

Sexuality in Latin America: Politics at a Crossroad

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Introduction

Latin America, encompassing Central America, South America and three Caribbean countries is the most unequal region in the world in terms of income distribution. Its population is multi ethnic and its history has been one of a long, violent colonization process including three centuries of slave trafficking, exploitation and sequential migratory flows. As a result of Iberian colonialism, most of the countries have Spanish and Portuguese as official languages. Spanish is spoken in almost all Latin American countries, with the exception of Portuguese-speaking Brazil. But everywhere -- except Argentina and Uruguay – the language of original peoples is still spoken today.²⁷ Thus, communication across Latin America is less difficult than in other multi-linguistic regions of the global South. Political changes, legal reforms, intellectual discussions and social movements have therefore travelled across the region more easily than in other parts of the world. Despite national and local heterogeneities including indigenous peoples, as Pecheny and de la Dehesa (2014) point out, the Latin American region can be thought of as a socio-political unit. Recent trajectories of sexualities and gender politics are also embedded in a common history of *open veins*, to use the metaphor crafted by the Uruguayan writer Eduardo Galeano (1971).

Sequential cycles of dictatorship and democracy, but also of periods characterized by economic redistribution or else of concentration of wealth, have marked contemporary Latin American political history. In the 1980s many countries in the region experienced transitions from authoritarian rule to political democracy, although the degrees of democratization varied and human rights violations continued to be recorded in all countries. In the 1990s, the region was swept by neoliberal economic adjustment with negative social consequences for the poor and also middle-classes. In the 2000s, a new wave of left-wing governments came to power in many

²⁷ The only three countries speaking other European languages are Belize and Guyana (English), French Guyana (French) and Suriname (Dutch). Just in Brazil, even though the size of the indigenous population is very small (around 800.000 people), more than 300 native languages are spoken.

countries that attempted to implement measures of economic redistribution and social protection. The language of social justice and democratization flourished. However, deeper layers and practices authoritarianism have not disappeared, even in the case of governments aligned to the very left of the political spectrum, such as the case of Correa in Ecuador, Chávez and Maduro in Venezuela, and Ortega in Nicaragua.

After a decade of progressive governments, we now witness once again in several countries the striking overlapping of reactivated neoliberal policies and conservative restorations that, in fact, imply the reemergence of authoritarianism in formal democratic conditions or, to use the term crafted by Victor Orbán: illiberal democracies. The most alarming case is Brazil, where in 2016 a parliamentary coup evicted the president Dilma Rousseff and, in 2018, the extreme right candidate Bolsonaro was elected under conditions in which religious and secular conservatism deeply intertwined with an ultra-liberal economic agenda has politically triumphed.²⁸ We can speak, perhaps, of a “returned of the repressed” or of a sort of conservative revenge rapidly regaining political power across the entire subcontinent.

Advances and setbacks in gender and sexuality politics are part of this changing landscape. However, gains and losses in sexual politics have not always been consistent with what is usually interpreted as advances and setbacks in the wider domains of social justice and economic policies. In some cases, leftist governments sincerely committed to social justice have been hostile to abortion or LGBT rights (in addition to hostility towards diverse ethnic and cultural minorities) and, in contrast, neoliberal or moderate rightwing governments have sometimes enabled or sustained legal reforms and recognition policies.

Despite the direness of the current landscape and the paradoxical conditions of recent past trajectories, the region has, indeed, seen important gains in gender and sexual rights. In the past three decades, several countries and sub-national jurisdictions adopted reproductive health policies, access to HIV treatment, non-discrimination by sex, gender, sexual orientation and gender identity, recognition of same-sex couples and of gender identity for trans people, including de-pathologization. More recently, the rights of intersex people have also entered the policy agenda in various countries.²⁹ But there are less luminous aspects of the regional

28 See Sonia Corrêa's essay *The Brazilian 2018 Election: A perfect catastrophe?*, Retrieved from <https://sxpolitics.org/the-brazilian-2018-election-a-perfect-catastrophe/19233>.

29 See ILGA 2017 Report, Retrieved from https://ilga.org/downloads/2017/ILGA_Homofobia_de_Estado_2017_WEB.pdf

landscape to be also charted, such as the extent and brutality of violence and abuse, entrenched discrimination, the persistence of high rates of unintended teenage pregnancies, the stigmatization of sex work and, especially, the criminalization of abortion.

As noted by Barajas and Corrêa (2018), almost half a century passed between the legalization of abortion in Cuba in 1961 and the Colombian Constitutional Court's decision in 2006 that granted three legal indications for the right to abortion. After that, only two reforms ensuring abortion upon request have taken place: in Mexico's Federal District in 2007 and in Uruguay in 2012 (Correa & Pecheny, 2016). Since then, in August 2017, Chile has partially modified its legislation, overcoming the absolute prohibition on abortion established during the Pinochet dictatorship. Bolivia also expanded the scope of legal exception in 2017, but in early 2018 the whole Penal Code Reform was revoked. Finally, in 2018 in Argentina, a right-leaning administration enabled the debate on abortion legalization and in June, a law granting the right to abortion until the 14th week of pregnancy was approved by the Chamber of Deputies. In August, however, the new law was to be rejected in the Senate by four votes.³⁰

Throughout the region, sexualized and gender-based violence persists and has even increased despite the new laws that have been recently adopted, which might be adequate but are not implemented due to government apathy or complicity.³¹ Reaction to violence has awakened multitudinous experiences of mobilization, such as the movement articulated around the claim "Ni una menos" (Not one woman less), launched in Argentina in 2015.

Concurrently, a number of contemporary sexual and gender rights claims comprise biomedical interventions, such as the prevention and treatment of sexually transmitted infections, reproductive health, abortion, hormone therapies and surgeries for transgender people. Sexual politics is always prone to be captured by medicalization and is highly dependent on accessibility and quality of health systems (Correa & Pecheny, 2016). In sum, many gender and sexual diversity rights claims have not yet been achieved, others have not been fully implemented and, yet more troubling, what has been fully achieved is not irreversible and will be threatened by the conservative restorations underway.

30 This defeat did not mean, however, the end of the debate. Pro-abortion Right parliamentarians and the feminist movement are getting ready for a new round of legislative discussions in 2019.

31 See PAHO, 2014 Violence against Women in Latin America and the Caribbean, Retrieved from www.paho.org/hq/dmdocuments/2014/Violence1.24-WEB-25-febrero-2014.pdf

Of the many topics within the contemporary Latin America gender and sexual politics agenda, we will examine three areas: gender and sexuality based violence; sex work and anti-trafficking policy trends; and abortion rights. We have made these choices because these topics are privileged sites to charter the paradoxes and conceptual challenges of Latin American gender and sexual politics.³² Each of these topics allows for mapping the role of key actors in play, such as political parties, conservative religious forces, social movements, governmental bureaucracies and leadership, academia and market forces as well as transnational trends.

Violence

In Latin America, gender and sexuality based violence cannot be fully grasped if not articulated to the overall conditions of structural violence that have assumed new contours, meanings and effects in recent decades. In this wider landscape, gender and sexuality based violence intersects with the criminalization of poverty, the war on drugs and related narcopolitics. It also connects with the crisis of hegemonic masculinity and intensified illegal flows of people and money through national borders.

Since the 1980s, Latin America has experienced the opening of economic markets and the concomitant weakening of state roles. This shift enabled the expansion of illegal economies and criminality in various zones, mostly related to drug trafficking and money laundering. Parallel economies and armed groups, in combination with increased social inequalities, placed marginalized groups at greater vulnerability and created a favorable ground for the scaling up of violence (Salama, 2008). The voracity of capital for natural resources is also propelling new forms of structural violence, particularly in relation to land control and eviction of indigenous peoples from their territories (Svampa, 2016). Consequently, Latin America social formations, while continuing to be traversed by unresolved patterns of social and economic exclusion, is now also immersed in a deep distrust of public institutions that have not been able to either reduce inequalities or contain the expansion of violence.

32 In Latin American universities, the field of gender and sexual studies has developed unevenly, often without institutional recognition (Careaga, 2002). However, dialogues, re-appropriations (queer/cuir), questions and vernacular productions have flourished that cover a wide range of areas: historical-empirical studies, human rights, structural vulnerability, colonialism, intersectionality, social conflict, international and geopolitical studies, linguistics, philosophy. These academic initiatives have allowed Latin America to interact in the global dynamics of sexual policies and related intellectual developments. But, in recent years, gender and sexual studies in the region have also faced increased attacks on the part of conservative actors.

States have been unable to respond to insecurities and injustices that people experience every day. In many places, territories are controlled by remaining guerrillas (such as in Colombia), paramilitary groups, gangs and other types of organized crime – whose boundaries overlap with police and the military. The ‘war on drugs’, unleashed and constantly revived since the 1980s, is, in particular, a key feature of this conflicted landscape. It has triggered re-militarization and is used as pretext to legitimize state violence, for example in Brazil, Colombia and Mexico. Structural violence imposes old and new social hierarchies over the population, creating situations of risks and exclusion in which gender and sexuality play a central role. In all these countries, violent non-state actors have imposed gender norms on women, attacked and killed sex workers, travestis and trans persons. In some Brazilian slum zones, HIV positive people have been evicted from their homes by both narco and militia war lords. The territories affected by this violence are more than often the same in which religious and conservative forces, in particular Evangelicals, have also proliferated, calling for the reconstitution of family, moral values, and gender and sexuality orders.

Violence against women, the blunt effect of male domination and female subordination, must therefore be read in connection with structural violence and the new forms of social and political violence. In the 2000s, Mexican feminist Marcela Lagarde crafted the term feminicide (*feminicidio*) to describe the impunity and lack of state protection that characterize gender-based violence in Latin America. Feminicide is usually a form of institutional violence aimed at controlling women’s lives. It is a disciplinary and punishment device applied to women who ‘do not behave properly’. Murders of women are generally perpetrated by men who have been in an intimate relationship with the victim. Gender-based violence is favored by the low presence of women in political positions as well as the reduction of social spending in areas such as health and education. In the absence of and/or poor implementation of laws and policies against gender-based violence, feminicides are usually preceded by other forms of violence: physical or verbal abuse; threats of murder with a weapon; forced sexual intercourse; violence related to the use of drugs and alcohol; and psychological pressures (Saccomano, 2017). Violence is thus embedded in women’s bodies that are stripped of humanity, considered territories of possession, as sinning bodies that must be purified through punishment or bodies that become a currency of exchange for a favor or revenge (Snaidas, 2009). Internationally, feminicide was typified as crime in 2013. In Latin America, however, most states have not yet adopted this criminal category (Garita Vilchez, 2012).

According to the report *Global and regional estimates of violence against women*, in Western Europe the prevalence of intimate partner violence is of 19.30 percent, but in Latin America it is much higher: 40.63 percent in the Andean region, 29.51 percent in Central America and 23.68 percent in the Southern Cone (WHO,

2013, p. 47). According to a 2012 report by the *Small Arms Survey*, more than half of the 25 countries with the highest incidence of femicide cases are in Latin American or Caribbean. Femicide impunity rates are also very high, estimated at 77 percent in Honduras and El Salvador.

Different hypotheses explain these high rates of gender based violence. One of them is the persistence of male control over women as an affirmation of dominant masculinities that has assumed new contours as women's participation in public life and levels of autonomy increase. In the past three decades, while greater participation of women in all areas of life has been encouraged, almost no public debates or policies have been implemented to improve the re-construction of domesticities and masculinities, which could, eventually, lead to decreases in male to male and gender based violence.

Since 2015, in Argentina, Uruguay, Mexico and other countries in the region the call for feminist and cisgender and transgender women's groups supporting the "*Ni una menos*" movements became a significant political phenomenon. Hundreds of thousands of women have taken over the streets to claim for the end of violence. The slogan has been re-signified to also address women who die of clandestine abortion, stigmatized sex workers and victims of transvesticides (lethal violence against transgender persons) (Bidaseca et al., 2016).

The motto "No one less" expresses the fear, anger and weariness of women and other persons living in contexts of vulnerability in the face of systematic violence (Pecheny, 2015). "No one less" is also an ethical claim: the violent patriarchal gender and sexual hierarchies must be repudiated in a world that is supposedly guided by principles of equality, freedom, solidarity and social justice. It is ethically unacceptable that women and all persons perceived as feminine are *a priori* susceptible to violence. States that do not protect these persons are directly or indirectly violating human rights. "No one less" is also about political claims calling for the adoption of comprehensive anti-gender based violence laws and public policies.

Hate crimes against lesbian, gay and trans people are also reported at high levels across the region. Brazil, Mexico, Honduras and El Salvador register a large number of assassinations due to homo-lesbo-transphobia. States lack official and consistent documentation of these crimes because no effective mechanisms for the registration and analyses murders have been put in place, despite the demands of civil society organizations and recommendations made by United Nations bodies. Available figures are therefore just the tip of the iceberg. Homo-lesbo-transphobic crimes are also prone to higher levels of impunity. Local reports show that the situation of the LGBT population in Honduras and El Salvador is really alarming, with a large number of murders and

leading activists and non-activists to go into exile. El Salvador, Brazil, Mexico and Colombia, countries that otherwise supported the protection of LGBT rights, especially in international arenas, present alarming rates of lethal violence against this population.

The paradox here is that for decades now, Latin America social movements had a relevant impact on international policy arenas. In contrast, while in almost all countries positive state regulations and interventions have been approved, no sustained policies to guarantee equality and prevent violence have been established. No serious investments have been made to improve cultural transformation of gender perceptions and practices. Public policies often lack financial support and consistent political commitment. Cultural change is seen as the responsibility of non-government organizations that do not always have the necessary resources to sustain these efforts.

Another problematic aspect is that feminists and LGBT activists have, by and large, concentrated their political energy in calling for criminal laws as the main, if not the only, policy instrument to address gender and sexual violence. This strategy is problematic in many ways. While the resort to criminal law as a sort of social pedagogy may have a symbolic effect, it has not effectively contributed to transform the deep cultural structures upon which violence is anchored. It has also contributed to the expansion and intensification of the punitive power of the state in contexts where the levels of securitization and militarization were already very high and incarceration rates have skyrocketed, while prison conditions deteriorated. This policy choice has not considered either the racial and class biases of criminal justice responses. In a context of revived authoritarianism, the feminist and LGBT movements are decidedly challenged to imagine new approaches to gender and sexuality based violence that are not exclusively framed as criminal justice responses.

Commercial Sex

Commercial sex, as part of the informal economy, has expanded worldwide under the conditions of late capitalism (Corrêa, Parker & de La Dehesa, 2014). In most countries of the world commercial sex is considered a crime, whether if the person buys or sells sexual services, or whether these services are provided in specific environments such as bars and brothels. This makes it extremely difficult to address sex work from a rights-based frame. Stigma around prostitution and sex work run wide and deep (Murray, Oliveira & Dutta, 2018).

The status of commercial sex (prostitution, sex work) is one of the most controversial issues in both global and regional feminist debates. Many groups and networks call for the abolition of prostitution, and most of them

are against the criminalization of sex workers. Yet fierce discussions continue about legalizing or not legalizing the activity. Neither regionally nor at country levels do agreements exist in relation to what should be the legal status of sex work, prostitution and the sex industry. Some feminists propose the criminalization of clients of women who have been victims of trafficking, some propose the criminalization of clients of commercial sex more broadly,³³ or to criminalize only those who play a mediating role in commercial sex transactions, such as pimps, intermediaries or those renting spaces for the activity. But there are also feminist voices that consider it necessary that sex work is recognized as labor and that sex workers are granted labor, social and civil rights, such as the right to free association.

The longstanding feminist stigmatization of sex work is based on a vision of sex workers as impotent victims of male sexual dominance. Stigmatization tends to be aggravated when women, even under pressure, refuse to leave the activity. Female sex workers are seen not as women taking autonomous decisions but rather as alienated and fully dominated by others. Stigma affects sex workers' accessibility to health services and the quality of healthcare, and makes police harassment easier (Pecheny, 2014).

Today in most Latin American countries, laws on sex work do not criminalize soliciting but prohibit and punish the 'exploitation of sex work' and leave the space open for state authorities to shift at random between permission and repression (Corrêa & Olivar, 2014). Since the early 2000s due to international pressure and the ratification of the Palermo Protocol, several countries have passed legislation against human trafficking, including trafficking for sexual purposes. These new laws tend to conflate trafficking and sexual exploitation with commercial sex services that are voluntarily offered. As a result, a number of political, judicial and police interventions contributed to re-stigmatize sex work and even violated sex workers rights.

Against the backdrop of this ambivalent legal status, sex workers organizations, such as the Latin American network RedTraSex, have been bravely struggling for the rights of adult women and any other adult to offer sexual services. They consider that adult voluntary sex work is not to be confused with sexual exploitation, sexual abuse and sexual trafficking. Sex workers claim the right not to be discriminated against and to be able to migrate internally and across national borders.

33 In other words, the application of the so-called Swedish model aimed at the 'eradication of prostitution'. (Murray, Oliveira & Dutta, 2018)

At the national level, networks of sex workers (members of RedTrasex) got legal recognition. In Argentina, Peru and Colombia associations of sex workers have been also recognized as labor unions. RedTraSex, today a network recognized by governments and international organizations, has also established dialogues and partnerships with the LGBTI and feminist movements, scholars and journalists, which allowed for a broader alliance in support of sex workers rights.

These efforts, however, are increasingly hampered by campaigns that deliberately or not conflate trafficking and sexual exploitation of minors with consensual commercial sex, leading to its criminalization. In relation to sex work and prostitution, the confusion of terms, data, situations, ages and practices is only comparable to the irrationality that has characterized the war on drugs. The implementation of anti-trafficking measures has often been accompanied by an eruption of media coverage and attacks on sex workers and their organizations. Conditions of hostility and stigmatization favor corruption and extortion, making the activity even more clandestine and risky.

Organizations and networks of sex workers, together with many Latin American feminists, systematically point up the growing confusion between voluntary sex work, exploitation of prostitution, sexual exploitation of minors and trafficking in persons (Varela, 2008-2011). They address sex work through a lens that articulates the liberal argument of bodily autonomy (as in the case of abortion) and a critical analysis of the job market and labor conditions in the sex industry.

Some of these feminist voices have correctly characterized the current debate on prostitution as a new form of sexual panic. The discourses on trafficking, in its media and political interpretation, equates sexual commerce and violence against women, through stereotypes of 'victims' and 'victimizers' that blur the realities of social and labor relations related to selling sex. This view conceals, for example, that under prevailing economic conditions -- characterized by recurrent patterns of pauperization and restricted access to the labor market -- many women resort to sex work as source of regular or extra income. Today, selling sex is not an activity confined to red light districts or other forms of professional prostitution.

As Varela (2013) points out, this dominant narrative crystalizes a moral scene in which malevolent male victimizers exploit innocent and defenseless victims: cis women and girls, and more rarely transgender women. Since the terms of the relationships are portrayed in terms of victimizers and victims, criminal law becomes the dominant language to frame the issue of commercial sex/sex work/prostitution, and obliterate other modes

of understanding the experiences of autonomy and coercion/ oppression, empowerment and inequalities that coexist in all forms of labor including sex work. This vision is based on a victimizing notion of citizenship - those who have or may have rights are victims, not subjects or citizens - which is convergent with neoliberal governmentality.

In 2015, Amnesty International published new policy guidelines to support sex workers rights. This publication triggered a major anti-prostitution reaction.³⁴ In 2016, it published a research report on the violation of sex workers rights in five countries, including Argentina³⁵, arguing that protecting sex workers' rights is a meaningful goal but also an effective way to combat sex trafficking. A merit of this report is that voices of sex workers that are usually absent in these debates have been heard. As compellingly expressed Georgina Orellano, the director of AMMAR in Argentina:

“One thinks: for how long will this go on? When will the day arrive in which we the Whores (Putas) will be calmly in our territories, having rights and enjoying our lives. Sex work is work and, as Whores, we need rights.” (October 27, 2018)

Abortion rights

In most parts of Latin America abortion is criminalized, with few exceptions: in Colombia, a 2006 Constitutional Court decision enlarged the grounds allowing for abortion; in Mexico City, abortion upon request is legal since 2007; and in Uruguay, in 2012, the Congress approved abortion reform. In 2012, Argentina's Supreme Court ratified that abortion is legal in the cases of rape and risk to life and health (physical and mental). Also in 2012, a ruling of Brazil's Federal Supreme Court granted the right to abortion in the case of anencephaly. In 2017, Chile approved a legal reform that authorizes abortion in the cases of rape, serious fetal anomaly and risk to life. In that same year, Bolivia extended the indications to allow interrupting a pregnancy to rape, risk to life and to physical or mental health, incest, fetal anomaly and socioeconomic causes, such as when the woman has elderly people and children under her responsibility or if she is a student, adolescent or minor. This law

34 See <https://sxpolitics.org/spw-compilation-of-statement-letters-and-articles-on-amnesty-internationals-proposal-for-decriminalization-of-sex-work/13206>

35 See <https://www.amnesty.org/en/latest/news/2016/05/amnesty-international-publishes-policy-and-research-on-protection-of-sex-workers-rights/>

was, however, struck down in 2018 when president Morales vetoed the entire Penal Code reform for reasons unrelated with abortion. In 2018, Argentina initiated a process of legal reform based on broad feminist social mobilizations. The project included women and transgender men's rights. After passionate public debates, the legal reform was approved by the Chamber of Deputies in June, but was defeated in the Senate two months later. Abortion is still on the political agenda.³⁶

Across the region, abortion has been historically considered a crime, regardless of the political color of governments in power. Abortion has remained clandestine and illegal in countries where the state is strongly influenced by the Catholic Church or other religious institutions, where right-wing leaders have governed for long time, but also in contexts where the left parties were in power for long periods, as in Venezuela and Nicaragua, and in countries such as Argentina where LGBT rights advanced significantly.

Denial of abortion rights can be read as the cornerstone of gender based inequality that characterizes heteronormativity – a striking evidence that states do not fully recognize women as capable political subjects. Criminalization of abortion shows how biological reproduction remains at the core of dominant concepts about gender and sexuality. For women, the exercise of sexuality has a cost and this cost is reproduction; and when women do not accept it unconditionally, punishment will ensue through discrimination, shaming, imprisonment or injury, even to life itself. Illegality is what makes abortions unsafe.

The hostility of religious forces only partially explains this *status quo*. Progressive political parties and leaders have never seriously considered the issue of abortion or have easily bartered abortion rights for other issues they considered of higher priority. In Nicaragua, Daniel Ortega negotiated with the church the total prohibition of abortion in the reform of the Criminal Code in 2006 as part of an agreement that guaranteed his reelection (Correa et al, 2008). Complicated political games have also occurred in Uruguay, where President Tabaré Vázquez, from the Left coalition Frente Amplio, vetoed a first proposal to legalize abortion in 2008. Four years elapsed before the law was approved in 2012 during José Mujica's administration. But last minute political negotiations made the final version limited in various aspects: the law added a requisite waiting period as well as the premise of both individual and institutional conscientious objection, while abortions performed outside the health system under the conditions provided by the law are still a crime (Corrêa & Pecheny, 2016).

36 Retrieved from www.nytimes.com/2018/08/09/world/americas/argentina-abortion-laws-south-america.html

In Argentina, during the center-left Kirchners' administrations, while equal marriage and gender identity were approved (in 2010 and 2012), abortion remained subject to systematic political obstruction. In contrast, in 2018, the right-wing government of Mauricio Macri encouraged parliamentary discussion on the issue. The ways in which the administration in Ecuador and the two presidential mandates of the Worker's Party in Brazil have dealt with abortion rights also informs the situation that progressive forces, when it comes to abortion, can be very conservative. The good news is that in 2017, partial legal reforms took place in Chile and Bolivia, countries governed by the Left at the time. This is undoubtedly a positive signal, especially the audacious gesture of Michelle Bachelet in her second term to propose a bill³⁷ that left the absolute prohibition of abortion established under Pinochet's dictatorship in the past. However, the rightward shift underway may imply that this transformation of leftwing views on abortion may have come too late.

In recent years, feminist organizations and networks, in addition to steadily fighting for abortion legal reform, have also begun providing information and access to abortion pills through phone hotlines, pre- and post-abortion counseling as well as other persons who support women who resort to self-managed abortions. Those involved in these initiatives, mainly known as *Socorristas*, share the strong commitment to women's autonomy, not only in terms of their personal decision to abort but also in relation to how to engage with the state. In Argentina, Uruguay and Colombia health providers are also implementing risk and harm reduction strategies to offer information and support to women who will abort illegally, and have also been involved in public demands for abortion rights legal reforms.

It is also worth noting that drastic regressions have also occurred in the region in the past twenty years. In El Salvador, a draconian prohibition of abortion was approved in 1997 that remains in place and is so strictly implemented that even women who experienced miscarriages have been condemned and subject to long term incarceration (up to thirty years). In other three countries abortion is today totally prohibited by laws that have also been approved in this period: Nicaragua (2006), Honduras (1991) and the Dominican Republic (2010). In Mexico, after abortion was made legal in 2007, right to life from conception provisions and abortion restrictive penal code reforms have been adopted in seventeen states.

37 See Law 21030, Retrieved from www.leychile.cl/Navegar?idNorma=1108237.

More recently, in Chile, as soon as the conservative government of Piñera came to power in 2018, the new administration granted extended conscientious objection to institutions even though this right had already been secured by a decision of the Constitutional Court³⁸. New threats are hovering on the horizon. In Guatemala, a conservative Congress has announced a series of regressive reforms that include the total prohibition of abortion. Most worrying yet is what may happen in Brazil after the election of the new far-right government, as since January 2019, the new Minister for Women, Family and Human Rights is a female pastor who has already declared she will make all efforts to ‘eradicate abortion’.

In sum, in the last few decades, across the region the legislative route chosen to achieve legal reforms has been productive in raising the visibility of abortion rights but has not been so effective in terms of concrete outcomes. So far, through this route, only Uruguay and Mexico City have made substantive changes while in Chile changes were partial. Uruguay remains the only exception of legalization of elective abortion up until the 12th week of gestation, achieved via parliamentary means.

Strategic litigation was the other road open in recent years to ensure the right to abortion, as when, in 2006, Colombia substantially broadened grounds to abortion through a Constitutional Court decision. The same can be said of the Argentinean 2012 FAL Case that re-interpreted the Penal Code exceptions to mean abortion rights in the cases of rape and to protect women’s health. Also in Brazil that same year, the Supreme Court granted abortion rights in the case of anencephaly and in March 2017, an action was presented to the Supreme Court that questioned the constitutionality of criminalization of abortion³⁹.

In addition, the adoption of ‘abortion harm reduction’ within health systems has also been a fruitful strategy in some contexts. Public debates promoted by activism and academia that fight abortion stigma and related discrimination have also begun to bear fruit. Finally, thanks to abortion with pills and the work of Socorristas networks, access to illegal but relatively safe abortion has expanded.

Even so, after three decades of democracy abortion laws have not yet been substantively reformed and in many countries, not even properly debated. But there are ‘escape valves’ and much hypocrisy: women who can afford

38 Retrieved from <https://www.latercera.com/nacional/noticia/conoce-resistido-protocolo-objecion-conciencia-la-ley-aborto-3-causales/109752/>.

39 Retrieved from <https://sxpolitics.org/brazilian-supreme-court-public-hearing-on-the-decriminalization-of-abortion/18872>

it have access to relatively safe clandestine abortions, while poor women pay the price with their health, fertility and eventually their lives. The religious and secular discourse that condemns abortion in the name of life has become increasingly strong, while the association of legal abortion with shared positive values (e.g., dignity, autonomy, equality) has not been fully absorbed. The domain of abortion rights has been and will continue to be a major gender and sexuality politics battle ground in the years to come.

Sexual politics and conservative political restorations

As seen in the previous sections, democratization is a key thread weaving through the multiple trends of contemporary sexual politics in Latin America over the past three decades. As also mentioned, the gains of democratization evolved in tandem with the growing hegemony and normalization of neo-liberal economic policies. This overlapping created a plethora of contradictions that in many aspects remained unresolved, even when policies implemented in the 2000s by democratic elected left wing governments have been to some extent successful at improving the living conditions of the poorer sectors of the population, increasing access to social services, health and education and reducing disparities.

In a sharp contrast to the period ranging from the 1980s to the 2010s, Latin America's political landscape has become a kaleidoscope in flux in which one remaining and one newly elected leftwing government - Uruguay and Mexico - coexist with various newly elected rightward leaning administrations. These rightwing governments, with distinctive intensity, are now implementing ultra neo-liberal policies (usually centered on natural resources extractive economies that had expanded in the early 2000s) and strong tenets of social and moral conservatism. These highly regressive scenarios affect the prospects of gender and sexual politics in quite drastic, possibly catastrophic, ways. While it is not possible to examine this rightward tsunami in depth, we cannot avoid addressing it, albeit in broad strokes.

The first aspect to be underlined is that even though Latin American contextual conditions do matter, this rightward shift is not singular to the region but rather must be placed in the wider chain of conservative restorations, right wing populism and authoritarianism that has swept the world in the last five years or so (Corrêa, 2018; Levitsky & Zimlat, 2018; Mude & Kaswaller, 2018). Most of European and North American analyses of these conservative and authoritarian revivals tend to concentrate their attention on political systems and processes and place them under the wide umbrella of 'populisms'. As suggested by Lavinias (2018), however this frame is too narrow to more fully grasp the phenomenon in Latin America, whose history is marked

by highly varied ideological manifestations of populism. It is also worth noting that most of these mainstream analyses do not examine how these trends are deeply intertwined with neoliberalism. Without addressing these dimensions, it is not possible to fully grasp what is happening in Latin America today.

For example, the drastic leverage and gains of right wing forces in the past two years or so cannot be analyzed without reference to socio-economic uncertainty and fear. While democracy consolidated, Latin American developmental capitalism and welfare states have been in crisis. Then as neoliberal policies expanded, great labor instabilities ensued that affected (mostly) male economic participation with inevitable effects on identity constructs. New forms of survival strategies have taken form that involve informal and even illegal activities connected with what we have previously named structural violence, which are immersed in contexts of risk and fear.

Another dimension that cannot be circumvented concerns the past and present politics of religions, which encompasses on the one hand the deeply rooted influences of Catholic colonization on cultures and political formations, and on the other, the cultural and political impacts of the contemporary wave of evangelization that swept the region as democratization unfolded (Freston, 2008). This wave has, amongst other effects, spread around the so-called theology of prosperity that offers means of individual salvation in times of uncertainty and whose substance – do good individually so that god will reward you -- converges with the neoliberal transformation of social subjects underway since the 1980s. Even though the role of Evangelicals has been critical in the enhancement of a flagrant moral conservative climate in many countries, the role played by the Vatican and the Catholic Church – whose conservative restoration began in the late 1970's with drastic effects in the region-- cannot be minimized (Bracke & Patternote, 2016). Having both trends in mind, Latin American conditions, in many ways, mirror the mid 2000s US scenario in which Wendy Brown identified a collusion between neoliberalism, a rationality based on deregulation and amorality, and neo-conservatism, a rationality based on regulation and morality (which appear not to have many affinities) producing political subjects who tend to easily adhere to anti-democratic agendas (Brown, 2006).

In order to more fully capture the contours of neo-conservatism in its Latin American expression, we have also to address the transformations of gender and sexuality orders. Though this may sound a cliché, political shifts underway in Latin America must be read against the backdrop of an ongoing destabilization of patriarchy and heteronormativity. In the past thirty years, the family with distinct roles related to gender and generation has been transformed, as illustrated by increasing rates of women labor participation, lower fertility rates and

increasing numbers of female headed households. These trends have triggered deep sentiments of instability and loss. Male dominance and the subordination of women, absolute paternal power over children, and old norms concerning sexuality and eroticism are no longer taken for granted. Furthermore, the monopoly of reproductive heterosexuality and heterosexual relations as the only possible sources of citizenship recognition and right claims have been contested and redressed. These transformations have destabilized geological layers of social formations, adding to the above-mentioned sentiments of uncertainty and fear. This assemblage fueled demands of ‘order’ that have been and continued to be deliberately activated by right-wing and conservative religious forces.

These dynamics are not the same everywhere. In some cases – like Brazil, Colombia and Mexico – fear related to continuous patterns of structural violence played a major role in the recent gestation of social and political conservatism. In other cases, it is necessary to also look at the effects of dysfunctional political systems or problematic political alliances between progressive and not so progressive forces to ensure governability. And, specifically in the case of Brazil, the place and role of militarization and military forces cannot be minimized at all.

Despite these variations, the structural patterns sketched above that pervade the regional landscape have enabled -- since 2011 and with greater effect after 2013 -- eruption and propagation of vicious anti-gender crusades across the continent. As described by Corrêa, Patternote and Kuhar (2018):

Spectacular mobilizations have also taken place in Latin America. A first flare was registered in 2011 in Paraguay, when the term ‘gender’ was contested by the Catholic right during discussions on the national education plan. In 2013, in one of his weekly TV programs, Ecuador’s leftist president Rafael Corrêa similarly denounced ‘gender ideology’ as an instrument aimed at destroying the family. Since 2014, these attacks have intensified, with massive demonstrations in numerous countries, and they decisively impacted the Colombian peace agreement referendum in 2016.⁴⁰ One high point of this trend occurred in November 2017, when American philosopher and gender theorist Judith Butler was viciously attacked in Sao Paulo,⁴¹ Brazil.

40 Retrieved from http://www.scielo.br/scielo.php?script=sci_issuetoc&pid=1984-648720170003&lng=en&nrm=iso

41 Retrieved from sxpolitics.org/judith-butler-in-brazil-a-briefing/17916

This trend would, in fact, intensify and further spread after the 2017 attack on Butler. Immediately afterwards, attacks on gender, in particular gender identity rights were deployed during the Chilean presidential elections. Then in February 2018, in the context of the Costa Rican presidential campaign, Evangelical conservatives mobilized against an Inter-American Court opinion on same sex marriage and gender identity rights and as a result, a pastor was almost elected president (Arguedas, 2018).⁴² Last but not least, as analyzed in the already cited Corrêa essay but also by Oliveira (2018), the demonization and abolition of 'gender ideology' was a central motif of the victorious far-right candidate of the Brazilian electoral campaign.⁴³

In all cases, as also noted by Corrêa, Patternote and Kuhar, these crusades and the political formations they mobilize have a highly heterogeneous composition of religious and secular forces, which on the surface may appear conflictive. No less importantly, in all Latin American episodes listed above, these virulent attacks depict 'gender ideology' as the new cultural face of Marxism, or as an agenda linked to Communism or Castro-Chavismo. As a result - and quite unexpectedly for mainstream political observers who do not pay much attention to gender and sexuality matters - this cacophonous 'gender ideology' collage is now pervading governance speech, acts and policy measures in Latin America, as strikingly manifested in the inaugural statement of the Brazilian elected president on January 1st, 2019.⁴⁴

A number of authors (Case, 2016; Garbagnoli, 2016; Corrêa, 2018) have retraced how this collage was crafted by the Vatican and its partners as a response to feminist gains achieved in relation to gender equality and sexual and reproductive rights at the 1990s United Nations policy debates, long before its propagation started in Europe and Latin America in the early 2010s. But even before this intense deployment began, Latin American researchers were already charting the main patterns of these reactive politics. For example, Vaggione (2014) elaborated on the effects of the politicization of gender and sexuality on the one hand and of religion on the other, reminding us that this novelty means a rupture with classical liberal tenets that confine all these dimensions to the private sphere. He also noted that under these new conditions, principles and practices of *laïcité* and secularization had to be re-invented. In a more recent article (Vaggione, 2017), he scrutinizes the strategies

42 See Gender Ideology, religious fundamentalism and the electoral campaign (2017-2018) in Costa Rica, Retrieved from <http://blogs.lse.ac.uk/gender/2018/11/07/gender-ideology-religious-fundamentalism-and-the-electoral-campaign-2017-2018-in-costa-rica/>

43 See Who are Jair Bolsonaro's voters and what they believe, Retrieved from sxpolitics.org/who-are-jair-bolsonaros-voters-and-what-they-believe/19224

44 See The Guardian article Bolsonaro declares Brazil's 'liberation from socialism' as he is sworn in, Retrieved from <https://www.theguardian.com/world/2019/jan/01/jair-bolsonaro-inauguration-brazil-president>

designed and deployed by Vatican in the past ten years or so to mobilize claims of religious citizenship to defend and promote regressive cultural and moral agendas in electoral politics and policy practice. Another author who has elaborated on the reactive features of anti- gender politics is Fernando Serrano in his remarkable article on how the attack on ‘gender ideology’ derailed the Colombian peace agreement (Serrano Amaya, 2017). In his view, anti-gender politics are not just reactive, but are also productive: they have long-term objectives, are intensively pro-active and, most principally, concretely unfold into new macro political realities, as exemplified by Colombia and Brazil.⁴⁵

While the power and efficacy of these crusades cannot be minimized, the limitations and caveats of democratization and of the 2000s left-leaning pink wave are also to be accounted for as factors contributing to the rightward tsunami underway. As analyzed by Pecheny and de la Dehesa (2014), Latin American democratic regimes established or transformed since the 1980s remained fragile and traversed by many limitations and distortions, such as a lack of clear boundaries between private interests and public goods that is at origin of systemic corruption, now attacked by the right wing as an essential feature of leftwing administrations. Another key deficit identified by the same authors is that political democratization did not alter, as required, deep rooted conceptions and practices of social conservatism. This is critical because what is witnessed in the current political landscape is, to a large extent, a deliberate activation of these deeper layers against rather partial efforts of economic and symbolic re- distribution, as well as gender and sexuality democracy.

Another aspect, not explored by Pecheny and de la Dehesa, however, is crucial to better grasp how the fabricated association of ‘gender ideology’ and communist totalitarianism has captured the imagination of the electorate in so many countries. Not everywhere in the region has the 2000s leftward leaning regional politics meant consistent commitments to democracy. While democratic stability and consistency prevailed in Argentina, Brazil, Chile and Uruguay, the same cannot be said of Nicaragua and Venezuela, now drowning in deep political and humanitarian crisis. Authoritarian traits and tendencies were also at work in Ecuador under Corréa and in Bolivia, of which the most flagrant sign was the attempt made by presidents to amend their respective constitutions to remain in power for ever. These left leaning authoritarian realities have not been criticized, as they should have been, by left wing governments solidly committed to democracy, providing the emerging right wing forces the privileged opportunity to accuse these administrations of being accomplices in Marxist inspired totalitarianism.

45 The geopolitical weight and influence of Brazil in the regional scenario is not a minor aspect to be accounted for in the prospects for gender and sexual politics in Latin America in the next few years.

Then we should also look at the caveats and limitations of gender and sexuality policies implemented in the last two decades. As also noted by Pecheny and de la Dehesa, despite flagrant gains, to a large extent these policies have been more expressive than substantive. While as observed in the previous sections, ground breaking legislation or key court decision have indeed granted sexual and reproductive rights in various countries, executive state policies concurrently adopted often lacked the necessary budgetary and institutional solidity. Furthermore, no systematic efforts have been made to more consistently articulate laws and policies aimed at recognition (civil rights) and redistribution policies (socio-economic rights) implemented by leftwing administrations, even when interesting experiments have been made. More importantly, as we have previously noted, the majority of center and left wing political leaders who have been in power in the last two decades have been often silent, ambivalent and erratic when not openly retrogressive in relation to gender and sexual related rights and policy claims. This reluctance has been particularly striking in the so-called controversial areas: abortion, sex work and transgender rights.⁴⁶ Consequently, as policies in place lack the necessary consistency, what has not been grafted in law can be easily prone to extirpation when right wing forces take over state power.

To conclude, in several countries of the region, particularly Brazil, democracy itself is threatened while efforts made in the past thirty years to redress historical axes of hierarchy and oppression in terms of class, race, gender and sexuality are at great risk. It is not possible to precisely predict what will be the effects of these circumstances on the three critical areas we have examined here, but it is not excessive to identify abortion rights - which have been under attack forever - as a priority target of these regressive politics. Albeit, with less visibility, sex workers rights will be also under fierce attack, in particular because of the collateral effects of anti-trafficking policy measures that tend to gain leverage, as also seen under the Bush and Trump administrations in the United States. The effects on gender based violence laws and policies are harder to foresee because they are grounded in a consensus that extrapolates the feminist and progressive camps. In many countries, such as Brazil, right- wing politicians have voted, without blinking, in favor of greater penalties implied in femicide laws because the expansion of criminal regulation and punishment is very high on their political agendas. On the other hand, in 2017 in Ecuador, anti-gender forces openly attacked the gender language of the law provision aimed at curtailing gender based violence.

46 Looking at this pattern from the standpoint of current political conditions it is quite ironic that these actors and forces that have been so reluctant to prioritize gender and sexuality politics law and policy agendas are now viciously accused and attacked for having promoted them in ways that destroy the family and the order of nature.

From whatever angle, the Latin America landscape prospects are deeply somber, reflecting in a variety of ways the deeper and wider crisis of capitalism but also of strongly rooted heteronormative formations. Progressive forces, including academics, feminists and LGBTTI activists now face the multiple and complex challenges of resisting retrogression and preserving the main gains of the democratic cycles that brought us here while also intensively investing in a deep re-construction of democratic values, spaces and institutions and, perhaps more critically, more plural and solid intersectional alliances. While the realities of the current crisis and its shadow cannot be circumvented, it has a narrow bright side. Its contours may, eventually, have made sharply clear to a wide range of actors located across the political spectrum, from liberals and social democrats to the more radical left, that the consistent and sustained defense of democracy and social justice cannot fail to take into account the centrality of gender and sexuality matters.

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