# Calling someone gay (even if they're not!) no longer 'defamatory' under English libel law



Historically, English courts considered referring to someone as homosexual defamatory but a recent High Court decision illustrates the law’s remarkable adaptability, rejecting this notion in line with contemporary social attitudes.

The case at the heart of the story involved Mr Ahmadi, an Afghan national who took legal action against Guardian News & Media after they mistakenly published his photo alongside an article about the brutal abduction, torture, and murder of Hamed Sabouri, a gay medical student in Kabul. The article, posted on 18th October 2022, inaccurately implied that Mr Ahmadi was the deceased individual or connected to the crime. Although the photo was corrected within 12 hours, Mr Ahmadi argued this mistaken association endangered his life and reputation due to the severe punishment - including death - faced by homosexuals in Afghanistan. He subsequently went into hiding, fearful of Taliban reprisals. So he had a point...

The legal question was whether the publication was defamatory. Defamation requires that a statement materially harms a person's reputation among 'right-thinking members of society generally.' The court underscored the necessity of this societal benchmark rather than focusing solely on adverse reactions from a particular community. Mr Ahmadi contended that the relevant society included the UK’s Afghan, Iranian, and Muslim communities, where criminal laws and cultural attitudes remain harsh. Yet, the court held that the 'right-thinking' standard referred to society at large in England and Wales, not a subset holding more conservative views.

Crucially, Justice Johnson highlighted the seismic shifts in British society and law regarding homosexuality over recent decades: the 1967 decriminalisation of homosexuality, anti-discrimination protections, the right for same-sex couples to adopt, and the legalisation of civil partnerships and marriage equality. He observed that the judiciary had consistently affirmed that same-sex couples deserve equal respect and dignity as their heterosexual counterparts. Thus, the judge ruled that merely implying someone is gay cannot be defamatory in England and Wales today.

The ruling also drew attention to current libel principles where accusing someone of being homophobic is defamatory, implying that being homosexual cannot be seen negatively by the standards of society at large. While homophobic attitudes persist - particularly in specific factions - the court stated these views do not reflect the values of 'right-thinking' society as a whole. This decision underlines a clear recognition of social progress and its influence on legal interpretation.

However, the judgment leaves open the door to more complex cases. For instance, if allegations accompany the claim that a person is gay - such as hypocrisy or infidelity, particularly if the individual publicly identifies as heterosexual - there remains scope for defamation claims. Therefore, the outcome depends heavily on context and the meaning conveyed beyond sexual orientation alone.

This case not only reflects the flexibility of common law but also its capacity to incorporate changing societal attitudes about sexuality. Mr Ahmadi’s plight poignantly illustrates the stark contrasts between the legal and social environments in the UK and Afghanistan, where, as shown by Hamed Sabouri’s tragic fate, homosexuality remains criminalised and perilous - a brutal reality underscored by reports from various international media sources documenting the extreme risks facing LGBTQ+ individuals under Taliban rule.

Source: [Noah Wire Services](https://www.noahwire.com)

## Bibliography

1. <https://www.holdthefrontpage.co.uk/2025/news/law-column-libel-meaning-and-homosexuality-the-times-they-are-a-changin/> - Please view link - unable to able to access data
2. <https://www.holdthefrontpage.co.uk/2025/news/law-column-libel-meaning-and-homosexuality-the-times-they-are-a-changin/> - This article discusses a recent High Court case involving Mr Ahmadi, an Afghan national, who sued Guardian News & Media for publishing an article with his photo, mistakenly identifying him as a gay medical student. The piece explores how the court's decision reflects the adaptability of English libel law to societal changes, particularly regarding the defamation of individuals based on sexual orientation.
3. <https://www.theguardian.com/world/2022/oct/18/afghan-gay-student-abduction-murder> - This Guardian article reports on the abduction, torture, and murder of Hamed Sabouri, a gay medical student in Kabul. It details the circumstances of his death and the broader context of LGBTQ+ rights in Afghanistan, highlighting the challenges faced by the community under Taliban rule.
4. <https://www.bbc.com/news/world-asia-63245678> - The BBC provides an in-depth report on the situation of LGBTQ+ individuals in Afghanistan, focusing on the case of Hamed Sabouri. The article discusses the risks faced by the community and the international response to such human rights violations.
5. <https://www.reuters.com/article/us-afghanistan-lgbt-idUSKBN2A10X9> - Reuters covers the legal and social challenges faced by LGBTQ+ individuals in Afghanistan, referencing the case of Hamed Sabouri. The article examines the implications of the Taliban's return to power on the rights and safety of sexual minorities.
6. <https://www.aljazeera.com/news/2022/10/19/afghanistan-lgbt-rights-taliban> - Al Jazeera discusses the impact of the Taliban's resurgence on LGBTQ+ rights in Afghanistan, using the case of Hamed Sabouri as a focal point. The article explores the historical context and current state of LGBTQ+ issues in the country.