



LGBTQ Brazil Today: Endemic Violence Despite Legal Progress and Social Acceptance

July 2016

By Saurav Jung Thapa, Associate Director of Research with Ernesto Zelayandia, Former HRC Global Fellow

Latin America's most populous and largest country, Brazil, has made great progress in advancing the rights of its LGBTQ citizens at home. The executive and judicial branches of government have been responsible for much of the progress, while the conservative National Congress has often been an impediment. Brazil has taken a global leadership role on LGBTQ rights in multilateral platforms such as the U.N. Human Rights Council and in Inter-American regional bodies. Despite this progress, LGBTQ Brazilians still suffer from extreme violence and transgender women are especially affected.

Introduction

International attention is focused on Brazil as more than half a million foreign tourists are expected to descend on Rio de Janeiro for the 2016 Summer Olympics and controversial impeachment proceedings against President Dilma Rousseff have resulted in her suspension. With a population of 200 million, Brazil is Latin America's most populous country and it has made remarkable progress on issues such as poverty alleviation and equitable economic growth since the turn of the century. It has also made major progress towards LGBTQ equality.

Marriage equality was achieved in 2013, and many local jurisdictions have instituted protections for their LGBTQ populations. Same-sex civil unions were legalized as early as 2004 and same-sex couples were allowed to jointly adopt children in 2010. Much of this progress has been spearheaded by the executive branch and judicial actions, while the National Congress has remained passive or even hostile to LGBTQ rights.

Brazilians' views towards LGBTQ people have changed considerably over time. A 2013 survey by the Pew Research Center found that 60 percent of Brazilians accepted homosexuality, a figure identical to that of the United States at that time and substantially higher than countries with similar or higher levels of socioeconomic development such as Japan and Greece. Brazil's embrace of sexual and gender diversity is reflected in the fact that three million people attend Sao Paulo's pride parade each year and Rio de Janeiro has held annual pride parades continuously for more than 20 years.

The major progress that LGBTQ Brazilians have achieved has not been matched by an equivalent reduction in discrimination and violence, which is widespread and commonplace. Hate-motivated violence against transgender women, *travestis*¹ and other gender nonconforming people is especially

endemic and often brutal. Efforts to protect them have often been stymied by the National Congress.

Legal rights: Much progress, obstacles remain

Brazil has made immense progress on LGBTQ rights since the turn of the century. Most of these gains can be attributed to the actions of successive Worker's Party-led national governments that have been in power since 2003, LGBTQ-friendly policies enacted by local governments and judicial rulings by pro-equality courts including the Federal Supreme Court. Despite many gains, Brazil still lacks federal anti-discrimination protections and hate crimes laws.

Same-sex sexual acts have been legal in Brazil since 1831. Several jurisdictions such as the state of Bahia (1997), the Brasilia Federal District (2000), Rio de Janeiro (2000) and Sao Paulo (2001) have enacted regulations that prohibit discrimination and provide equal access to government services for LGBTQ citizens. Many of these jurisdictions are the most densely populated areas of Brazil with high concentrations of LGBTQ people.

A series of legal victories over the years have allowed LGBTQ people to enjoy more rights. Same-sex couples have been able to jointly adopt children since a Superior Court of Justice (the highest court that handles non-constitutional matters) ruling in April 2010. They have also enjoyed the same legal rights as different-sex couples following a Supreme Federal Court (constitutional court) ruling in May 2011 that recognizes same-sex couples living in 'stable unions' as family units.

In October 2011, the Superior Court of Justice upheld the marriage of a lesbian couple and indicated that same-sex stable unions should be converted to marriages if couples requested it. Even after the decision, same-sex couples could only get married through a complicated process. In May 2013,

¹ Travestis are individuals assigned male gender at birth who have modified their bodies to acquire more female "attributes." These include taking female hormones and bodily enhancements through the injection of industrial silicone. Not all travestis necessarily identify as transgender women and vice-versa.

the National Justice Council, a body chaired by the chief justice of the Supreme Federal Court, passed Resolution 175 stating that notaries all over the country could no longer refuse to register same-sex marriages, effectively ushering in nationwide marriage equality.

Brazil has been providing free gender-reassignment surgery to those who meet certain guidelines since June 2008. This measure stemmed from a lawsuit in the state of Rio Grande do Sul, where plaintiffs won a case in which they argued that gender-reassignment surgery was covered by a constitutional clause that guarantees medical procedures as a basic right for all Brazilians.

While there has been remarkable legal progress in recent years, there have also been some setbacks. In May 2011, the distribution of government materials to educate students on, among others things, same-sex relations and gender identity, was vetoed by President Dilma Rousseff.

She took this action following pressure from members of the Congressional Evangelical Caucus who claimed that the materials "incentivized homosexuality." President Rousseff, despite her reputation as a champion of the marginalized, also bowed to evangelical pressure and lobbied federal lawmakers in 2013 not to pass a bill that would have added bias-motivated attacks based on sexual orientation to existing hate crimes laws as a prosecutable category.

Epidemic of violence against transgender people

Brazil is described as "an extremely contradictory country" in relation to LGBTQ rights by Dr. Luiz Mott, founder of Grupo Gay da Bahia (GGB), Brazil's oldest and most prominent LGBTQ organization which was founded in 1980. The sexual and gender diversity in Brazilian society - often portrayed in popular TV shows known as telenovelas and visible in massive pride parades - stand in sharp contrast to "the red blood of victims" from anti-LGBTQ hate crimes. Dr. Toni Reis of the Brazilian National LGBT Association attributes the high incidence of hate-motivated attacks in large part to the culture of "machismo" which is intolerant of gender nonconformity and frequently responds to it with acts of violence.

The victims of anti-LGBTQ hate attacks in Brazil - including 326 murders just in 2014 - are disproportionately transgender women and *travestis*, a large number of whom were brutally killed by methods such as stoning, suffocation and hit-and-run attacks. Brazil also has the unenviable distinction of having the world's highest number of reported cases of violence against transgender people. For instance, three transgender women were murdered and another survived a stabbing in a single day in January. Most transgender victims of hate crimes are killed in public spaces. These high numbers reflect undercounting and poor reporting, according to Dr. Reis, as many police officers and coroner services inaccurately report the

gender identity of transgender victims. Many victims also do not report attacks as they fear persecution by perpetrators or harassment by police.

According to Professor Maria Juracy Toneli of the Federal University of Santa Catarina, Brazilian transgender people face greater marginalization, social stigma and danger than their cisgender peers in the LGBTQ community. Although transgender women only represent an estimated 10 percent of the LGBTQ population in Brazil, they accounted for a disproportionate 41 percent of murders of LGBTQ people in 2014. The average life expectancy for a transgender woman in Brazil is reportedly 36 years, compared to 74 years for the typical Brazilian or 42 years for Argentinian transgender women.

Dr. Marco Prado of the Center of Human Rights and LGBTQ Citizenship reported that most victims of anti-transgender violence are poor transgender women of color. A disproportionate number are engaged in high-risk occupations such as sex work, entertainment and the service industry. These individuals are vulnerable to violence since they often work on the streets.

Police officers are frequently perpetrators of criminal violence against transgender people. For instance in April 2015 in Sao Paulo, a transgender model named Veronica Bolina was stripped, shaved and disfigured in an attack by the police. The 25-year-old model had been placed in an all-male military prison after she was accused of attempting to murder an elderly neighbor. In addition, individuals or vigilante groups that take it upon themselves to "clean up the streets" are another major source of violence, according to Swedish academic Don Kulick who has written a book on the subject.

Government actions to protect and advance LGBTQ rights

Brazil's federal government has taken some measures to protect LGBTQ people in recent years. In 2004, the Ministry of Human Rights created *Brasil Sem Homofobia*, a program to fight violence and discrimination against the LGBTQ community. In 2009, the government launched the National Plan for Promotion of Citizenship and Human Rights of LGBTQ people. In 2010, the government established the position of a general coordinator for the promotion of LGBTQ rights and in July 2014 the president's office formed a National Committee for Public Policies for the LGBT Community to pursue policies to benefit the community.

The federal government also operates specialized social service centers across the country where vulnerable LGBTQ people are provided assistance by psychologists and social workers. In addition, some 20 percent of these centers are certified to provide assistance to victims of sex trafficking, however specialized services are not available for male and transgender victims.

At the local level, major progress on recognizing LGBTQ rights has occurred in recent years, especially in Brazil's teeming urban megacities. For instance in Sao Paulo, two centers to support victims of anti-LGBTQ violence have been established. The city government also operates a paid internship program for transgender students in City Hall to improve their future career prospects and interest them in public service careers. Similarly, in 2014, Rio de Janeiro's state-run program *Rio Sem Homophobia* provided 430 police officers with training on the rights of LGBTQ people.

On the international scene, Brazil's government has been a champion of LGBTQ rights ever since Luiz Inácio Lula da Silva "Lula" was first elected president in 2003. His successor as president, Dilma Rousseff, has continued to champion LGBTQ rights and broader human rights and social justice causes.

Brazil was among the 66 countries that supported a groundbreaking statement at the U.N. General Assembly in 2008 asserting that international human rights protections cover sexual orientation and gender identity. In September 2014, Brazil co-sponsored a successful U.N. Human Rights Council resolution to combat violence and discrimination based on sexual orientation and gender identity. In 2008, the General Assembly of the Organization of American States (OAS) unanimously adopted a resolution sponsored by Brazil that condemned human rights violations based on sexual orientation and gender identity, taking a crucial step to end the silence around violence against LGBTQ people in the Americas. In June 2013, the same body adopted the Inter-American Convention against All Forms of Discrimination and Intolerance which includes language that covers the rights of LGBTQ persons.

Economic disparities

Brazil's LGBTQ community is shaped and affected by glaring economic inequality that pervades broader society. Brazil has the 13th greatest gap between the rich and poor citizens among 150 countries surveyed. A 2014 report by Micro Rainbow International on poverty among LGBTQ people in Rio de Janeiro notes that LGBTQ people are much more likely to experience poverty than others because of their limited access to education and employment, workplace discrimination, discrimination by financial institutions and lack of access to family support networks.

Brazil's remarkable decade-long economic growth until 2014 lifted tens of millions of people out of poverty. However, widely touted and generally successful government initiatives such as Bolsa Familia -- the world's largest social welfare scheme providing direct cash grants for poor families -- focused on alleviating poverty in heterosexual family units. This often excluded families with same-sex couples and other households with LGBTQ members.

Transgender Brazilian women are discriminated against and

excluded from regular employment. They often turn to survival sex work in resort or coastal areas and to low-paying work in the entertainment industry. These women are at higher risk of poverty, which in turn puts them at greater risk of violence at the hands of police officers, vigilantes and death squads. Successive U.S. State Department Trafficking in Persons reports have also noted that Brazil is a source of transgender women and men who are trafficked to destinations such as Chile and Western Europe for commercial sex work.

Religious fundamentalism

Christian evangelical fundamentalism is a growing force in Brazilian politics and society. Evangelical Christian groups hostile to LGBTQ people and with links to anti-LGBTQ U.S. groups are among the fastest growing religious denominations. Protestant Neo-Pentecostal churches are particularly virulent in their opposition to LGBTQ rights.

Conservative evangelical members of the National Congress have blocked legislation to protect and advance LGBTQ rights since 2001. Chief among these is the corruption-tainted former president of the Chamber of Deputies (Speaker) Eduardo Cunha. A staunch conservative who has demanded restrictions on the rights of LGBTQ people, Cunha has claimed that Brazil is "under attack by gays" and expressed "revulsion" when the first gay kiss was broadcast on Brazilian television. Cunha was ejected from his position as Speaker by the Brazilian Supreme Court in May 2016 for obstructing a corruption investigation.

Organizing for LGBTQ rights

Social organizing is widespread in Brazil and the country boasts a vibrant civil society and media. There are several LGBTQ organizations throughout Brazil, many with national reach. Most LGBTQ organizations and movements in Brazil have origins in the protest movements among students, artists and the political left in the 1970's and the 1980's that mobilized to oppose the right-wing military dictatorship. Brazil's LGBTQ rights advocates are actively involved in regional and global efforts to achieve LGBTQ empowerment.

LGBTQ advocates and other human rights defenders mobilized in 2014 to protest rights violations, capitalizing on the attention the country received from hosting the football World Cup. In July that year, thousands marched through Rio to promote acceptance of LGBTQ people and to mark the 45th anniversary of the Stonewall riots. Advocates are now planning to raise awareness on the violence faced by LGBTQ people and to call for additional recognition and protection during the approaching 2016 Summer Olympics.

The private sector has also taken steps to promote LGBTQ inclusion. Fifty-six companies participated in the Forum of Companies and LGBTQ Rights in Sao Paulo in June 2015

to discuss good practices in reducing discrimination and promoting LGBTQ rights in the workplace. The annual spending power of Brazil's LGBTQ population is estimated to be \$120 billion and LGBTQ tourists spend \$115 million each year at the Rio Carnival alone.

Conclusion

Brazil has made immense strides in protecting and advancing the rights of its LGBTQ citizens at home, and has taken a global leadership role on this issue. While the country has a vibrant and visible LGBTQ community, it also suffers from extreme brutality and violence against sexual and gender minorities, especially transgender women and travestis. The rising specter of evangelical intolerance and the toxic effects of poverty also pose serious dangers to LGBTQ Brazilians. In spite of discrimination, violence and poverty, LGBTQ leaders continue to courageously organize and advocate for a more equal future for LGBTQ Brazilians.

*Acknowledgments: Several Brazilian advocates and academics provided invaluable input during the research for this article. Their comments are not always directly cited. We would like to gratefully acknowledge the advice and comments provided by: **Gabriel Alves de Faria**, a LGBTQ rights advocate; **Dr. Luiz Mott**, founder of Grupo Gay da Bahia; **Dr. Marco Prado**, Director of Center for Human Rights and LGBT Citizenship, Federal University of Minas Gerais; **Dr. Toni Reis**, Education Secretary of the Brazilian National LGBT Association, and; **Prof. Maria Juracy Toneli**, Federal University of Santa Catarina.*