieces of data suggest that there are a large amount of Christians who do not view there to be a large sense of contention between the freedom of one’s religion and protecting LGBTQ+ individuals from discrimination; however, there are many vocal Christians across the world who believe that nondiscrimination on the basis of gender or sexual identity is a violation of their religious beliefs
		1. For example, in Nigeria, the sixth largest country by the number of Christian individuals,[[4]](#footnote-3) there is a large belief under the Christian majority that LGBTQ+ people are a result of Western influence on the country.[[5]](#footnote-4) As a result of these beliefs, sourcing from biblical views of how people should act, there is widespread discrimination such as the Same-Sex Marriage Prohibition Law which has lead to abuse of LGBTQ+ people by vigilantes and police. Through these views of how religion ought to dictate how people should act, there is great contention between how people interpret how society should be from religious texts and deviants from that belief leading to large levels of discrimination and an inherent lack of well-being for LGBTQ+ people. This could not be clearer through the story of Peter, where he was “strip[ped] naked[,] beat[en] up[,] [had attempts to place] bottles into [his] anus[,] tied down[, and told] to give [his] life to Christ.” In this scenario there was an obvious view of how a perception of how to manifest the right to religion was viewed to be mutually exclusive to the rights of LGBTQ+ people.[[6]](#footnote-5)
		2. Moreover, there is clear evidence of discrimination against gender diverse individuals in religious areas of South America with numerous studies proving that gender diverse people and men who have sex with men often face terrible care for HIV/AIDs, often due to a disdain for these people on the basis of religious beliefs of gender and sexuality. Because of how healthcare workers view and approach these issues with their religion in mind, this prevents LGBTQ+ people from being able to not be discriminated against both inadvertently and advertently.[[7]](#footnote-6) [[8]](#footnote-7) [[9]](#footnote-8) [[10]](#footnote-9)
		3. Situations like these are prevalent across the world such as in Russia where laws such as one from 2013 which effectively legalized discrimination based on sexual orientation which has led to hate campaigns, extensive vigilante-based violence, and unlawful unemployment. Many of these actions come from individuals believing that they are doing what God would like them to do, often echoing the words of members of the Russian Orthodox Church which have clearly said that homosexual relationships should be “completely eliminated.” This acting on perceived religious freedom, directly contradicts the most basic human rights of LGBTQ+ people. [[11]](#footnote-10) [[12]](#footnote-11)
		4. Situations of the conflict between the expression of religion and the rights of LGBTQ+ people in being entitled to nondiscriminatory behavior can clearly be seen through the ongoing United States Supreme Court Case *303 Creative v. Elenis* where wedding website designer, Lorie Smith, argues that it would have been against her Christian beliefs for her to create a website for a homosexual couple getting married, even though no homosexual couples have asked her to create a website for their wedding. In this court case, the plaintiff is requesting that the Supreme Court overturn Colorado’s anti-discrimination which would theoretically allow her to deny service to LGBTQ+ couples.
3. Islam
	1. Religious views of homosexuality in Islam in the United States and beyond are quite different from the views in Christian-majority countries with a majority of Muslims across the board in the United States and around the world, holding generally negative views of homosexuality. [[13]](#footnote-12) In fact, in many Muslim-majority countries such as Yemen, Iran, Brunei, Mauritania, Qatar, Saudi Arabia, Afghanistan, Somalia, Sudan, the United Arab Emirates, and Pakistan, homosexuality can be punishable by death. [[14]](#footnote-13) Many of these seemingly harsh rules are due to religious perspectives on homosexuality which many believe to explicitly denounce homosexuality.
	2. Islamic views of transgender individuals are much more positive in the Muslim community, unlike Christianity. Although, non-binary people can often be harassed or physically harmed for their gender identity and expression in Muslim-majority countries, views of transgender individuals are slightly positive. [[15]](#footnote-14) Many Muslims believe that being transgender is permissible under religion due to the historical basis for the existence of transgender people. Although transgender individuals face a higher level of acceptances in Muslim society than other members of the LGBTQ+ community, transgender people still face many conflicts between religion and gender identity.
	3. A notable example of a human rights crisis is in Iran, where many homosexual men are forced to undergo gender transition surgery to avoid being killed because homosexuality is illegal in the country.[[16]](#footnote-15) This is a clear example of where religious expression or the fear of religious expression, forces many LGBTQ+ people into violence that may have never consented to.
	4. Other examples can be seen in Somalia where many LGBTQ+ people have been executed including young teens and children. Many LGBTQ+ people face horrible beatings, stonings, and public deaths due to the Somalian interpretation of portions of Sharia law. Thus, it is clear that religious expression can often conflict greatly with the well-being of LGBTQ+ people. [[17]](#footnote-16)
4. Judaism
	1. Religious views of the LGBTQ+ community in Judaism are wide and diverse, often depending on interpretation. Most of the world’s followers of Judaism follow an orthodox interpretation of Judaism which often have negative views of gender diverse or homosexual individuals, which can have quite a negative effect on LGBTQ+ people.[[18]](#footnote-17) However, many reform and reconstructionist followers of Judaism view gender diverse and homosexual individuals to be entirely valid in their beliefs, actions and perspectives.[[19]](#footnote-18)
	2. As a result of these beliefs, there have been varying responses to the LGBTQ+ community; however, they are mainly messages of support. Countries like Israel where a majority of citizens are Jewish, however, have high levels of LGBTQ-phobia and often LGBTQ+ individuals face discrimination in the name of religious conservatism.[[20]](#footnote-19)
5. Hinduism, Sikhism, Buddhism, & Baháʼí Faith
	1. All four of these religions exhibit generally varying views of LGBTQ+ people with some celebrating it (Hinduism), some more neutral (Sikhism), and some more negative (Buddhism and the Baháʼí Faith). Although conservative views can occasionally negatively impact members of the LGBTQ+ people, there is little, if anything, used in the expression of these religions to condemn or limit the rights of LGBTQ+ people by these religions. [[21]](#footnote-20) [[22]](#footnote-21) [[23]](#footnote-22)
6. Provide any examples of good practice – at the international, national or local level – where State and non-State actors (including faith leaders, groups and organisations, international organisations, civil society organisations, and the UN human rights system) have taken effective measures to protect and promote freedom of religion or belief of LGBT+ and gender-diverse persons, and made efforts to prevent, mitigate and respond to any violence and/or discrimination justified in the name of religion.
7. To ensure that the rights of individuals are protected no matter their background, it is of utmost importance to ensure that the rule of law set forth through legislation is equitable and accurately ensures the human rights and well-being of all of society’s participants.
8. Primarily, to achieve the well-being and freedom of LGBTQ+ people in the face of discrimination, the separation of church and state is of utmost importance to ensure that the beliefs of a few do not infringe on the well-being of greater society.
	1. Argentina is a great example of a country that puts the needs of its people, in this case it's LGBTQ+ population, ahead of lobbying and requests of the church. By approving LGBTQ+ marriage, and later provisions such as access to abortion, Argentina was able to stand up against the Catholic Church’s recommendations and instead allow for the will of the people to be maintained. By promoting secularism, discrimination can not be made in the name of religion, allowing for viewpoints to be considered without backlash.[[24]](#footnote-23) [[25]](#footnote-24)
	2. This promotion of secularism can also be seen in the United States where religious organizations and all nonprofit organizations are not allowed to engage in political campaign activities, ensuring that religion did not get in the way of promoting the views of the people in government. This ban, although imperfect, gives churches and other organizations an incentive, tax-exemption, in order to allow for political processes to occur without religion getting in the way. Through this, religious arguments can not be used as a method of promoting discrimination or intolerance to LGBTQ+ people. [[26]](#footnote-25)
9. Another great way to ensure that all people are given the opportunity to be protected under the law is by making sure that a variety of perspectives are being taken into account when creating policy and legislation. This prevents a dominant religion from being able to control the lived experiences of those across the world.
	1. Through legal provisions and precedents such as Canada’s “equal benefit of the law” point of view when interpreting and establishing policy, the voices of many are able to be considered in policy-making. Moreover, through these ideas, protections for LGBTQ+ people can be ensured by establishing that certain provisions should not favor one party over the other, promoting equity. [[27]](#footnote-26)
10. Moreover, legal politics that draw clear distinctions between between hate justified by religion and valid religious objections can be instrumental in ensuring that freedom of religion exceptions are not being taken advantage of, protecting all people’s human rights where religious entities are not having their perspectives be incorrectly applied, and LGBTQ+ people can have as many protections under law as possible.
	1. Through Supreme Court cases in Canada such as *Saskatchewan Human Rights Commission v. Whatcott*, which upheld parts of Canada’s hate speech laws and striking part of the Saskatchewan Human Rights Code down, Canada was able to synthesize both the perspectives of religious individuals and LGBTQ+ people and activists in order to form a justified opinion in what is considered hate speech, establishing how words, even with religious backing, can still incite hatred which is especially damaging. Furthermore, through cases such as *Law Society of British Columbia v. Trinity Western University*, which declared that Trinity Western University’s code of conduct which required individuals to agree that sexual intimacy should only occur between a man and a woman was not appropriate, Canada has been able to use the power of courts to create doctrine such as assessing a situation’s reasonability to further the rights of LGBTQ+ people by differentiating between hate and valid religious exceptions.
	2. Scandinavian countries take a different approach to reconciling the difference between the views of religious exceptions and discrimination against LGBTQ+ people. By and large, the laws of many Scandinavian countries affirm that religious objections to relationships or adoptions between same-sex couples is outweighed by an individual’s right to equality before the law because of the belief that human rights come before other rights or requests.[[28]](#footnote-27) Through this, these countries are able to express that religious views are important, but people’s humanity and identity come first, preventing LGBTQ+ people from facing discrimination.
11. Other practices where governments and non-state actors weigh the cost of an action, its benefits, and implications, have proven exceedingly effective in ensuring that the broader circumstances behind LGBTQ+ rights are taken into account when making decisions.
	1. For example, the National Church Of Iceland established that all priests were not allowed to deny LGBTQ+ marriages, preventing their priests their freedom of consciousness. Through this action from the Church, there were much more positive responses to the LGBTQ+ community, enabling there to be greater equity by preventing religious ostracization.
	2. Another example could be in New Zealand where there was a Justice Select Committee to review the possibility of ending conversion therapy, which was rampant in New Zealand at the time, often causing harm to young LGBTQ+ people. The committee evaluated religious perspectives on the issue combined with the view of the people to make a decision. Ultimately, in February 2022, conversion therapy was banned, allowing there to be a greater sense of equity in New Zealand and many people safe from the harms of these practices. [[29]](#footnote-28)
1. "Most U.S. Christian groups grow more accepting of homosexuality." 18 Dec. 2015, <https://www.pewresearch.org/fact-tank/2015/12/18/most-u-s-christian-groups-grow-more-accepting-of-homosexuality/>. Accessed 15 Jan. 2023. [↑](#footnote-ref-0)
2. "The Global Divide on Homosexuality Persists - Pew Research Center." 25 Jun. 2020, <https://www.pewresearch.org/global/2020/06/25/global-divide-on-homosexuality-persists/>. Accessed 15 Jan. 2023. [↑](#footnote-ref-1)
3. "In U.S., views on transgender issues vary widely by religion." 7 Jul. 2022, <https://www.pewresearch.org/fact-tank/2022/07/07/attitudes-about-transgender-issues-vary-widely-among-christians-religious-nones-in-u-s/>. Accessed 15 Jan. 2023. [↑](#footnote-ref-2)
4. "The Size and Distribution of the World's Christian Population." 19 Dec. 2011, <https://www.pewresearch.org/religion/2011/12/19/global-christianity-exec/>. Accessed 15 Jan. 2023. [↑](#footnote-ref-3)
5. "If you say being gay is not African, you don't know your history." 9 Sep. 2015, <https://www.theguardian.com/commentisfree/2015/sep/09/being-gay-african-history-homosexuality-christianity>. Accessed 15 Jan. 2023. [↑](#footnote-ref-4)
6. "“Tell Me Where I Can Be Safe”: The Impact of Nigeria's Same Sex ...." 20 Oct. 2016, <https://www.hrw.org/report/2016/10/20/tell-me-where-i-can-be-safe/impact-nigerias-same-sex-marriage-prohibition-act>. Accessed 15 Jan. 2023. [↑](#footnote-ref-5)
7. "“In the Bible Belt:” The role of religion in HIV care and prevention for ...." <https://www.sciencedirect.com/science/article/abs/pii/S135382922100109X>. Accessed 15 Jan. 2023. [↑](#footnote-ref-6)
8. "Evidence of the negative effect of sexual minority stigma on HIV ...." <https://pubmed.ncbi.nlm.nih.gov/24907779/>. Accessed 15 Jan. 2023. [↑](#footnote-ref-7)
9. "“Every Day I Live in Fear”: Violence and Discrimination Against ...." 7 Oct. 2020, <https://www.hrw.org/report/2020/10/07/every-day-i-live-fear/violence-and-discrimination-against-lgbt-people-el-salvador>. Accessed 15 Jan. 2023. [↑](#footnote-ref-8)
10. "Honduras: Court Finds State Responsible for Trans Killing." 2 Jul. 2021, <https://www.hrw.org/news/2021/07/02/honduras-court-finds-state-responsible-trans-killing>. Accessed 15 Jan. 2023. [↑](#footnote-ref-9)
11. "License to Harm: Violence and Harassment against LGBT People ...." 15 Dec. 2014, <https://www.hrw.org/report/2014/12/15/license-harm/violence-and-harassment-against-lgbt-people-and-activists-russia>. Accessed 15 Jan. 2023. [↑](#footnote-ref-10)
12. "4. Orthodox take socially conservative views on gender issues ...." 8 Nov. 2017, <https://www.pewresearch.org/religion/2017/11/08/orthodox-take-socially-conservative-views-on-gender-issues-homosexuality/>. Accessed 15 Jan. 2023. [↑](#footnote-ref-11)
13. "Views about homosexuality among Muslims - Religion in America." <https://www.pewresearch.org/religion/religious-landscape-study/religious-tradition/muslim/views-about-homosexuality/>. Accessed 15 Jan. 2023. [↑](#footnote-ref-12)
14. "Iran, Yemen among countries where being gay is punishable by death." 14 Jun. 2019, <https://www.usatoday.com/story/money/2019/06/14/countries-where-being-gay-is-legally-punishable-by-death/39574685/>. Accessed 15 Jan. 2023. [↑](#footnote-ref-13)
15. "UAE: Stop Policing Gender Expression | Human Rights Watch." 7 Sep. 2017, <https://www.hrw.org/news/2017/09/07/uae-stop-policing-gender-expression>. Accessed 15 Jan. 2023. [↑](#footnote-ref-14)
16. "Iran is forcing gay men to have gender transition surgeries to "make ...." 3 Mar. 2020, <https://www.lgbtqnation.com/2020/03/iran-forcing-gay-men-gender-transition-surgeries-make-straight/>. Accessed 15 Jan. 2023. [↑](#footnote-ref-15)
17. "Somalia | Human Dignity Trust." <https://www.humandignitytrust.org/country-profile/somalia/>. Accessed 15 Jan. 2023. [↑](#footnote-ref-16)
18. "Stances of Faiths on LGBTQ Issues: Orthodox Judaism." <https://www.hrc.org/resources/stances-of-faiths-on-lgbt-issues-orthodox-judaism>. Accessed 15 Jan. 2023. [↑](#footnote-ref-17)
19. "Stances of Faiths on LGBTQ Issues: Reform Judaism." <https://www.hrc.org/resources/stances-of-faiths-on-lgbt-issues-reform-judaism>. Accessed 15 Jan. 2023. [↑](#footnote-ref-18)
20. "We are the LGBTQ community in Israel - OHCHR." <https://www.ohchr.org/sites/default/files/Documents/Issues/SexualOrientation/IESOGI/CSOsKZ/LGBTQ_Coalition_Israel_Appendix_-_the_LGBTQ_coalition_in_Israel.pdf>. Accessed 15 Jan. 2023. [↑](#footnote-ref-19)
21. "Stances of Faiths on LGBTQ Issues: Hinduism." <https://www.hrc.org/resources/stances-of-faiths-on-lgbt-issues-hinduism>. Accessed 15 Jan. 2023. [↑](#footnote-ref-20)
22. "Traditional Buddhist teachings exclude LGBTQ people from ...." 8 Dec. 2022, <https://theconversation.com/traditional-buddhist-teachings-exclude-lgbtq-people-from-monastic-life-but-change-is-coming-slowly-191567>. Accessed 15 Jan. 2023. [↑](#footnote-ref-21)
23. "Sukhdeep Singh: “I Want To Assure Other Young Queer Sikhs That ...." <https://www.salzburgglobal.org/news/latest-news/article/sukhdeep-singh-i-want-to-assure-other-young-queer-sikhs-that-one-could-be-gay-and-sikh>. Accessed 15 Jan. 2023. [↑](#footnote-ref-22)
24. "Argentina Legalizes Same-Sex Marriage, Angering Catholics - TIME." 15 Jul. 2010, [https://content.time.com/time/world/article/0,8599,2004036,00.html](https://content.time.com/time/world/article/0%2C8599%2C2004036%2C00.html). Accessed 15 Jan. 2023. [↑](#footnote-ref-23)
25. "The Church, Governance, and Women's Rights in Argentina." 9 Feb. 2021, <https://blogs.lse.ac.uk/religionglobalsociety/2021/02/the-church-governance-and-womens-rights-in-argentina/>. Accessed 15 Jan. 2023. [↑](#footnote-ref-24)
26. "The Restriction of Political Campaign Intervention by Section 501(c ...." 17 Jun. 2022, <https://www.irs.gov/charities-non-profits/charitable-organizations/the-restriction-of-political-campaign-intervention-by-section-501c3-tax-exempt-organizations>. Accessed 15 Jan. 2023. [↑](#footnote-ref-25)
27. "Guide to the Canadian Charter of Rights and Freedoms - Canada.ca." 13 Dec. 2022, <https://www.canada.ca/en/canadian-heritage/services/how-rights-protected/guide-canadian-charter-rights-freedoms.html>. Accessed 15 Jan. 2023. [↑](#footnote-ref-26)
28. "A Scandinavian Perspective on Homosexuality, Equal Rights, and ...." <https://academic.oup.com/book/27771/chapter/198011323>. Accessed 15 Jan. 2023. [↑](#footnote-ref-27)
29. "New Zealand passes law banning conversion therapy - NPR." 16 Feb. 2022, <https://www.npr.org/2022/02/16/1081139566/new-zealand-ban-conversion-therapy>. Accessed 15 Jan. 2023. [↑](#footnote-ref-28)