

**Structural Injustice and the Gap Between Rights and Lived Experiences of LGB People  
in the EU**

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## **Abstract**

The European Union (EU) has made significant progress in protecting lesbian, gay, and bisexual (LGB) rights, but there is still a gap between legal recognition and the lived experiences of LGB individuals. This thesis explores this gap using the structural injustice framework, arguing that EU law does not adequately address the systemic social-structural processes that marginalise LGB people. The thesis uses empirical and conceptual illustrations, including case studies of Poland and Spain, to demonstrate how oppression manifests in forms such as cultural imperialism and violence. The thesis adopts Young's social connection model of political responsibility, suggesting that structural injustice involves a range of actors, including EU institutions, national governments of its Member States, and individuals, working together to transform the conditions that allow injustice to persist.

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## Introduction

Over the past two decades, the European Union (EU) has emerged as a normative power in the global advancement of LGB rights, embedding protections into its legal framework and governance mechanisms (Belavusau, 2020). Yet, despite these formal commitments, many individuals who identify as lesbian, gay or bisexual (LGB) across its 27 Member States continue to encounter oppression in various forms, such as cultural imperialism or violence (FRA, 2020a). The persistent gap between *de jure* and *de facto* experience raises urgent questions about the effectiveness of current EU law in transforming the social realities of those it asserts to protect.

While legal scholars have offered important normative analyses of anti-discrimination law, and social scientists have documented the lived experiences of LGB individuals, few studies have explicitly engaged with the structural conditions that enable such injustices to persist. This thesis examines this disconnect through the lens of the ‘structural injustice’ framework, as outlined by Iris M. Young.

Several limitations must be clarified. First, the decision to limit the scope of this thesis to LGB individuals, thereby omitting other people often included under the umbrella term *queer*,<sup>1</sup> is intentional; EU law treats sexual orientation and gender identity as distinct legal categories. By narrowing the scope to sexual orientation, this research can more precisely analyse the structural injustices embedded in EU legal governance without conflating them with legal issues related to gender identity. Some degree of overlap is, of

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<sup>1</sup> The term *queer* is used here as an umbrella term encompassing a range of non-normative sexual and gender identities. While I recognise that some may find the term objectionable due to its historical use in a derogatory or pejorative manner. I condemn such usage and intend its use in this context as affirming and inclusive.

course, unavoidable. Focusing on specific sexual identities allows for conceptual clarity and analytical specificity within the broader spectrum of non-heterosexual orientations. Moreover, while other sexual orientations, such as pansexuality or asexuality, are equally valid and deserving of scholarly attention, the LGB framework constitutes a historically grounded and institutionally recognised category within EU legal, political, and social discourse. This delimitation is not intended to imply that all sexual orientations can or ought to be understood through the dominant epistemologies that have shaped discourses on sexuality. Rather, it enables a more focused critique of how EU governance engages with a specific and legally codified set of identities. Furthermore, this thesis does not mean to imply that all LGB people face the same structural injustices in the same way, despite their specific sexual identity or other interconnected, intersecting, and overlapping parts of their social identity.<sup>2</sup>

Second, the scope of this thesis is geographically and institutionally limited to the EU and its Member States; structural injustices that transcend this regional focus are acknowledged but not explored in depth.

Third, while the thesis highlights multiple forms of oppression, it does not attempt to be exhaustive. Rather, it focuses on those dimensions — particularly cultural imperialism and violence — that emerge most clearly from existing data and conceptual frameworks.

Finally, the concluding analysis is normative, concerned not only with describing existing conditions but with identifying possibilities. For this reason, this thesis will employ

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<sup>2</sup> E.g., patriarchal structures may grant gay men relative visibility, while lesbian and bisexual women often remain forced to follow normative gender norms, and bisexual individuals might not experience heteronormativity as equally inhibitive to expression of their needs, thoughts, and feelings as those of sexualities that never (wish to) engage in relationships with partners of the opposite sex.

a legal analysis and form a philosophical argument through a critical examination of EU governance from the lens of the Structural Injustice Framework, utilising five sub-questions. Each sub-question will be analysed in a dedicated section of the thesis.

This project bridges the gap between lived experiences of LGB people and EU law and governance by exploring how social-structural processes, embedded in institutions, norms, and historical legacies, mediate the lived experiences of LGB people in ways that are not easily captured by existing legal instruments. It does this by explaining various kinds of oppression that LGB people face in the EU. It will then go on to clarify these experiences by explaining and applying the structural injustice framework. Subsequently, the current legal framework present in the EU will be succinctly explicated through an analysis of the EU's inner workings and the laws and governance put into place with regard to LGB rights. Thereafter, it will revisit the lived experiences of LGB people in the EU and analyse how they differ from what is set out by EU law and governance. Ultimately, it wishes to address these discrepancies by impelling different agents to take responsibility for addressing them.

Research will draw from legal sources of the EU — such as the Treaty of the European Union, the Treaty on the Functioning of the European Union, the Charter of Fundamental Rights, directives related to anti-discrimination, and relevant rulings by the Court of Justice of the European Union, as well as works written by or building upon Young's theories of structural injustice and responsibility for addressing structural injustice.

This thesis concludes that bridging the gap between rights and lived experiences requires more than formal legal recognition; it demands sustained collective political responsibility and a concerted effort to challenge the normative structures that perpetuate injustice against LGB people.

## 1. What kinds of Oppression do LGB People Face in the EU?

Despite progress in legal frameworks and governance mechanisms, LGB individuals across the EU continue to face hurdles in day-to-day life. A 2020 report published by the EU Agency for Fundamental Rights (FRA), based on a survey conducted with almost 120.000 LGB participants,<sup>3</sup> highlights that little progress has been made to combat discrimination, hate, and harassment of LGB persons since an earlier survey, conducted in 2012 (as cited in FRA, 2020a). Despite the laws in place, discrimination in work contexts seems to have become more prevalent.

Moreover, the results of the survey conducted more recently by the FRA show a reported increase in harassment — in the form of offensive or threatening situations — and the same share of attacks — physical or sexual — at work, on the street, in public places, on the internet or otherwise, in comparison with the earlier survey (FRA, 2020a). Results of the survey show that only just over one in five (21.0%) LGB respondents have reported hate-motivated attacks to any institution, and about one in seven (14.5%) to the police. Less than one in ten (9.3%) reported harassment and discrimination, and only one in twenty-five (3.8%) did so to the police. This is the case even though the majority of people know that their country has an equality body or similar organisation — only 15% of LGBTI respondents acknowledged not knowing where to report incidents. When asked why they did not report the most recent incident of discrimination, LGBTI individuals<sup>4</sup> indicated that nothing would

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<sup>3</sup> 118,543 LGB respondents of 139,799 total LGBTI Repsondents. Among LGB respondents 19.1% (22,707) identified as lesbian, 49.7% (58,908) as gay, 23.0% (27,217) as bisexual women, and 8.2% (9,711) as bisexual men.

<sup>4</sup> Disaggregated data based on sexual orientation and gender identity is not available for the presentation of all survey questions asked by the FRA (2020a). Therefore, when the term “LGBTI” is used in reference to the FRA’s findings in this thesis, it reflects the limitations of the available data.

happen or change (41%), it was not worth reporting because of its prevalence (33%) or the perceived insincerity of their claims (22%), it was not worth the risk of revealing sexual orientation or gender identity (22%), or they generally distrust the authorities (21%).

Only a quarter (26.6%) of LGB people surveyed consider themselves very open, this percentage is especially low among younger LGBTI people (FRA, 2020a).<sup>5</sup> Nearly half (47.8%) of respondents consider themselves rarely or never open. Two out of five (40.0%) often or always avoid simple displays of affection in public, and one-third (32.7%) of LGB respondents avoid places for fear of assault, threats, or harassment. One in four respondents hide being LGBTI at work, even though those who reported being open often felt discriminated less than those who were not. One in three (33.9%) of respondents felt discriminated against in areas other than employment; most commonly at an educational facility, or at venues such as cafés, restaurants, bars or nightclubs.

Results vary considerably between Member States, but LGB persons in the EU continue to face structural barriers, social discrimination, decreasing tolerance, and legal inconsistencies across Member States, which undermine their full enjoyment of rights. This has real implications for the mental health of the individuals involved in these instances (FRA, 2020a). Of the LGB respondents who stated having been victims of physical attacks, 36.4% battled with psychological problems, such as depression or anxiety, and 31.9% were afraid to visit places or go out. For victims of sexual attacks, or sexual and physical attacks, this was, respectively, 45.8% and 27.3%.

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<sup>5</sup> Aged 15-17. Likely due to privacy safeguards for participants, the FRA's 2020 report permits disaggregation of data by only one category at a time. Consequently, when data is presented by, for instance, age group, it is not possible to simultaneously determine the respondents' sexual orientation or gender identity.



The concept of heteronormativity highlights the social, legal, political, and cultural mechanisms through which heterosexuality is normalised, naturalised, and institutionally privileged, while non-heterosexual practices are stigmatised and rendered socially invisible (Roseneil et al., 2013).

Moving beyond the predominantly national scopes of earlier studies on sexual identity, Roseneil et al. (2013) conduct a comparative analysis Bulgaria, Norway, Portugal, and the United Kingdom (UK),<sup>6</sup> examining four processes of normative change concerning the rights and recognition of LGB people, namely, a) the legitimisation of same-sex sexual practices, b) the implementation of anti-discrimination protections, c) safeguards against homophobic speech and violence, and d) the legal recognition of same-sex intimate relationships.

All four nations examined by Roseneil et al. (2013) have decriminalised same-sex sexual relations, but the journey to legitimising these practices spanned four decades, starting in the United Kingdom in 1967 and ending in Portugal in 2007. Norway accomplished this change through a single legislative act, while the other three countries needed a mix of internal and external influences. In the UK and Portugal, domestic social movements played a crucial role alongside European human rights frameworks. Conversely, Bulgaria's reforms were mainly driven by external pressure, particularly from EU legislation and human rights commitments. Norway was the first nation globally to enact legislation against discrimination based on sexual orientation, predating the three EU Member States studied, which enacted changes as a result of the EU Employment Equality Directive of 2000

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<sup>6</sup> The UK was still part of the EU in 2013. The formal withdrawal of the UK from the EU, Brexit, took place on 31 January 2020.

(2000/78/EC). Specific institutions and legislation will be detailed in section 3, but it is essential to highlight that since then, all three countries have exceeded the directive's requirements within the broader normative EU legal framework. The UK and Bulgaria have passed laws that extend beyond employment and training; notably, Bulgaria has made greater strides than the UK by outlawing discrimination based on sexual orientation in all areas of social life (Roseneil et al., 2013). Portugal has implemented stricter, albeit less specific, protections against discrimination. Although there is a strong emerging European norm advocating for the protection of LGB individuals against discrimination — influencing laws and policies in all four countries — specific criminal law provisions targeting homophobic speech and violence remain inconsistently applied. Furthermore, family law has largely escaped the influence of EU directives, resulting in an incomplete recognition of same-sex registered partnerships and marriages.

These legal and normative changes, overall, might sound positive. However, heteronormativity continues to stigmatise LGB individuals, rendering them as socially invisible. Section 4 will revisit the lived experiences of oppression faced by LGB individuals through detailed case studies of two EU Member States: Poland and Spain. The following section will outline the structural injustice framework and demonstrate how it offers valuable insights for interpreting these broader sociopolitical patterns.

## 2. What Does the Structural Injustice Framework Say?

### ***Key Concepts of the Structural Injustice Framework***

In her 2006 book, *Responsibility and Global Justice: A Social Connection Model*, Iris M. Young (p.114) begins from the premise that there is:

[A] kind of moral wrong distinct from the wrongful action of an individual agent or the wilfully repressive policies of a state. [Such] structural injustice occurs as a consequence of many individuals and institutions acting in pursuit of their particular goals and interests, within given institutional rules and accepted norms.

Structural injustice, in a broader sense, results from social-structural processes, which make social groups vulnerable to oppression and domination (McKeown, 2024). As such, understanding structural injustice necessitates an understanding of the concepts mentioned in this definition: social-structural processes, social groups, and oppression and domination.

In a 2003 lecture, Young explains what she means by social-structural processes. First, that “structures refer to the relation of social positions that condition the opportunities and life prospects of the persons located in those positions” (p.6). As such, individuals are embedded in systemic relations even before ever interacting with one another. Individuals are placed in social positions in a ‘multidimensional space’ of social structure, and their distance on a social ‘field’ determines the likelihood of identifying with one another. Second, that past human behaviour has left its mark on the world, and from it arose material or institutional and social constraints that can enable or constrain individuals’ options for

possible or socially acceptable behaviour; what she calls ‘objective constraint.’ Third, by acting in accordance with the preexisting structures, individuals try to bring about their intended consequences, but also reproduce, often inadvertently, the positional relations of rules and resources on which they are basing their action in the first place. Young posits that “[t]his mutually reinforcing process means that the positional relations and the way they condition individual lives are difficult to change” (p.6). Fourth and finally, the result of action within these structures is often unintended consequences of uncoordinated behaviour. Thus, Young argues that social-structural processes have four features: objective constraint, social positions, (re)production through (inter)action, and unintended outcomes (McKeown, 2024).

Social groups, Young (1990) states, are distinct from aggregates and associations. Social groups consist of members who are differentiated through encounter and interaction with (an)other group(s) and, as such, are an expression of social relations. The members of the group have a specific affinity with one another because they are more similar to one another than to others in different social positions. Similarly, aggregates are any classification of people based on similar attributes, but, contrastingly, for members of aggregates, this shared attribute is what primarily defines the aggregate.<sup>7</sup> Whereas, for social groups, the most salient is the shared sense of identity that results from it.<sup>8</sup> Associations are formally organised institutions that, like social groups, are defined by specific practices and forms of association.<sup>9</sup> However, for associations, members are

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<sup>7</sup> E.g., having green eyes.

<sup>8</sup> E.g., being LGB.

<sup>9</sup> E.g., a university.

individuals who are conceived of as ontologically prior to the collective — that is, individuals are seen as fully formed before joining. Whereas, for social groups, individuals' particular sense of being is, at least in part, constituted by their group affinity — a socialised understanding of individuality, shaped by one's relation to social categories and by how one is perceived by others. Individuals find themselves as members of groups and feel as if they have always been members.

Injustice, under the conceptions of justice Young laid out in her 1990 book *Justice and the Politics of Difference*, refers primarily to two forms of disabling constraints, oppression and domination. Young (1990) states that, in an abstract sense, all those oppressed by structural injustice suffer “some inhibition of their ability to develop and exercise their capabilities and express their needs, thoughts, and feelings” (p.40). She (2006) explains that *oppression* constrains self-development, while *domination* constrains self-determination. Or, in other words, “domination prevents individuals from determining how they will live their lives. [Whereas,] oppression prevents individuals from developing their unique capacities and fulfilling their personal potential” (McKeown, 2024, p.36).

Young's perception of oppression finds its roots in the New Left social movements of the 1960s and '70s. The meaning of oppression took the form of the disadvantage and injustice suffered by some people because of everyday activities of well-intentioned liberal society — as such, oppression exists as a systematic constraint on social groups, without the necessity of ill intent from an oppressive agent as was described in earlier dominant political discourse (Young, 1990).

As we have seen hereabove, neither social-structural processes nor group differentiation are inherently oppressive. Yet, because of their deep-rooted position in

norms, unconscious and internalised behaviours, the assumptions that shape institutional rules, and the material products of past decisions, the collective outcomes that result from adhering to all of these can be oppressive. Moreover, oppression arises when individuals are categorised into groups based on perceived essential and unchangeable characteristics. This often involves interpreting group differences as determinants of the capabilities or quality of members, while simultaneously constructing group boundaries so rigidly that they obscure any shared traits or overlapping attributes.

Young, in an attempt to outline a common descriptor of oppression as encountered by different groups, describes it as having five faces — exploitation, marginalisation, powerlessness, cultural imperialism, and violence — with which she aims to describe the oppression of social groups in the United States, as well as allowing interpretation of the similarities with and differences from the oppressions of other groups.

In a capitalist society, Young (1990) conceptualises *exploitation* as a structural relationship between social groups, wherein the labour of one group is appropriated to benefit another. *Marginalisation* refers to the systemic exclusion of certain social groups from autonomy and independence in social, political, and economic life, stemming from traditionally asserted rights of equality for citizens — and exclusion from such citizenship — under liberalism. This manifests as feelings of boredom and uselessness or lack of self-respect in marginalised people, even if freedom and dignity were to be respected in modern, advanced capitalist societies. *Powerlessness* is a form of oppression in addition to exploitation that occurs when non-professionals are allowed “little opportunity to develop or exercise skill” (p.56). As such, non-professionals do not and cannot enjoy the privileges that professionals do. Namely, a) an expansive, progressive profession, b) a lack of day-to-

day work autonomy, and c) a lack of the respect that professional positions offer outside of the workplace. *Cultural imperialism* is the first face of oppression that is not related to the social division of labour; it refers to the universalisation of a dominant group's experience and culture, rendering other groups' perspectives invisible, while those groups are stereotyped and marked out as 'Other'. Moreover, many groups experience oppression through *violence*. This refers to the constant threat or actual occurrence of unprovoked attacks on individuals or their property, inflicted out of fear or hatred solely because they are members of a particular social group. Such violence between social groups is structural, as it targets individuals solely for what they are perceived to represent. It is often accepted, ignored, or insufficiently punished, thereby approaching a degree of "legitimacy" (p.62).

### ***Structural Injustice Faced by LGB People in the EU***

Young's (1990) concept of socio-structural processes helps explain why LGB people in the EU continue to face injustices despite legal protections. LGB individuals occupy social positions that constrain their abilities to shape their lives, resulting from past exclusionary practices. These structures are reproduced through everyday actions, often unintentionally, as people act in ways shaped by these existing norms and institutions. These uncoordinated actions produce outcomes that result in fragmented protections from (group) violence and persistent invisibility. To give a better understanding of how structural injustices manifest for LGB people, I give the fictional example of Florian, a gay man and an Austrian national.<sup>10</sup>

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<sup>10</sup> While Florian is a fictional example, his experiences are constructed illustratively to reflect plausible and realistic scenarios, based on documented injustices faced by LGB individuals in contemporary EU contexts. Austrian nationality was chosen for Austria's percentual proximity to the EU average on the ILGA Rainbow Map of 2025.

Despite being qualified and dedicated at work, Florian must be careful not to fall too much into the stereotypes of his sexual orientation. In his office, homophobic rhetoric goes unchallenged, and queer history and identities are distorted jokingly. Florian feels underappreciated and is often not taken seriously. He feels that he cannot challenge the norms of his workplace, lest he risk his livelihood. Outside of work, Florian is appalled by political discourse and local media, which frequently portray his sexual orientation as a threat to national values and a dangerous ideology. Florian's existence is rendered abnormal, not through legal exclusion alone, but through a cultural regime that denies the legitimacy of his identity. Most visibly, Florian experiences violence; he has been followed home by youths who shout insults, and he was assaulted recently. The attack was investigated briefly and improperly by the police, who implied Florian had provoked the actions by drawing attention to himself. In future instances, Florian will hesitate to report hate-motivated physical or sexual attacks to the police.

Florian's experience illustrates how structural injustice operates not through isolated acts of wrongdoing but through a confluence of social processes, institutional norms, and cultural patterns that systematically disadvantage certain groups. Florian's life is shaped by the social position that he occupies as a gay man in Austrian society. The conditions Florian endures collectively constrain his ability to live authentically and safely.

Young (1990) argues specifically that gay men face different faces of oppression.<sup>11</sup> Similar to many other groups, they suffer from cultural imperialism. With Florian, this is

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<sup>11</sup> Significant developments in the LGBTQI+ movement have taken place since I.M. Young's writing in 1990. Her account of the faces of oppression was shaped by the context of its time and remains deeply influential, even as the movement has evolved in its visibility, scope, and political requests in the decades since.



exemplified by the distortion of his identity, rendering him abnormal or positioned outside of culturally sanctioned Austrian national identities. LGB people, like Florian, risk experiencing severe and recurrent violence. While gay men are not necessarily subject to exploitation or powerlessness in the same way as other oppressed groups, it is reasonable to extend her framework to acknowledge that individuals with diverse sexual orientations may indeed experience these dimensions of oppression under specific sociopolitical conditions.<sup>12</sup>

As briefly illustrated through the example of Florian, stereotyping plays a significant role in reproducing structural injustice. Relying on Alasia Nuti's 2019 work, *Injustice and the Reproduction of History*, such stereotyping is inherited from historical patterns of exclusion. Stereotypes, according to Nuti, can be said to stem from an unjust history in at least two interconnected ways. Many stereotypes were historically deployed systematically as justification for historical injustices. Moreover, stereotypes often offer a romanticised alternative for the causes of these injustices. Florian is subjected to stereotypes of gay men; stereotypes that differentiate homosexual men from heterosexuals, which reinforce the dominant position of heterosexuals, consequently bringing LGB people under the measure of dominant norms (Young, 1990). According to Nuti (2019), stereotypes persist in many contemporary, egalitarian societies, in implicit forms, because they uphold an illusion of fairness — they enable individuals to interpret structural injustice as simple misfortunes, and the result of individuals' own fault — and are easily reinforced through habitual reliance on existing social-structural processes.

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<sup>12</sup> E.g., lesbian or bisexual women do face gendered exploitation, albeit to a greater extent on the basis of their sex, rather than their sexual orientation.

LGB people, for this very reason, face historic structural injustices; injustices stemming from past injustices that continue to be reproduced in the present as long-term structures (Nutti, 2019). As such, LGB people suffer from a structural injustice that is differentiable from the structural injustice faced by other structural groups, whose injustice stems from the accumulation of structural, but not necessarily unjust, processes over time.<sup>13</sup>

Nuti (2019) argues that LGB people are best conceptualised as a *historical structural group*, noting that “historical structural groups are paradigmatic cases of historical structural injustice because their very existence is intrinsically linked to the historical structural injustice they suffer from” (p. 63). Unlike other such groups, such as, for example, African Americans, whose structural injustice can be traced to a specific historical origin like slavery, the injustice faced by LGB individuals lacks a clear point of emergence. Nevertheless, LGB people share with other historical structural groups a legacy of “a systematically unjust history of formal discrimination and exclusion that, although decried by societies and now recognised as having been unjust, is reproduced through other means” (p. 60). As such, LGB people, as members of a historical structural group, are structural descendants of victims of past injustices. After all, they would have occupied the same social position as their ancestors had they been alive during that time. This signifies structural descendants need not be biologically related to their ancestors, as is the case for many, if not most, LGB people alive today.

As can be deduced from section 1, as well as the given example of Florian, the existing body of research on the contemporary faces of oppression that LGB people face in the EU

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<sup>13</sup> E.g., the homeless, drug and/or alcohol addicted, army veterans.

tends to concentrate predominantly on the faces of violence and cultural imperialism. These faces are not only among the most visible manifestations of oppression, but also the most quantifiable. Moreover, they tend to be the least contested in both academic and political discourse concerning LGB people in the EU. In contrast, occurrences with other faces of oppression — exploitation, marginalisation and powerlessness — encountered by this historical structural group have received comparatively little attention. While these dimensions may be less salient for LGB people, in comparison to other oppressed groups, they are not inconsequential and warrant closer examination in further academic research.

I will return to the implications of LGB people as a historical structural group in section 5. In the following section, I will turn to the current legal framework of the EU, explain how it works, and the laws and governance that are in place regarding LGB rights.

### 3. What is the Current EU Legal Framework?

#### *Inner Workings*

To gain a comprehensive understanding of the trends in the political standing and advances in law and governance pertaining to LGB individuals residing in, or acting in relation to, the EU, it is important to gain an understanding of the inner workings of the EU. For the purposes of this thesis, the focus will lie on the EU as an actor in the form it has taken since the entry into force of the Treaty of Maastricht in 1993.

The Treaty on European Union (TEU), signed in Maastricht on February 7th, 1992, marked a new step in the process of creating the EU as we know it today; a complex system of supranational and intergovernmental institutions, establishing a three-pillar structure that expanded the EU's powers in foreign policy, internal affairs, and economic integration (Maciejewski et al., 2024). The TEU is one of two treaties forming the constitutional basis of the European Union, the other being the Treaty on the Functioning of the European Union (TFEU).

Article (Art.) 13 TEU outlines the EU's institutional framework, stating that the EU aims to “promote its values, advance its objectives, serve its interests, those of its citizens and those of the Member States, and ensure the consistency, effectiveness and continuity of its policies and actions.” The following articles set out the core institutional actors of the EU, this includes the European Parliament (Art. 14 TEU, in conjunction with 223-224 TFEU), the European Council (Art. 15 TEU, in conjunction with 235-236 TFEU), The Council (Art. 16 TEU, in conjunction with 237-243 TFEU), the European Council (Art. 15 TEU, in conjunction with 235-236 TFEU), the European Commission (Art 17 TEU, in conjunction with 244-250 TFEU), and the Court of Justice of the European Union (Art. 19 TEU). These institutions are

tasked with upholding the values set out in the TEU and TFEU (Treaties), including respect for human rights and non-discrimination, which are directly relevant to the legal protections of LGB people.

However, the effectiveness of EU law in advancing LGB rights is shaped by the division of competences between the EU and its Member States, as outlined in Art. 3 to 5 TEU. The EU operates under the principle of conferral. This means it can only act within the competencies granted directly by the Treaties; all other powers remain with the Member States. This principle is further guided by subsidiarity and proportionality, as set out in Art. 5. The former requires that the EU act only when objectives cannot be sufficiently achieved on a national level, whereas the latter limits EU action to what is necessary to achieve its goals.

These principles are further elaborated in Art. 2 TFEU, which distinguishes between exclusive, shared and supporting, coordinating or supplementary competences. Exclusive competencies are legislated exclusively by the EU. Shared competences are legislated by both the EU and Member States. However, national competence applies only where the EU has not exercised its own. In other competences, the EU can take action, but may not harmonise national law. This delineation of authority has significant consequences for LGB rights, as many of the areas central to it, such as familial law, health, and education, fall outside of the EU's harmonising powers, leaving protections uneven and often dependent on national governments.

The EU relies on regulations, directives, decisions, recommendations, and opinions, according to Art. 288 TFEU. *Regulations* are generally applicable to all Member States. *Directives* are binding, but the choice of form and methods to achieve these goals is left to national authorities. *Decisions* are binding only for those Member States specifically

addressed. *Recommendations* and *opinions* have no binding force. The choice of legal instrument is made based on the aforementioned principle of proportionality. Art. 289 requires joint adoption by the European Parliament (EP) and the Council for ordinary legislative procedures. Art. 290 and 291 TFEU also permit the European Commission (EC) to make supplementary or non-essential adjustments to EU legislation and to be given powers of implementation when uniform application among Member States is required. It is also important to note that — while only loosely defined by the Treaties — the European Parliament has tools at its disposal to scrutinise the general political direction and priorities of the EU as set out by the European Council and its President (Drachenberg & Bıcal, 2024). Namely, plenary debates with the President of the European Council, the use of written questions addressed to the President of the European Council, and European Parliament resolutions.

The following paragraph aims to provide a comprehensive, chronological overview of amendments to the EU's legal framework that are important to LGB individuals.

### ***Law & Governance***

Since the 1980s, the law of the European Union (EU) has become a substantial transnational source of political empowerment for persons who identify as lesbian, gay, bisexual (LGB) (Belavusau, 2020). Although by the mid-1980s the EP had passed its first resolution on sexual orientation discrimination, only by the beginning of the '90s did it become apparent that sexual orientation was an issue in EEC law (Waalwijk & Bonini-Baraldi, 2006).

The question of whether discrimination based on sexual orientation was prohibited remained contentious until the signing of the Treaty of Amsterdam in 1997, which, with its

enactment in 1999, introduced sexual orientation as an additional ground of discrimination, upon which powers can contest, in what is now Art. 19 of the Treaty on the Functioning of the EU (TFEU) (De Groot, 2023). The entry into force of Art. 19 moreover broadened the legal standing to contest discrimination based on sex, which had previously been limited to the fields of employment and vocational training, and introduced racial or ethnic origin, religion or belief, disability, and age as prohibited grounds of discrimination (Takács, 2015). However, it does not explicitly require states to legally recognise same-sex marriages (Belavusau, 2020). Alongside it came amendments to relevant Articles, such as Articles 2 and 3 of the Treaty of the European Union (TEU) (De Groot, 2023), albeit only as a part of discrimination in a broader sense. This can be seen as a groundbreaking first step towards an EU-wide concept of the recognition, legalisation, and protection of individuals' sexual rights and identities.

Based on Art. 19 of the TFEU, two anti-discrimination directives were adopted in 2000. Namely, the Race Equality Directive and the Employment Equality Directive (De Groot, 2023). The latter (2000/78/EC) states in Art. 1 that its purpose is to "(...) lay down a general framework for combating discrimination on the grounds of religion or belief, disability, age or sexual orientation as regards employment and occupation, with a view to putting into effect in the Member States the principle of equal treatment." The introduction of this directive has promoted Europeanisation of advocacy for LGB people and transitional case law in the Member States (Belavusau, 2020). The former directive has a broader scope than the Employment Equality Directive, targeting issues that are also faced by LGB people in the areas of social protection, education, and access to supply of goods and services available to

the public, while not explicitly indicating them (2000/43/EC); this has raised questions of legitimacy and consistency with international human rights law (De Groot, 2023).

In 2015, a remedy was sought by the EC by proposing a new an Equal Treatment Directive based on Art. 19 TFEU that would extend the scope to include other prohibited grounds of discrimination as mentioned in the Employment Equality Directive (FRA, 2020b). However, since the entry into force of the Lisbon Treaty in 2009, consent of the European Parliament is required in addition to unanimity in the European Council; this has not been achieved thus far (De Groot, 2023). This proposal for a modern anti-discrimination requirement explicitly leaves the recognition of conjugal or familial status, adoption and reproductive rights to national laws.

Although the European Court of Human Rights (ECHR) had consistently held that prohibiting sexual contact between same-sex persons violates the respect for a private life since 1981, it was unclear whether the 1950 European Convention on Human Rights would also protect against discrimination based on sexual orientation at the time that the Court of Justice of the EU (CJEU) took on its first case involving sexual orientation in 1998 (Waldijk & Bonini-Baraldi, 2006). Development occurred shortly after the entry into force of the Amsterdam Treaty, when a body established by the European Council drafted the Charter of Fundamental Rights (CFR), which was solemnly proclaimed in 2000 by the European Parliament, the Council of the European Union, and the EC (2000/C 364/01). The Charter constituted the first international human rights charter to explicitly prohibit discrimination based on sexual orientation, as enshrined in Art. 21 (De Groot, 2023). However, its proclamation was accompanied by a deliberate postponement of any decision regarding its legal status (European Council, 2000). The CFR only acquired binding legal force with the



entry into force of the Lisbon Treaty, which granted it the same legal value as the Treaties and incorporated it into Art. 6 TEU (De Groot, 2023). As such, it now operates alongside the Treaties in prohibiting discrimination on the grounds of sexual orientation.

The EP has strongly condemned all forms of discrimination, including conversion therapy, and addressed the urgent need for tackling hate speech, including online, and hate crime caused by biases on sexual orientation. It has unambiguously condemned “all laws, practices and official positions that criminalise homosexuality” (2023/2643(RSP)) and denounced “all forms of violence or discrimination against persons on the basis of their sex or sexual orientation” (2021/2557(RSP)). Moreover, it has encouraged the EU and its Member States to ensure that same-sex couples and their families can exercise their right to free movement without discrimination, and called on the EC to propose legislation requiring the recognition of legal parents on birth certificates, given in another Member State, in all Member States, and instructed the President to forward this resolution to the European Council (FRA, 2020b).

Three other EU instruments deserve special attention for their implications for the rights of LGB people: The Family Reunification, Free Movement, and Qualification Directives (De Groot, 2023). The Family Reunification Directive prohibits discrimination against same-sex marriages of individuals who are not citizens of an EU Member State regarding entry into and residence of a Member State by family members residing lawfully in a Member State (2003/86/EC). The Free Movement Directive states that the definition of ‘spouse’ or ‘family member’ must be recognised for same-sex marriages concluded and registered in other Member States (2004/38/EC). The Qualification Directive prohibits sexual orientation as a ground of discrimination in regard to granting asylum (2011/95/EU).

Fourteen Member States currently allow same-sex marriage (De Groot, 2023). In 2001, the Netherlands became the first country to legalise gay marriage (Van Ours & Chen, 2019). Ireland, however, was the first country to legalise same-sex marriage through popular vote in 2015 (McDonald, 2015). Among the Member States that do not permit same-sex marriage, most offer alternative forms of legal recognition, such as registered partnerships or contractual arrangements (De Groot, 2023). However, six Member States — Bulgaria, Latvia, Lithuania, Poland, Romania, and Slovakia — still provide no legal recognition of same-sex relationships. Interestingly, considering a broader set of rights for LGB individuals — including (step)adoption, legal protections against discrimination, and hate crime legislation — reveals a noticeable divide between Member States that joined the EU before and after the fifth enlargement in 2004. Among the newer Member States, only Estonia, Malta, and Slovenia have enacted all these protections. Conversely, Italy is the only outlier among older Member States, providing none of these rights beyond civil unions (Wintemute, 2017).

The International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) Europe has repeatedly ranked Malta as best out of 49 European countries, based on legal and policy practices for LGBTQI+ people (ILGA-Europe, 2025). In 2024, EU Member States Belgium and Spain followed, coming in third and fourth place in Europe overall, following Iceland. The EU Member States that score the lowest are Bulgaria, Romania, and Poland, coming in thirty-ninth, fortieth, and forty-second, respectively. In the next section, I will rely on two of the Member States mentioned — Poland and Spain — to explain the gap between the EU's legal framework and the lived experiences of LGB people in the EU.

#### 4. What is the Gap Between the EU's Legal Framework & Structural Injustice?

##### *Empirical Illustrations*

**Case study: Poland.** ILGA-Europe (2025) reports that Poland is one of the European Member States that has seen the most improvement in the last year, yet remains in one of the lowest places on their ranking. Although homosexuality has been legal in Poland since 1932, the rights of LGB people are among the most restrictive in Europe (Chowaniec, Mazierska, & Mole, 2021). Only in 1991 was homosexuality withdrawn from the Polish medical register as an illness.

Polish law forbids discrimination based on sexual orientation within vocational fields (Chowaniec, Mazierska, & Mole, 2021). Moreover, according to the Polish constitution, all Polish citizens are equal and, therefore, ought to be protected from forms of discrimination outside of employment, too. These laws are in line with Art. 19 TFEU. However, legal protections from discrimination are not upheld, as there is a failure in the recognition of sexual identity as a protected ground in hate crime and hate speech laws, despite international commitments. Furthermore, Poland lacks legal recognition for people in same-sex relationships, such as marriage or union and joint adoption rights — even if they have been concluded abroad (Godzisz & Więckiewicz, 2018).

During the 2020 presidential campaign of Poland's Law and Justice (*PiS*) party,<sup>14</sup> the discourse surrounding LGB rights and identities was framed as a threat to the moral and

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<sup>14</sup> As of mid-June 2025, Karol Nawrocki is set to be inaugurated as Poland's president on 6 August 2025. Like his predecessor, Andrzej Duda, he ran as an independent candidate, with the endorsement of the *PiS* party. In the Sejm, *PiS* remains the largest party, holding 180 seats within its parliamentary club, plus about 9 allied independent deputies (totalling 189). In the Senate, *PiS* is the second-largest party, with 30 senators and 4 independents (totalling 34). Unlike in 2020, when *PiS* led the government, it is currently head of the opposition.

cultural integrity of Polish society (Chowaniec, Mazierska, & Mole, 2021). Political discourse calls on LGB individuals to retreat from the public sphere and confine their sexual orientation to the private domain (Pluciński, Żuk, & Żuk, 2021). Such an approach entails a vision of limited citizenship, whereby LGB people may be conditionally tolerated only insofar as they remain invisible in public life and refrain from seeking recognition or inclusion within the political community. Through this ‘othering’ by universalisation of heterosexuality in the public realm, LGB people in Poland face substantial cultural imperialism.

The most prominent manifestation of a hostile stance was the establishment of ‘LGBT-free zones’<sup>15</sup> in approximately 100 municipalities across Poland, where local governments adopted resolutions rejecting what they referred to as ‘LGBT ideology’ (Chowaniec, Mazierska, & Mole, 2021). In cases where ‘LGBT ideology’ was not directly mentioned, it was referred to instead as a “radical leftist ideology detrimental to the family [structure] and values on which European civilisation has been based for centuries” (Pluciński, Żuk, & Żuk, 2021, p.1581). While these ‘LGBT-free zones’ had no legal force to criminalise or exclude individuals, they constructed symbolic public spaces hostile to LGB people.

The zones have since been repealed, resulting from their unconstitutionality in Polish courts (Knight, 2025) as well as through condemnation from the EP, leading them to request from the EC to assess Poland’s failure to fulfil obligations under EU law (2019/2933(RSP))

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<sup>15</sup> The majority of municipalities that adopted resolutions or appeals to establish ‘LGBT-free zones’ are located in south-eastern Poland, a region characterised by strong religious adherence, traditionalist values, and consistent electoral support for the *PiS* party (Pluciński, Żuk, & Żuk, 2021).

and subsequent economic pressuring through decisions from the EC (Frater & Kolirin, 2020). However, the zones, as well as the rhetoric of the *PiS* party, have negatively impacted the openness towards queer culture and the acceptance of LGB rights within Polish society (Chowaniec, Mazierska & Mole, 2021);<sup>16</sup> participants of pride parades continue to be regularly victimised by Poland's far-right, and neo-Nazi, groups (Pluciński, Żuk, & Żuk, 2021).

This is reflected in responses to the survey conducted by the FRA (2020a), mentioned in section 1. 51% of Polish LGBTI respondents stated that they often or always avoid certain places or locations for the fear of being assaulted, threatened or harassed due to their sexual or gender identity; this is the highest percentage among all EU Member States. Moreover, 42% of Polish LGBTI respondents had experienced harassment for their identity in the twelve months leading up to the survey, and 15% had experienced a physical and/or sexual attack up to five years before the survey was conducted. Only 12% of respondents stated to have reported the most recent physical or sexual attack due to being LGBTI to the police; 36% said they did not report out of fear of a homophobic or transphobic reaction.

In hate speech, analogies are drawn between modern LGB people and the Jewish people of WWII (Pluciński, Żuk, & Żuk, 2021). Agnieszka Graff (2010) posits that, in Poland, homophobia has been politicised as a way of resisting conformity with EU accession during its early stages of being an EU Member State. She (p.591) proclaims:

Increasingly, Poland's gays and lesbians were being marked as foreigners in their own country. In the context of a nationalist revival, such stigmatisation

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<sup>16</sup> While this supply-side explanation of political polarisation on LGB rights is not sufficient on its own, its role in normalising homophobic discourse in Polish political debate is notable.

can mean only one thing — a resurgence of patterns of Poland’s most engrained discourse of exclusion, namely, antisemitism.

This link often occurs subtly, but that is not to say it does not occur visibly — such as is the case with the far-right ultranationalist group ‘All Polish Youth,’ who shout threats such as “We will do to you what Hitler did with the Jews” and “Lesbians to the gas” (Graff, 2010, p.595).

The social exclusion in national political debates, in combination with threats, violence, and cultural imperialism faced by LGB people in their day-to-day life in Poland, suggests that, while according to EU and national law, they should enjoy no discrimination in their social, political, and private lives, this is not the case.

**Case study: Spain.** While it is enticing to focus primarily on the most egregious cases of discrimination, a comprehensive understanding of structural injustice also requires examining the lived experiences of LGB individuals in Member States, often regarded as leaders in LGB rights. Such an approach reveals the persistence of systemic injustices even in comparatively progressive Member States. Accordingly, this case study focuses on Spain.

During the dictatorship of Francisco Franco between 1939 and 1975, thousands of LGB people were sent to concentration camps and underwent forced conversion therapy (Encarnación, 2025). It was only after becoming a democracy in 1979 that Spain decriminalised homosexuality. As such, it was one of the latest countries in the West to undergo this change. Yet, it has quickly become an LGB rights leader. By framing same-sex marriage laws as a moral issue of extending ‘full citizenship’ to people of different sexual identities, changes were impelled by the ruling Socialist Workers’ Party (*PSOE*) which advocated members of the Spanish Congress of Deputies to vote in favour of erasing

gendered language in certain parts of the Spanish Civil Code, thereby allowing LGB people in Spain to marry and adopt since 2005 (Calvo & Trujillo, 2011). Spain became the first country to eliminate both distinctions between same-sex and heterosexual couples (Encarnación, 2025).<sup>17</sup> Moreover, since 2007, Spain has undertaken efforts to redress the harm caused to LGB individuals by historically homophobic laws and policies. These efforts have included official apologies and financial compensation for those persecuted on the basis of their sexual orientation. In a further step toward legal and social equality, the Spanish Parliament enacted a comprehensive equality law in 2022, which prohibits all forms of discrimination based on sexual orientation and explicitly bans conversion therapy.

Nonetheless, it's important to acknowledge that LGB individuals in Spain also encounter violence. According to the FRA survey (2020a), 41% of Spanish LGBTI respondents reported experiencing harassment related to their identity in the twelve months preceding the survey. This figure is only 1% lower than that of the previously mentioned Polish respondents. 8% indicated they had suffered a physical and/or sexual assault within the five years prior to the survey. Only 11% of respondents mentioned that they reported the most recent physical or sexual attack targeting them because of their LGBTI identity to the police, a rate slightly lower than that of respondents from Poland. However, in contrast to the Polish data, 18% of Spanish respondents indicated their reluctance to report was due to the fear of facing a homophobic or transphobic response. Spanish respondents reported greater comfort than their Polish counterparts in accessing

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<sup>17</sup> The Netherlands and Belgium legalised same-sex marriage before Spain, but still had restricted access to adoption for same-sex couples by the time Spain made these changes but revised their respective laws in response to Spain's advancements (Encarnación, 2025).

certain public spaces, without fear of being assaulted, threatened or harassed due to their sexual or gender identity — 32%, however, still did feel this fear.

A 2024 study by María L. Mondolfi et al. reveals that despite legal recognition of LGB rights in Spain, LGB individuals still encounter ongoing violence and cultural imperialism in their daily lives. The number of hate crimes against LGB individuals rose in 2021, suggesting that legal progress has not fully translated into societal acceptance. Their research points out that cultural and systemic ideologies — especially the dominance of (cis-)heteronormativity — continue the discrimination of LGB individuals, creating contradictions and conflict in their social and personal relationships. Mondolfi et al. identify exclusion from religious institutions, inadequate media representation, and harmful stereotypes that pressure individuals to align with dominant views. Additionally, the Spanish healthcare system is criticised for its heteronormative assumptions and lack of sensitivity toward non-heterosexual identities, reflecting broader structural obstacles to genuine recognition and inclusion.

### ***Conceptual Illustration***

To give a clear example of how injustices manifest for LGB people in different countries, I will give another fictional example, that of Pilar, a Spanish national, and Wiktoria, a Polish national. The lesbian couple is legally married and is raising a child in Spain. Their daughter was born through IVF, with Pilar as the biological mother. When Wiktoria, in exercising her right to free movement, decides to move back to Poland, after receiving a job opportunity in Lublin, Pilar and their daughter follow.

The women can exercise their right to cohabitation in Poland; however, Polish authorities do not recognise same-sex marriage, meaning Pilar and Wiktoria are not treated



as spouses. As a result, they are excluded from filing joint taxes and, as such, from tax benefits, as well as child support and family housing allowances. They also encounter problems when enrolling their daughter for a local school; only Pilar is recognised as the mother of their daughter. Wiktoria is denied, even after showing her Spanish papers, to be registered as their daughter's emergency contact. When their daughter falls ill, Wiktoria is forced to wait for Pilar in cases of emergency and is asked to leave the room when decisions are made on their daughter's care. She is also not eligible to request time off for her ill child. Pilar, while she had planned to seek employment in her new country of residence, has decided for now to look after her daughter when Wiktoria cannot. As such, the women think it best to take out an insurance for Pilar as a dependent on Wiktoria's health insurance. Local insurance companies, however, cannot recognise Pilar as Wiktoria's spouse. Pilar is forced to purchase private insurance. As a result of these extra financial strains, the women can no longer afford to pay their current rent. For this reason, Wiktoria decides to terminate her contract in Poland, and the women temporarily move in with Pilar's parents in Spain.

In Spain, Pilar and Wiktoria initially feel more secure again; their marriage is recognised, and their daughter is enrolled without legal difficulty. However, subtle marginalisation soon surfaces. While diversity is celebrated formally at their workplaces, casual references to their partners are often met with silence. Career opportunities quietly favour other employees, mostly men with more conventional family profiles. After a while, the women stop talking openly about their family. Moreover, they struggle to integrate into local parent networks, where heterosexuality is the default, and, while welcomed to attend, are quietly excluded from roles in community events for the church that Pilar's parents attend.

The fictional case of Pilar and Wiktoría illustrates the uneven landscape of legal recognition and structural inclusion faced by LGB people across the EU. While all EU citizens are, in principle, entitled to the right to free movement, the lived experiences of LGB couples reveal that this freedom is not equally accessible for sexual minorities. Unlike heterosexual couples, LGB individuals cannot expect consistent rights when crossing borders in the EU. This was demonstrated with Pilar and Wiktoría and the move from a country with comprehensive legal protections, such as Spain, to one with restrictive policies, such as Poland, resulting in the loss of rights such as marital recognition, parental status, and access to public services. However, even when residing in a comparatively progressive Member State, LGB individuals are not safe from structural injustices. Subtle forms of exclusion, rooted in entrenched heteronormativity, continue to shape their day-to-day political, social, and private lives; even if they are not legally codified, these objective constraints persist for LGB people, as a social group, through social-structural processes.

To grasp the nature of this structural injustice — and why it persists despite a robust legal framework in the EU — this thesis moves beyond traditional notions of legal liability and toward Young's social connection model of political responsibility to address these discrepancies by impelling different agents to take responsibility.

## 5. Which Legal & Institutional Reforms Could Aid in Addressing This?

### *Legal Liability & Structural Injustice*

Under the conventional liability model, which is typically employed by legal systems, responsibility is assigned to a particular agent or group of agents whose actions can be shown to be causally connected to the circumstances for which responsibility is sought (Young, 2006). These actions are shown to have been voluntary or with adequate knowledge of the situation, or otherwise mitigated or dissolved.

According to Young, the conventional paradigm of assigning responsibility through liability does not apply to contexts wherein actors unintentionally affect others, such as is the case when structural injustice is present (McKeown & Nuti, 2023). After all, as structural injustice is rooted in social-structural processes, it would seem that all those who participate and uphold these macrosocial processes are implicated in this responsibility (Young, 2006). Yet, there are no clear rules of evidence, which must be present not only to demonstrate the causal connection between an agent and the harm they have caused, but also for evaluating their intentions and delineating the consequences of their actions.

Young (2006) instead upholds a distinct understanding of responsibility, according to which every individual entangled in a structural injustice has a political responsibility to band together to fight against it, which she calls the 'social connection model' of responsibility. Young is ambiguous whether this political responsibility also involves a moral component, but outlines the main features to contrast the social connection model with the liability model, so that in the social connection model, a) responsible actors are not isolated, responsibilities assigned to one group do not dissolve others of it, b) harm is evaluated from an understanding of background conditions, c) responsibility is assigned in a way that deters

others from undertaking similar activities in the future, rather than sanctioning the wrongdoings of the past, d) responsibility for outcomes is shared, and e) such shared responsibility can only be discharged only through collective action.

Colm Ó Cinnéide (2024) critiques the limitations of the legal liability framework for its focus on individual wrongdoing and causality, which disaggregates structural injustices into isolated legal cases. He states that the development of legal approaches such as proportionality, one of the central principles of EU legislation, can constrict the law's capacity to engage with harms generated by structural injustice; embedded power structures obscure the injustices which they reproduce, proportionality does not question the 'bigger picture' — it questions only individual cases of wrongdoing through its basis in traditional liberal rule of law. However, he argues, the dichotomy between the liability and social connection models as set out by Young is too restrictive. Legal and institutional reforms can recognise positive obligations not to amplify harm generated by embedded structural injustices and assess responsibility in terms of a capacity to act. As public awareness of structural injustice grows — often driven by the activism of disadvantaged groups — so too can legal norms evolve. This dynamic allows for more collective and transformative understandings of justice.

### ***What Do Different Agents Need to Do to Address This?***

Addressing the gap between EU law and governance and the lived experiences of LGB people requires recognising that structural injustice cannot be dismantled by legal reform alone. The persistence of cultural imperialism and violence across the EU demonstrates that while legal protections are necessary, they are currently insufficient. Voicing similar concerns as Mondolfi et al. (2024), advancing the rights and well-being of LGB people

requires strengthening resilience resources across different levels of political, as well as social, realms. This involves ensuring the availability and accessibility of tangible supports, such as healthcare, legal recognition, and employment opportunities, alongside intangible resources, including affirming role models and sustained advocacy for sexual diversity. The structural injustices outlined in this thesis implicate a wide range of actors; this subsection will focus specifically on the EU itself, its Member States, and the individuals who inhabit and participate in these systems. Each of these agents bears a distinct, but interconnected, political responsibility, as outlined in the previous subsection.

Aligning with FRA (2020b) opinions voiced, the EU must continue advancements in implementing the Equal Treatment Directive on LGB rights. Moreover, it should work towards harmonising laws across Member States to ensure consistent protection for LGB people wherever possible within its competencies.

Member States, even those with advanced legal protections, must address the disjunction between law and the lived experience by reforming national institutions which often operate through heteronormative assumptions. In states where legal recognition remains limited, stronger implementations and adherence to national and EU law are needed, alongside meaningful investment in social inclusion. In accordance with the views expressed by FRA (2020b), EU Member States must a) enable equality bodies to effectively carry out the responsibilities assigned to them by EU non-discrimination legislation, b) intensify efforts to collect equality data, using it as a foundation for evidence-based policies in the realm of equality and non-discrimination, and c) persist in adopting and implementing measures that safeguard fundamental LGB rights under both EU and national law.

Finally, individuals are not absolved from responsibility in addressing structural injustices faced by LGB people in the EU. As explained through Young's structural injustice framework, and subsequent works responding to her theories, it is shown that individuals carry a political responsibility to collectively challenge and change embedded structures. Cultural norms are not fixed; they are produced and reproduced through interaction. People must engage in practices that resist the normalisation of exclusion and contribute to reshaping the moral expectations of society. As Ó Cinnéide (2024) notes, shifts in public understanding of justice often emerge from the struggles of those most affected by injustice. It is through this interplay of institutional reform and civic transformation that real progress toward structural justice for LGB people in the EU can be made.

## Conclusion

This thesis has demonstrated that while the EU has taken significant legal and institutional steps towards protecting the rights of LGB people, these efforts remain insufficient in dismantling the structural injustices that persist across its 27 Member States. The lived experiences of LGB individuals are characterised by different faces of oppression as outlined by Young (1990), particularly cultural imperialism and violence. This highlights a gap between legal protections and day-to-day realities. Through the structural injustice framework, it has become clear that this disconnect stems not from isolated legal failings but deep-rooted, historically inherited social structural processes that continue to reproduce inequality, often in subtle and informal ways.

By conceptualising LGB people as a historic structural group, based on Nuti's (2019) works, this thesis emphasises how past exclusions continue to shape contemporary experiences through entrenched norms and institutional practices. Empirical illustrations from Poland and Spain reveal that while legal frameworks vary in scope and implementation, neither comprehensive laws nor progressive politics alone suffice to eliminate structural injustice and oppression.

Moving beyond traditional legal liability, the thesis advances Young's (2006) social connection model of responsibility as a more appropriate lens for addressing structural injustice. This model implicates actors — EU institutions, Member States, and individuals alike — in the collective task of transforming the conditions that enable oppression to endure. Legal harmonisation, policy implementation, and civic engagement must operate together, each reinforcing the other, to realise meaningful change.

In conclusion, bridging the gap between rights and lived experiences demands more than legal recognition. Namely, it requires sustained, collective political responsibility and a commitment to challenging the normative foundations that sustain structural injustices faced by LGB people. The pursuit of justice for LGB people in the EU must be understood not only as a matter of law, but as a deeply social, cultural, and ethical imperative — one that demands action from all levels of European society.



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