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- Across Europe, a 2012 survey indicated that over 25% of LGBT citizens had been victims of violence within the preceding 5 years, 59% of whom believed the violence was motivated by their sexual orientation or gender identity
- In the 2010–2014 World Values Survey, which asks respondents across 58 countries for their views on important social issues, 54% of adults in the average country surveyed said they would not want a gay person as their neighbor
- Recent years have yielded some progress in the law: as of 2017, 22 countries had legalized same-sex marriage. At the same time, backlash to these victories has led to new discriminatory laws

Within constitutions, explicit protections on the basis of SOGI have led to important rulings:

- In South Africa, the constitution’s guarantee of equal rights regardless of sexual orientation led to the reform of immigration law to provide equal treatment to same-sex couples
- In Mexico, the Supreme Court cited the constitution’s explicit prohibition of sexual orientation discrimination in its landmark decision legalizing same-sex marriage
- In the absence of a specific guarantee, individuals and groups have also leveraged general equality provisions and other constitutional rights to secure important victories:
  - In Canada, pursuant to the general equality provision, in 1998 the Supreme Court ordered the province of Alberta to prohibit sexual orientation discrimination in its

FACT SHEET: JANUARY 2020

Constitutional Equal Rights Across Sexual Orientation and Gender Identity

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Does the constitution explicitly guarantee equality or non-discrimination across sexual orientation and gender identity?

- No specific provision
- Equality guaranteed, not specific to SOGI
- Aspirational for SOGI
- Guaranteed for sexual orientation only
- Guaranteed for sexual orientation and gender identity

To learn more, please see Chapter 6 of the open-access book _Advancing Equality: How Constitutional Rights Can Make a Difference Worldwide_ (Jody Heymann, Aleta Sprague, and Amy Raub; University of California Press, 2020). Analyzing the constitutions of all 193 United Nations countries, _Advancing Equality_ traces 50 years of change in constitution drafting and examines how stronger protections against discrimination, alongside core social and economic rights, can transform lives.
employment law

- In the U.S., the constitution’s protections of due process and general equality provided the foundation for the Supreme Court’s 2015 marriage equality ruling
- In India and Pakistan, overall guarantees of equality before the law provided the constitutional foundation to establish that transgender individuals have equal rights
- Still, the risk of these approaches is their unpredictability, as well as the missed opportunity to send a stronger message about equality
- Globally, just 5% of constitutions guarantee equal rights regardless of sexual orientation, while 3% extend these protections to gender identity as well
- At the same time, another 6% of countries prohibit the right to marry for same-sex couples or allow for legislation to do so
- All of the constitutional bans on same-sex marriage were enacted since 2000, suggesting that they were in direct response to recent gains for LGBT+ rights
- An additional 8% define marriage as exclusively between a man and a woman
- One barrier to more widespread progress is the lack of a binding international agreement:
  - U.N. bodies have determined that existing treaty protections against “sex” discrimination extend to sexual orientation
  - Yet given the ambiguous text, countries including Uganda have argued that sexual orientation discrimination is permissible under international law
- Successful efforts to advance equal rights on the basis of SOGI in constitutions have included working in broad coalitions:
  - In South Africa, integrating the fight for LGBT+ rights within the broader post-apartheid struggle for equality helped secure support for the world’s first specific constitutional protection against sexual orientation discrimination
  - In Ecuador, LGBT+ activists partnered with feminist groups and labor organizations to enact a SOGI-specific equal rights provision and strengthen fundamental social and economic rights

### Explicit constitutional progress and backlash across sexual orientation and gender identity by region

<table>
<thead>
<tr>
<th>Region</th>
<th>At least some protection of equality or nondiscrimination across SOGI</th>
<th>Limits on same-sex marriage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Americas</td>
<td>9%</td>
<td>0%</td>
</tr>
<tr>
<td>East Asia and Pacific</td>
<td>7%</td>
<td>3%</td>
</tr>
<tr>
<td>Europe and Central Asia</td>
<td>8%</td>
<td>0%</td>
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<tr>
<td>Middle East and North Africa</td>
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<tr>
<td>South Asia</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td>Sub-Saharan Africa</td>
<td>2%</td>
<td>23%</td>
</tr>
</tbody>
</table>

*At least some protection of equality or nondiscrimination across SOGI  Limits on same-sex marriage*