
International Support-Human Rights LGBTI Latin America 2017/18

*Discrimination based on sexual orientation and gender
identity*

Tobias Pellicciari - 6 ottobre 2017





Introduction

International Support - Human Rights has written this report on sexual discrimination in Latin America, mostly based on social prejudices and the stereotypes that have arisen against the homosexual community. To try to understand what has been improved and what needs to be done for a good social inclusion. The data obtained comes from reports by the Inter American Commission, Ilga, the United Nations and websites of LGBTI associations of Latin America. We hope that our work will be appreciated and we hope to continue to provide better service in the future in order to guarantee a better support to the homosexual community against discrimination and violence.





Discrimination based on sexual orientation and gender identity in Latin America

Laws governing gay, lesbian, bisexual and transgender (LGBT) rights are complex in Latin America and the acceptance of homosexuals widely varies. Unlike other social groups they are faced with discrimination, prejudice and many social stereotypes such as access to health services, stable work and marriage. Although in recent years many of these things have been achieved the path to fundamental rights is still long. For example, marriage between people of the same sex is internationally legal since 2005, since 2010 in Argentina, since 2013 in Brazil and Uruguay and since 2016 in Colombia. In Mexico it is possible to celebrate it in Mexico City, Coahuila, Chihuahua, Nayarit, Jalisco, Colima, Chiapas, Morelos, Puebla, and in some jurisdictions of Guerrero.

Violence in Latin America is boosted by hate speech, which is addressed to the community in different contexts, including media and social networks, events, public debates, events such as Pride. The evidence shows us that this **negative attitude inevitably leads to crimes against LGBTI people**, which are negatively affected by a context of high dehumanization and discrimination. Article 13 of the American Convention, concerning the right of people to express their sexual orientation and gender identity, underlines that this type of expression is under special protection as it is an integral element of personal identity and dignity.

Efforts to contrast intolerance, discrimination, hatred, and incitement to violence remain the key to liberating LGBTI people from prejudice. The formal rejection of hate speech by many senior officials in Latin America **can work as a preventive measure against the incitement to violence and discrimination**. Prevention should start from schools, trying to promote tolerance against negative stereotypes

against LGBTI people, such as information campaigns; train justice practitioners and gather *statistics data related* to freedom of expression.

Sexual orientation and gender identity violence is often aimed at gay, lesbian, and bisexual students (homophobia) at transgender students whose gender expression does not fit in binary gender norms. **Bullying, physical and psychological violence are the first ways of expressing this social rejection.**

In May 2016, UNESCO led the world leaders to an international meeting to discuss homophobia and transphobia, the event launched the first *United Nations Global Report on Violence based on sexual orientation and gender identity*, which promoted a fair environment without any **violence, discrimination and** gender expression. Since then, 56 countries have joined the Call for Action from Africa, Asia, Europe, North America, including Latin America.

In New York on May 19, 2016, the *United Nations* (UN) have called for the end of discriminating political laws against lesbian, gay, bisexual, transgender and intersex (LGBTI) people for acts of violence and discrimination perpetrated against this community.

A United Nations Joint Declaration issued in Latin America and the Caribbean on the National Day Against Homophobia and Transphobia, which underlined the lack of response from some countries and the restriction imposed on LGBTI people, the United Nations underlined how **much is important to create fair societies and not to favor a fragmentation of the population by denying them human rights**, the dignity and opportunities of which they all should benefit.

Multiple forms of discrimination increase social exclusion, affecting mental health and vulnerability of these people and makes them more vulnerable to the risk of HIV and other diseases.

Caribbean countries have been asked to cancel laws and laws **policies that discriminate people based on their sexual orientation or gender identity** and to adopt policies that guarantee fair access to education, employment, health, housing, social protection and justice.

By supporting a rule of law, investigating, pursuing and providing the right compensation to the victims of **violence and sexual and gender discrimination**.

A 2014 UNAIDS survey reveals worrying numbers and underlines that many men who have had relationships with other men in the Caribbean, one out of three of the interviewed people had been a victim of abuse or verbal intimidation. Nearly one out of five had suffered violence or physical abuse.

There *Interamerican Commission or CIDH* is concerned with the high rates of violence registered against gay, lesbian, bisexual, trans, and intersex, and the absence of a proper response from the government to this problem. Emphasizing the lack of effective measures for the prevention of hate crimes. While the Commission recognizes that **some progress has been made** by Member States of *the Organization of American States (OAS)*, violence against LGBTI people is still widely spread across the continent.

The CIDH states that these hate crimes **are based on prejudices against sexual orientation and gender identity**. Violence of prejudice is a social phenomenon that is addressed to specific groups, such as LGBTI people.

As far as legislation is concerned, OAS member states in the English-Caribbean region **still have laws that criminalize sexual intercourse and other sexual acts between people of the same sex**, criminalizing the use of traditional clothes associated with other gender and this has a strong negative impact on the lives of trans people. Trials are not common, but the law **creates an environment of prejudice condemning LGBTI people to discrimination**, stigma and violence.

These laws in Latin America increase social prejudices and their negative impact on the LGBTI people. These social laws accept abuses, reduce tolerance and are used to justify arbitrary detentions, abuses by law enforcement, extortion and torture. LGBTI people **are extremely penalized by the judicial system** because of discrimination and violence.

In December 2014 the *Interamerican Commission* has published its recorded data on LGBTI violence in America, a tool to raise awareness on the alarming levels of discrimination people face every day, CIDH noted that for a period of fifteen months (from January 2013 to March 2014) there were at least 770 cases of LGBTI violence, including 594 murders.

High numbers that should make us reflect and worry.

In March 2011, CIDH decided to give special attention to the rights of LGBTI people, stating that the Commission **had found a grave discrimination in the region** and that among other acts violence they have received information on murders, threats and verbal charges.

The UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment has found a significant percentage of torture cases against LGBTI people, including acts of violence of sexual nature, such as rape, in order to "punish them" for their diversity and dominate them. In this way **sexual minorities are often victims of dehumanization, which is a condition that leads to violence and torture.**

Violence against LGBTI people has also been listed as a form of "social cleansing". Since 1993 the Interamerican *Commission has* received a huge amount of data on this phenomenon in the context of the armed conflict in Columbia. It has been found that these violent attitudes force many sex workers to leave some areas because they are likely to be victims of the "social cleanup" campaign.

The concept of "social cleanliness" is certainly due to cleaning up your own city or area from people who are not suitable for the context.

Stigma can also be understood as a process of dehumanization, degradation, accusation, and underestimating of a certain group of people; the object of the stigma is usually identified and considered as "lower or an abnormal". **The stigma inevitably creates social prejudices and stereotypes.**

In addition, the importance of the concept of "hate crime" must not be neglected, the term was born in 1990 in the United States when a wave of racial crimes was investigated by the federal government (FBI). **Latin America and Uruguay have established their legal concept of hate crime** which is based on sexual orientation and gender identity, skin color, race, religion, and ethnic origins. Uruguayan legislation defines hate crimes as "acts of hatred, contempt, violence against a particular type of social group". Hate crimes lead to a 24-month jail sentence and some sanctions.

Based on this, the Commission highlighted the link between discrimination and violence against LGBTI people, emphasizing the relevance of the concept of prejudice based on sexual orientation and gender identity, which is largely exploited at the social level.

Luis Larrain, the president of a group for LGBTI people in Chile claims that **his country could be one of the most advanced in America and has made a lot of progress against prejudice.**

Over the years, there has been a significant change in the population, also thanks to political support. On the other hand, however, **countries like Venezuela are penalizing the rights of homosexual couples.** The government has hardly made any significant progress in recognizing or protecting community members.

Couples of the same sex have little protection under Venezuelan law and currently there are no protection mechanisms for transsexual people.

A 2015 report prepared by some Venezuelan LGBTI Associations for the United Nations has confirmed that members of this **communities live constantly discriminating situations in public places and in schools.** The lack of protection makes them vulnerable citizens in a hostile environment with increasing homophobia.



Roots, religious culture

We must remember that religion also plays a role in prejudice, and the Catholic and Evangelical Church play an important role in the practice of discrimination because they **form the public and the political opinion** of the region. Mexico, for example, is the second country with the world's most populous Catholic community, about 96,000. Only Brazil exceeds, with 120,000, more than 60% of the population. Although in recent years many Latin American countries have adopted more liberal social policies, such as legalization of marijuana, abortion, marriage between people of the same sex, etc., the church still wants to define its position on a wide range of issues.

Religious leaders seriously criticize proposed constitutional reforms, considering them an outrage in contrast to the structure of traditional values, such as those of the family. The fear of the class is ecclesiastical is that, sooner or later, people will drop religion and choose to follow other tracks. For this reason many homosexual and LGBTI people in the community are a “threat”.

LGBTI people living in the countries dominated by the evangelical church tend to be the most discriminating ones in the social context. Catholic and Evangelic churches **have similar opinions about homosexuality but different approaches**.

While both oppose homosexuality, the Catholic clergy tends to be more tolerant than the evangelical one. Sometimes Catholic clergy expressed support for civil unions, while always opposing to gay marriage. Crissthaian Manuel Olivera Fuentes, who works for MHOL, Lima's Homosexual Movement, said evangelical priests in Peru expressed strongly injurious ideas, preaching that homosexuality is a disease and can be cured. These **attitudes certainly encourage acts of violence** exclusion and social discrimination. For years in South America the movements that propose remedies for homosexuality have been sued.

In Ecuador, perhaps because of strong Catholic interference, as in many other American countries, the question of homosexuality lives with the stigma and the accusations of a religion that with its practices has opposed to the free choice of living sexuality. In these clinics, **considered illegal, they try to cure LGBTI people with religion**. Lesbian, gay, and transgender women living in these detention

centers are victims of brutal practices ranging from sexual violence to psychological abuse, insults, punishments, and beatings. These clinics hide and change among other centers dealing with drug addiction or alcoholism. We talk about **200 prison places**, with an unclear number of people being treated.

It is no better for Peru where the Catholic Church receives annual grants of almost \$ 700,000 from the Peruvian government under an agreement established in 1980. Many claim that these links between the Peruvian government and the Catholic Church strongly affect the rights of LGBTI people. The Peruvian minister pays pensions every month to Catholic priests, the country **also supports clinics and other local ecclesiastic groups**. The state pays salaries to bishops and cardinals, however, Peru is considers itself a secular state.

Evangelicals in the country have become more influential in society and in Peruvian politics over the years, The anti-LGBTI evangelicals promote initiatives that fuel the intolerance of LGBTI people **this in Peru makes progress on homosexual issues difficult**.

Activists say that **Latin American LGBTI people continue to fight against the culture of "male" man and sexism**. The boys are pushed to be men and to have a male pride, while women must be subject to their husbands and act as such.

Jamaica is also a country heavily influenced by religion, and most Jamaican people are considered devoutly Catholic. In June 2013, Jamaica shepherds gathered nearly 1,500 people in Kingston to support anti-gay laws in the country. Shepherd Leslie Buckland of the Church of Christ argued that LGBTI activists were trying to "conquer the world" with their challenge to legislation.

In February 2006, a coalition of Church leaders and members of the Christian Company of Lawyers **have declared their opposition to some privacy provisions in a proposal done on the Paper of Rights that would form the basis of the Jamaican Constitution**, which was not to be changed. The proposal was to make homosexuality legal.

The local group J-FLAG recognizes **that anti-LGBTI feeling is often influenced by some passages of the Bible**, which encourages the approval of one legislation that emphasizes the Christian condemnation of homosexuals, a purely arbitrary process, driven largely by individual and collective prejudice.

Religion remains today a **big obstacle to overcome in many countries of Latin America**, in some cases also a barrier to recognition full of sexual liberties, directed towards sexual orientation or gender identity. We hope this rock will soon be overcome.



Results are encouraging, but there is still a lot of work to be done

According to some analysts, the situation in Latin America is overall encouraging, but there is still a lot to be done to improve the situation of LGBTI people.

Activists **say that homosexuals are still in need of more** and the legalization of marriage across the continent. Also, we would like to see less impunity for hate crimes against LGBTI people and more access to healthcare and consultants for all members of the community.

In the region, public opinion seems to be heading towards tolerance. An investigation done by *Ilga World* has shown that 81% of American people do not care about the sexuality of their neighbors.

More and more people have decided to support the LGBTI community and the number of activists is increasing, this is a **crucial step towards new anti-discrimination laws**, though unfortunately they are not always applied. They still need education, raising awareness campaigns, otherwise these laws will not be of great use.

The legislative landscape in the LGBT sector in Latin America has begun to **evolve in the early 2000s**.

Considering that in 1999 almost half of the region still criminalized homosexuality.

The legalization of homosexual marriages took place in 2005, when Spain encouraged its former colonies to update their policy on the matter.

Since then, five Latin American countries - Uruguay, French Guiana, Colombia, Argentina - have legalized marriages between people of the same sex, the law passed in April 2016. In addition, Mexico is gradually recognizing the rights of LGBTI people: LGBTI couples can marry and adopt children in Mexico City and other 31 states. Chile has introduced some laws that give to LGBTI couples legal protection similar to marriage .



Persecution and marginalization of LGBTI people

However, in Latin America, in spite of the progress some things have to be improved. Belize has **revoked its anti-sodomic laws in August 2016**, but other countries are still penalizing homosexual relations, such as Guyana, where the law remains in force, though **is never applied**.

The real problem is that Latin America does not have a united voice on this issue yet, and innovations in the region are not enough to dismantle the marginalization and persecution of LGBTI people. According to the United Nations, there is still a high rate of homicides committed against transgender people or people with different gender identities. The *Interamerican Commission of the human rights* points out that almost **600 cases of homicide are caused by hatred towards LGBTI people every year**. A 2015 UN report also cites an alarmingly increasing number of aggressions in Brazil, ending with the death of the victims, in 2012, 310 homophobic or transphobic murders were reported.

It should also be noted that not all crimes are reported for fear of reprisals. All this creates some alarmingness, especially for the impunity of crimes, sometimes even the complicity of the investigative authorities is suspected.

Member States of the OAS **continue to have discriminatory laws that penalize consensual relationships between people of the same sex** and laws that marginalize them on the basis of gender identity. This kind of legislation **contributes to a hostile environment that condemns LGBTI people to isolation** and violence. The most common arguments against the abolition of these laws remain the religious opposition, particularly of the evangelical churches and cultural and social opposition.

Organizations denounce that LGBTI homicides too often are not reported in police files and are not always documented.

Out-of-court executions illegally committed by state agents are defined as the deprivation of the right to life and an act of intolerance from the government. Most murders **involve trans women**. Homosexuals can not show their feelings in public places, they often get punished or abused by law enforcement with arbitrary arrests

by government agents, with excessive use of verbal charges, motivated by "immoral behavior".

Fortunately since 2007, when the South American nations have pushed to sign the United Nations' Gay Rights Charter, a wave of change has spread. A handful of **Latin American leaders are driving the fight against discrimination** between the sexes, exalting human rights.

THE APPROACH OF LATIN AMERICAN COUNTRIES TO LGBT PEOPLE

After giving a global view of discrimination, prejudice and violence in Latin America towards the LGBTI community, we would like to highlight the situation in some countries.



Costa Rica

In Costa Rica, homosexuality was classified as "serious sin" and became a **crime during Spanish domination**. After gaining independence, however, it remained a crime until the end of Tomàs Guardia's presidency.

In 1971, homosexuality was decriminalized and a universal age of consent was designated, as it happened when a new law prohibiting "sodomy" was established, which however maintained the legal status of homosexual private acts among consenting adults. Subsequently, Article 382 of the Criminal Code that mentions "sodomy" **was repealed in 2002**, along with many other laws.

The Constitution does not **explicitly forbid discrimination on the basis of sexual orientation and gender identity**. Although from the '70s the situation of LGBTI rights has made a significant progress politicians like President Oscar Arias have expressed a **certain support for the rights of the homosexual community**, the Costa Ricans tend to be quite conservative when it comes to sexual orientation or gender identity, largely because of the influences of the Roman Catholic Church.

In 1993 the *International University of the Americas* had the policy of expelling LGBTI students and dismissing faculty members with homosexual orientation.

The President Solís, has made a significant gesture towards the LGBTI community, not even a month after he began his first term in the Central American state is trying to eliminate the barriers which divide the couples of the same sex from medical benefits.

On May 16, President Solís declared that he will fight all forms of discrimination, and on May 17, the international day against homophobia and transphobia, he raised the Pride's flag on the presidential palace. **There ceremony marked an important day like that of 1990** when the *World Health Organization* eliminated homosexuality from the list of men's illnesses.

Argentina

Gay, Lesbian, Bisexual and Transgender (LGBT) rights in Argentina are among the most advanced in the world. After approving the Equal Marriage Law, on July 15, 2010, Argentina became the first country in Latin America to do so. The country also allows bisexual and gay men to donate blood.



The country has also one of the best transnational transgender laws; the Law on Gender Identity passed in 2012 has made Argentina "the only country that allows trans people to change their gender identity without going through hormonal therapy, surgery or psychological diagnosis that identifies them as" abnormal. " In this way Argentina "leads the trans revolution in the world". In 2015, *World Health Organization* cited Argentina as an example for other countries as far as transgender people's rights are concerned.

In 2013, Argentina was **one of the countries with the most positive social policy of Latin America towards homosexuality**. The largest city in the country, Buenos Aires, has become one of the most important targets for LGBTI tourism, and has been described as the "gay capital" of Latin America.

In April 2014, Argentine President Cristina Fernandez de Kirchner became the godmother of Umma Azul, the daughter of a lesbian couple. Through this action, the neo-mums wanted to thank President Fernandez de Kirchner for her progressive policies aimed at couples of the same sex. In 2010, the Kirchner **administration has approved a law on equal rights for the egalitarian marriage**, which has led to the union of many gay couples and has allowed them to legally adopt their children. Another Argentine who has gotten under the spotlight in

recent years is Pope Francis, who has taken the LGBTI community into great account.

On March 27, 2015, during the national congress, **a law federalism against discrimination** has been introduced. The request had been forwarded by a group of LGBTI activists and Congress. The first debate on the law took place on 29 April.

In 2012 the law n 26,791 modified the **Criminal Code adding the capital punishment for hate crimes** and crimes based on sexual orientation and gender identity .

The biggest victory for Argentina occurred in 2006 when the Supreme Court cancelled the judgment of a minor court ruling that transgender people did not have the legal permission to promote their rights.

Brazil



Gay, Lesbian, Bisexual and Transgender (LGBT) people in Brazil, are under most of the same legal protections as non-LGBT people, their right to get married was nationally hosted in May 2013.

On May 5, 2011, the Federal Supreme Court voted in favor of the law allowing same-sex couples to have the same legal rights as married couples. As a result, on May 14, 2013, the *National Council of Justice in Brazil* has legalized egalitarian marriage throughout the country. Joaquim Barbosa, president of the Supreme Council of Justice and Supreme Court at that time, told **to the notaries that they could no longer refuse to** "celebrate a civil or conventional marriage in a stable union of people of the same sex". The ruling was issued on May 15 and came into force on May 16, 2013.

The States of Brazil **have the prohibition of creating discriminatory laws based on national constitution.** This allowed adoption for couples of the same sex, gender change, and many other innovative laws. Anti-discrimination laws are encouraged by the Brazilian Constitution, the State Constitution, and the city's constitution.

Brazil **has legalized egalitarian marriage in 2011** under the chairmanship of Dilma Rousse and it is the largest country in Latin America with an extensive Catholic religion population. In December 2013 they celebrated the marriage of 130 gay couples on the same day and the event was one of a kind.

The city of **Sao Paulo is hosting the parade of the largest Pride in the world.**

Sexual discrimination trends are changing and people have greater protection from the law. Brazil is the largest country in South America and has adopted a liberal constitution since 1988 and **continues to provide effective protection to its citizens** . Shortly after the election of Lucio Inlao Lula da Silva as president, several states have taken serious measures to ensure the protection of all citizens, including LGBTI people. Since 2003, discrimination based on sexual orientation is **prohibited in 73 municipal statutes.**

Despite these measures, however, living in Brazil is still difficult for LGBTI people, in 2004 a Bahia Gay Group published a list of names of 159 LGBTI members murdered in a year, and **a long list of people who would have been abused.** Some deaths have also been caused by spreading homophobia. In 2012, 77% of Brazilians supported the explicit criminalization of homosexuality.

Brazil was **ranked as one of the countries with the highest number of LGBTI people murdered**. According to a report published in 1996 by *International Commission on Human Rights*, gay, lesbian, and transsexuals are at least 1,200, many of whom are subsequently murder victims.

The most worrying aspect is that a large number of hate crimes are committed by law enforcement agencies, thus increasing the fear of reporting the offense immediately. Also, brutality against lesbian women **in the form of rape**, remains one of the most frequent hate crimes against lesbians.

In the south and south-east regions and in major capitals, such as San Paolo and Rio de Janeiro **it is common to find very young transgenders, aged between 16 and 17 years old working in the street**. Despite the great efforts made by Brazil for inclusion of LGBTI people and transgender people the outcome is still not acceptable. However, there are many associations for transgender people in different Brazilian cities. A program launched in the city of Rio de Janeiro focuses **on the integration of transgender in the social context** and gives them the opportunity of attending training courses and finding a job.

The public system of **Brazil provides people with a free trans surgery reconstruction**. The Ministry of Health has given health officials the ability to decide who qualifies for surgery and what priority should be given to other operations within the public healthcare system. Patients have to be **at least 21 years old and to be diagnosed as transsexual** without other personality disorders and must be subjected to psychological evaluation for at least two years.

Brazil is a secular state where Church and State are separated. The country has no religious religion, as opposed to Argentina, the neighboring country, which is a Catholic nation.

Catholic Church teaches that homosexual acts are immoral, **but there are some progressive bishops in Brazil who have the courage to support their ideas publicly**. Among evangelists, there are some public campaigns that they seek to reach gay men and women to convert them, as an evangelical group led by a former homosexual "Movimento pela Sexualidade Sadia ".

Many famous Brazilians **turn to Afro-Brazilian religions miracles to solve family or personal problems instead** . Another minority of the LGBTI Brazilian

population adheres to alternative pagan groups, such as Wecca, where homosexuality is accepted.

Despite the favorable legislation, Brazil will still have to work hard for the protection and integration of LGBTI people and we hope that the results will be visible in the future.



Jamaica

Gay, lesbian, bisexual, and transgender people (LGBTs) in Jamaica, particularly men, have to overcome various legal and social problems unlike non-LGBT people. The "sodomy" and the "buggy" **are punished with life** sentence.

Consensual sexual activities of lesbian women are legal.

Jamaica **has been described by some human rights groups such as the most homophobic country in the world** because of the high level of crimes and violence against LGBT people .

The Commonwealth Caribbean Islands have adopted British buggery law at the time of settlers, these laws were not strictly governed by the Caribbean but by the United Kingdom since the Victorian era.

Before this era, **the islands were occupied by the British who had imposed many restrictions, including sodomy, which** is supposed to be related to the fact that the first settlers were mainly men. The slave communities in Jamaica and the rest of the British Caribbean were also constituted **mostly by men and women from Western Africa**, but men, however, were more sought after by landowners and were deported in a greater number.

Subsequently, in England, Buggery Law was abolished in 1967, but despite the fact that Jamaica had already obtained independence, the law remained in force.

The Government of Jamaica **had even stated in 2012 that they would commit to guarantee equitable treatment for its citizens and assured that every individual would have equal rights** and if any right had been violated there would be compensation. The government also maintained that there **would never be legal discrimination against LGBTI people** and that they would strongly oppose discrimination or any other form of violence against any social group.

Jamaica has a very sexist social structure, male dominance is a very common use concept. Consequently, **homosexuality in this context is considered a potential threat to manhood and to the concept of the ideal man**. The spreading forms of homophobia in Jamaica are due to hypermasculinity.

Another factor is certainly religion, many Jamaicans identify as devoutly Christians and argue that their anti-gay position is motivated by religion.

As for transgender people, Jamaica has a very low tolerance for LGBTIQ people **especially for transexual women**, according to a study by Sir Arthur Lew's West Indies University, Institutes of social economic studies, the stigma addressed to these individuals also influence their perception of the world and the treatment becomes more complicated. The point **of view is that doctors stigmatize their patients** and treat them badly during the sex change path, and this prevents them to go through a peaceful transition. Low tolerance for these patients leads to situations of strong emotional stress.

As a member of the *Organization of American States* (OAS), Jamaica is under the jurisprudence of the *Interamerican Commission on Human Rights* (IACHAR).

During the General Assembly of the OAS, **Jamaica has accepted the resolutions on human rights, sexual orientation and gender identity adopted by the assembly** in 2008. However, in 2013, some footnotes have been introduced to try to limit or reject the content of these international rules.

A note added in 2013 states that the Government of Jamaica is unable to give its consensus for the approval of these resolutions, given that the proposed terminology of gender expression is ambiguous and threatens the moral values of their system.

The human rights situation of LGBTI people in Jamaica has been documented by various associations such as Kaleidoscope Trust (2015), Human Rights Watch (2004- 2014), J-FLAG (2016), where a study was published to show how Jamaican gays are **exposed to high levels of hate or refusal**, as in the case of "transgender sex" therapy or, above all, between politicians and the working environment.

In terms of visibility and support in 2016, several activities were organized at Kengston, on the Jamaica Orange. Other events like Pride took place in cities like Montego Bay. In January 2017, the University of West Indies organized an event "Beyond homophobia: LGBT experiences in the Caribbean" the second conference on the subject in the country.

As far as public statements are concerned, although the Minister of Education has stated that "there is no place" for **bullying based on sexual orientation in Jamaican schools** , the *Head of the Association of Teachers of the country* (JTA) said he could not ask counselors to help LGBTI students so as not to penalize sex acts between people of the same sex.

As far as Jamaica is concerned, there is still a long way to go to the rights, we hope that the first changes will be visible in the country soon, and that LGBTI people will get to live their lives to the fullest, without hate and violence.

Chile

The LGBTI community in Chile has been able to get some rights in recent years. In **2012 an anti-discrimination law that includes sexual orientation and gender identity** among protected categories has been approved. The law penalizes arbitrary discrimination, allows **citizens to file complaints and legal action against discrimination and requires the** government to develop policies that could put an end to marginalization. The law also aggravates the position of those who commit hate crimes. In the same year the Armed Forces of **Chile abolished all internal rules that prevented homosexuals from entering the army**, adapting their regulations to the anti-discrimination law.

Popular protests by LGBTI people in Chile have emerged publicly under Salvador Allende's government some months before the 1973 Chilean coup in Plaza de Armas in Santiago, about 30 homosexuals and **transgenders took part in the first public event for gay rights** which has remained in the history of the country. They joined the protest to oppose police abuse and to fight against homophobia. After this episode, Chile has become one of the world's pioneering countries in political demonstrations in favor of homosexuals.

In 2015, a law on the Civil Agreement entered into force for the explicit recognition of same-sex couples in Chile. The law protects couples of the same sex who live together and sharing of goods, such as home, medical care to the partner, retirement and inheritance claims in case of a partner's death. To obtain the custody of the partner's children, if the law deems it necessary, and also to be recognized as being united civilly as a "family" abroad.

From **2007 transgender people have the right to legally change their gender and name after having undergone surgery to change their sex**. To be able to undergo the intervention you need the judicial consensus. Since 2013, resignation of sex and hormone therapy are covered by the public health system.

Since January 2016, Chile has become the second country in the world to ban unnecessary non-consensual procedures or other invasive methods on intersexual children.

Currently in Chile there are various laws, regulations and public policies that protect LGBTI people from discrimination, **such as the protection and the defense for workers, for housing, for the donation of blood**. In public and private schools there are anti-bullying rules that have a positive impact against homophobia.

After 2012, some openly homosexual and transsexual politicians were also elected. Jaime Parada Hoyl was the first, elected as a Director for the Providencia after becoming known for the activism of gay rights after the incident the Zamudio.

In 2004, *Alejandra Gonzalez* became the first transsexual woman to reach a position of public representation in Latin America. Gonzalez was elected member of the council for Lampa, in the 2012 municipal elections he was re-elected for his third term and received the majority of votes in his communal.

In 2013, Claudio Arrigada became the **first openly gay man get into the House of Representatives of Chile**. Deputy Gulliermo Ceroni, also elected in 2013, he resigned in 2015.

According to a 2013 survey, the LGBTI Chilean population was much less prone to religious affiliation than the rest of the population. 57% of LGBTI people did not practice any religion, and 25% declared themselves Catholic, only 4.9% Protestant and the remaining 12% practiced other religions.

Chile has always been considered a conservative country in terms of homosexuality but this perception has changed considerably over the recent years.

In 2004, a survey of *Fundaciòn Chile*, conducted in 10 cities across the country, found a significant reduction in intolerance towards homosexuals. Only 15% of people interviewed **felt that homophobia was justifiable**, or that it can be a good social example, or that gays are ill or immoral.

A **clear decline in prejudices** involved 85% of people who said that pedophilia is not related to homosexuality, since this offense can be equally attributed to heterosexual or homosexual people.

Other nations after **Chile tried to reduce discrimination in Latin America**, including Uruguay, which has legalized the marriage between people of the same sex in 2013, and Mexico, where homosexual marriage was legalized in 2010. The goal is surely to minimize homophobic violence, which would also lead to greater social productivity, after all, strong communities are built on the mutual respect of their members.



Guyana

Gay, Lesbian, Bisexual, and Transgender (LGBTI) people in Guyana need to overcome legal challenges that are not normally experienced by residents. Guyana is the only South American country where homosexual acts are still illegal.

According to Guyana's law, homosexual acts could lead to life imprisonment.

Recently there have been several attempts to discriminate LGBTI people.

Following the United Nations' call for decriminalization of homosexuality, Guyana government announced in April 2012 that it would open a national debate on how to revise the country's laws **which is still discriminating LGBTI people**. Religious groups expressed their opposition to any change of these laws.

In 2013, a parliamentary committee was set up to decide whether to repeal anti-gay laws in the country. In April 2017, the government announced that it wanted to hold a referendum to **decide whether to decriminalize homosexuality or not**. However, in May 2017 it was reported by *Pink News* that no referendum took place as various organizations and media misunderstood the positions of the government. President David A. Granger still supports the legalization of sexual acts between people of the same sex.

He had already spoken to LGBTI rights in Guyana in December 2000 when a National Assembly had unanimously approved a proposal to amend the Constitution that would prohibit discrimination on sexual orientation and gender identity. But the **efforts made by religious leaders before March 2001 elections** had led to the denial of their consent by President Bharrat Jagdeo.

Although there is no recent news on the application of LGBTI laws in Guyana, the country **is known for the strong discrimination caused by the heavy influence of Christianity**, both with regard to social norms than in the country's politics.

Since the colonial era, British laws had penalized sex activities among people of the same sex, **laws that were later kept in spite of the independence of the country** and have created a strong social homophobia. The overwhelming majority of the population in Guyana disputes homosexuality. LGBTI people continue to destabilize violence, **harassment, verbal rantings, even from part of law enforcement, religious leaders, and others**, for this reasons they prefer to keep their sexual orientation hidden.

The report of *Ilga World of 2017*, indicates that since January 2015 Guyana has received **various recommendations for the protection of the homosexual community**, but only three of them were accepted. To protect LGBTI people, to ensure that hate crimes against LGBTI people are indicated and prosecuted by law and a further review of non-legislative rights.

Both the UN and the CEDAW Committee in 2012 and the CESCR in 2015 have already called on Guyana to decriminalize consensual relations between people of the same sex, both of them **had already expressed a deep concern** for the high levels of discrimination in the country. NGOs against Sexual Orientation Discrimination (SASOD) and the Initiative for Sexual Rights (SRI) have submitted a detailed report that illustrates the main **local**

challenges in terms of legal and social prejudice and reports that 25% of the population admitted being homophobic and that 18% approve the use of violence against LGBTI people.

At the beginning of 2017, a new study was published examining opinions in Barbados, Guyana, Trinidad and Tobago on the use of anti-gay laws and moral standards, and emerged **that there is still a tendency to stop homosexuality** in these countries, that this affects access to public health services and the ability to protect young people from abuse. We also hope that Guyana can make some progress on the subject of discrimination.



El Salvador

Lesbian, gay, bisexual and transgender people (LGBTs) in El Salvador may often have legal disputes not experienced by other people living in the country. Consensual **sexual relationship between same-sex adults is legal in El Salvador**, but legislation does not provide equal protection to families and to homosexual couples.

There is one **national law prohibiting discrimination based on sexual orientation and gender identity**, but acts of violence and intolerance are still frequent. Surveys show high levels of injury against LGBTI people and there are many reports of harassment and acts of violence.

On May 4, 2010, President Mauricio Funes issued a presidential decree prohibiting discrimination based on sexual orientation and gender identity within public services. At the same time, Funes has created a program of sexual diversity, led by a member of the lesbian community. Although there have been benefits in trying to resolve the issue of discrimination, activists report that outside the administrative areas discrimination is still too high.

While some legal advances have been made towards LGBTI people, **public attitudes towards homosexual people are still violent**, intolerant and negative.

LGBTIs are affected by the main religions practiced in the country; the Catholic Church and various evangelical conservative Protestant denominations.

These **Religions believe that homosexuality and transsexuality are signs of immorality** and many of their leaders have organized a real opposition to legislation for the protection of LGBTI rights.

That's why the road to rights is still long and there are still many reports of **violence and homicide against homosexuals and transexuals**. In September 2015, a law was passed in El Salvador to increase sanctions for hate crimes based on sexual orientation and gender identity, but you will still have to fight for a long time against the force of prejudice before everyone can fully live their lives.

CONCLUSION

We want to remind you that, the *Council of Human Rights of the United Nations* adopted a Resolution on "Protection against Violence and Discrimination Based on Sexual Orientation and Gender Identity". A huge victory for the human rights of all people experiencing sexual discrimination and violence. The Core Group of seven countries in Latin America - Argentina, Brazil, Chile, Colombia, Costa Rica,

Mexico, Uruguay - and 41 other countries jointly submitted the text. Subsequently, the resolution was adopted with 23 votes in favor, 18 against and 6 absent.



This "historic resolution" added Josefina Valencia of the international *LGBTI association for Latin America and the Caribbean*, played an important role to building a common path to human rights progress. We are proud of the international solidarity and the commitment shown by the States for equal rights.

We hope that this resolution can be a starting point and a turning point to create a world without violence and discrimination for all people, regardless of their sexual orientation and gender identity. Unfortunately too often discrimination **creates several discomforts for homosexuals who are forced to migrate to other countries**, which discriminate these people in transit. Therefore, we want to raise awareness of the issue of discrimination and prejudice to improve the lives of LGBTI people from their country of origin. Finally, we recall that requests for refugee status based on sexual orientation and gender identity are commonly analyzed on the basis of membership to a particular social group. The **international situation of asylum does not always take into account the specific circumstances of LGBTI people** and their needs according to their requests, then the approval of the asylum leave is often unavailable for a LGBTI person. Because officials who evaluate these situations do not always have **knowledge of violence**

in the countries of origin and don't give a significant weight to discrimination based on stereotypes.

We therefore call for action in advance to improve social inclusion, policies and countries of origin and not force these people to leave their country, their families, and their homes. Everyone's involvement is crucial to building projects for new solidarity plans and convincing economic resources.

Our association *International Support - Human Rights* is grateful for the commitment of all people who give their support every day for this purpose.



International Support - Human Rights

Bologna - Brussels

Email: isp.uganda@hotmail.com

Translation by

Cristina Colella

Email: cristina.collella108@gmail.com

