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Don't kill the rainbow:

A cross-country comparison of LGBT+ violence drivers in Latin America, the cases of Argentina and Colombia.

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ABSTRACT

Following two decades of expansions across the globe, sexual orientation and gender identity (SOGI) rights are now being strongly contested as is evident by growing violent attacks against the LGBT+ community. In this precarious context for this previously neglected minority, Latin America presents a paradoxical situation where favourable SOGI legislations clash with a high rate of violence against the LGBT+ community.

Whereas previous research has mainly focused on understanding the uneven development of SOGI rights and how to promote it, very little academic attention has been paid to the analysis of SOGI violence and how to better tackle it. The present country cross-comparison between Argentina and Colombia offers insight into the potential linkage between SOGI rights recognition, national violence trends and selected drivers of violence.

The findings suggest that the actors passing favourable SOGI laws, the backlash and religious affiliation appear to affect the increase of violence. However, favourable general opinion towards the LGBT+ community might be a variable overriding backlash and the aspect of religious affinity. Most surprisingly, the findings hint that SOGI rights recognition does not have a definite impact in decreasing SOGI related violence in the short-term. To prevent future recession of rights and increased violence, more empirical research is needed to establish direct causality between these variables and additional drivers of SOGI violence with specific attention to the regional nuances which are at play.

Key Words: *LGBT+, human rights, SOGI violence, Latin America, religious affiliation, backlash.*

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LIST OF ABBREVIATIONS

ACLED	Armed Conflict Location & Event Data Project
CONICET	Consejo Nacional de Investigaciones Científicas y Técnicas
COVID19	Coronavirus Disease 2019
FALGBT	Federación Argentina LGBT
FARC	Fuerzas Armadas Revolucionarias de Colombia
IACHR	Inter-American Commission of Human Rights
ILGA	International Lesbian, Gay, Bisexual, Trans and Intersex Association
LAPOP	Latin American Public Opinion Poll
LGBT+	Lesbian, Gay, Bisexual, Transgender, Intersexual +
SOGI	Sexual Orientation and Gender Identity
UNODC	United Nations Office on Drugs and Crime
WHO	World Health Organisation

1 INTRODUCTION

Issues concerning the lesbian, gay, bisexual and transgender (LGBT) community worldwide have become increasingly included in the international agenda in the last twenty years. The turn of the century has seen increasingly rapid advances in the recognition and protection of the rights of LGBT+ people through both international resolutions and national legislation. Despite these unimaginable achievements for the LGBT+ community individuals are still being widely persecuted and discriminated against due to their sexual orientation and gender identity (SOGI). This term will be used throughout the paper as including a wider spectrum of the LGBT+ community that might not necessarily recognise with one of the identities represented by the LGBT acronym.

In light of recent events related to violence and the recession of SOGI rights, the international community and civil society has raised deep concerns, unable to ignore this surprising negative trend. In Europe, both Hungary and Poland have passed anti-LGBT laws infringing fundamental rights enshrined in the EU Charter of Fundamental Rights receiving the condemnation of both the EU Parliament and the EU Commission, triggering legal actions against these countries (European Commission, 2021). Similarly, in Italy, both conservative right-wing parties and the Vatican have been roadblocking the passing of legislation aiming at fighting against discrimination based on sexual orientation and gender identity (BBC, 2021). Meanwhile, in the African continent, countries such as Uganda and Ghana have passed laws that further criminalise the LGBT+ community by stripping their human rights (Deutsche Welle, 2021; Human Rights Watch, 2021). Finally, in the Latin American region, one of the most progressive areas when it comes to the recognition of SOGI rights, homicides towards this vulnerable community have not shown signs of halting, thus raising questions on how lawmakers can target the high levels of violence that are reported in this region through improved public policies (Moloney, 2019).

Thanks to the growing recognition of rights and degree of LGBT+ violence, several scholars have been looking into the paradoxical situation faced by the LGBT community in Latin America¹ (Corrales & Pecheny, 2010, Encarnación, 2011). Indeed, following the region's transition from dictatorship to democracy around the 1980s, Latin America started witnessing the expansion of SOGI rights, predominantly due to the restored social movements which were silenced and repressed during the different regimes (Meyer, 2015). The region has demonstrated a very progressive stance on the promotion of SOGI rights before many other Western countries and International Organisations making it one of the most advanced areas regarding these rights globally. From the earliest law against gay discrimination in the city of Buenos Aires in 1996, through to the decriminalisation of same-sex acts, all the way to the promotion of civil unions and same-sex marriage in countries such as Uruguay (2013)

¹ The Caribbean has not been taken into consideration in the present paper due to its prevalently negative position towards SOGI rights.

and Colombia (2016). Therefore, it appears that parts of Latin America have “come out” of the closet (Encarnación, 2016). However, some countries in this region have showcased more progress than others exposing the unevenness in SOGI rights achievement and the need for more investigation on SOGI rights in Latin America (Corrales, 2017).

Notwithstanding the successes in some countries, such as Argentina and Colombia, the LGBT community in Latin America continues to be the victim of widespread violence, discrimination and backlash problems which have been denounced by Victor Madrigal-Borloz, the UN’s Independent Expert on SOGI rights (2019), the Inter-American Commission of Human Rights (2015) and by other LGBT+ international organisations (ILGALAC, 2020). As an example, between 2014 and 2019 the reported LGBT+ related homicides in the Latin American region reached 3,000 victims, equating to 1 LGBT+ individual losing their lives every day (SinViolencia, 2019). One of the greatest challenges of the region encompassing Latin America is indeed its high levels of violence. While only hosting 8% of the world’s population, if we consider the percentage of homicides as an indicator of violence, 33% of the world’s homicides are reported in this region, equating to a rate of 21.5 per 100,000 people, triple the world’s average (Muggah & Aguirre Tobón, 2018). This highlights the importance to conduct extensive research that can lead to a better understanding of the indicators of violence, specifically against vulnerable populations such as the LGBT+ community.

The Latin American paradox joint to the salience of the issue leads to the main question of the dissertation which is:

Under what conditions, does violence based on sexual orientation and gender identity persist despite favourable legislation?

While on one hand, academics have been busy investigating the uneven spread of SOGI rights in the region, little is known on the relationship between SOGI violence and its drivers, especially when exploring the context of Latin America. The purpose of this paper is to add to the current literature and fill in the gap with a qualitative country comparison between two nations that present favourable legislation, Argentina and Colombia. Such a comparison has not been conducted and could help inform national lawmakers and civil societies on how policies can be better designed in order to prevent LGBT+ violence in this region.

The paper will be structured as follows, in Section 2, the four main theoretical dimensions of the research will be laid out. These are the recognition of SOGI rights, the typology of actor promoting these rights – Courts or Congress –, the presence (or absence) of a political backlash and religious affiliation. This paper will also expand on SOGI research, which generally considers only same-sex marriage legislation, and will examine also rights such as anti-discrimination and gender identity recognition. In the third section, the qualitative methodology will be presented with a focus on case selection and time span limitations. Section 4 will advance an initial analysis per country leading to a

cross-comparison between Argentina and Colombia. Finally, some conclusions and limitations will be drawn, advancing potential areas of research that could support lawmakers in the future. The reader should bear in mind that it is beyond the scope of this study to provide widely generalisable findings due to the complexity of the issue of violence and the socio-cultural nuances which are present in the Latin American region.

2 THEORETICAL FRAMEWORK

2.1 LGBT+ and SOGI at a glance

Before moving to the theoretical framework, it is important to briefly consider the terminology used throughout the text concerning sexual orientation and gender identity. In particular, the acronyms LGBT+ and SOGI can often lead to misunderstandings and misperceptions on their meaning and relation to the community and individuals they refer to.

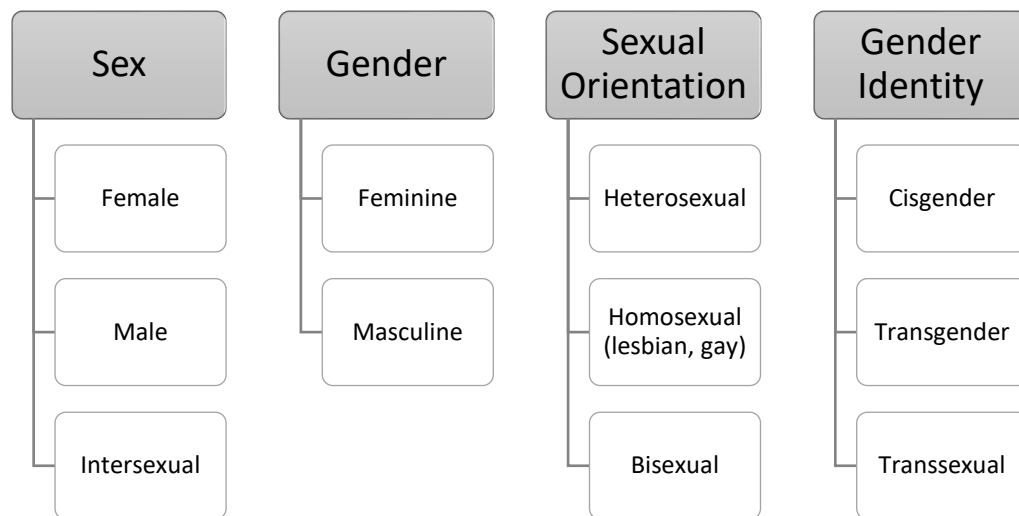
To begin with, a clarification between the concepts of sex and gender is required. While the first refers to the biological category that distinguishes us and can thus identify an individual as female, male or intersexual², the second is a socio-cultural constructed concept that permeates society and regulates gender roles, often defining the normative behaviour of people. This latter concept is key to understand where the regulation of sexuality stems from and the consequent normativity and prejudiced behaviour towards non-heterosexual orientations (Castillo Vargas, 2018).

With respect to the LGBT+ acronym, two are the main identity concepts present. While the first three letters (i.e. lesbian, gay, bisexual) refer to the sexual orientation of the individuals, the “T” (transgender and transsexual) refers to the gender identity of the individual, while the “+” wants to recognise all of the other identities, such as in intersex and queer, that are not represented by the ones just mentioned (see Figure 2.1). Within the gender identity concept, we also find the cisgender identity which in contrast with the transgender and transsexual identities refers to those individuals whose gender identity and expression corresponds to the one they were assigned at birth. From these two main identity concepts, we can thus understand the more recent use of the more generalist term SOGI, standing for Sexual Orientation and Gender Identity, especially in the narrative of human rights. This is exemplified in the work of the UN Human Rights Council and the establishment of an Independent Expert on SOGI in 2016 (UN, 2016).

The term LGBT+ will be used in this thesis to refer to the collection of people whose identities and sexual orientations differ from the normativity, whereas the acronym SOGI will be used when describing the human rights that benefit particularly, but not exclusively, the LGBT+ community.

² An individual born with reproductive features that does not fit in the normative definition of female or male.

Figure 2.1 – Graph summarising the non-comprehensive identities represented by the LGBT+ and SOGI acronyms.



Source: Castillo Vargas, 2018.

2.2 Violence based on Sexual Orientation and Gender Identity

Having defined the main terminology surrounding sexual orientation and gender identity, I will now move to the definition of violence and its operationalisation.

The World Health Organisations defines violence as:

The intentional use of physical force or power, threatened or actual, against oneself, another person or against a group or community, that either results in or has a high likelihood of resulting in injury, death, psychological harm, maldevelopment or deprivation. (p.4, 2002)

Among the numerous forms of violence, we find domestic, psychological, emotional and cultural violence, physical assault and verbal abuse. The specific typology of violence analysed by the present paper is hate crime motivated by sexual orientation and gender identity. Hate crimes are violent behaviours perpetrated based on an individual's characteristic or membership to a specific community, such as the LGBT+ community or an ethnic group. Violent hate crimes have their own subcategories, namely physical assault, which can result in death, and verbal abuse, among the most occurring (FALGBT, 2020).

The LGBT+ community faces multiple forms of violent behaviour based on their actual, or perceived, sexual orientation and gender identity. The way in which it is manifested can vary greatly. While on one side it can be perpetrated against individuals who openly recognize themselves as part of the

LGBT+ community, on the other, it can also be acted towards individuals who do not necessarily associate themselves with this community. In these cases, the individuals might demonstrate SOGI characteristics nonconforming to the normative cisgender and heterosexual identities and thus be perceived by the perpetrator as part of this minority (IACHR, 2015). Furthermore, the LGBT+ community can obviously face widespread discrimination in many other areas of life such as housing, health and employment, areas which however do not fall within the scope of this paper.

In addition, SOGI violence is not only perpetrated by individuals or groups which hold prejudice and inaccurate stereotypes linked to this specific community, but it is also promoted by the hands of law enforcement such as police officers and by representatives of the state. Indeed, in the latter case, over 70 countries around the world continue to criminalise and discriminate against the LGBT+ community or individuals with non-normative SOGI indicating the permanence of worldwide prejudice and consequently, discriminatory and violent behaviours sponsored by these states (ILGA, 2021).

Since the turn of the century, violent acts perpetrated on the basis of SOGI have been the subject of analysis and have been labelled as a societal problem. Different theories exist in the literature regarding the drivers of violent and discriminatory behaviours. There is however disagreement probably due to the complexity of the analysis and the number of variables involved according to the regional and socio-cultural context (Levy & Levy, 2015). Nevertheless, numerous factors applicable to violent behaviours acted against women and other minorities, such as ethnic or religious ones, have been identified as being also drivers of violence based on sexual orientation and gender identity. Among these, it appears that individual attitudes and both situation and historical context, including political regimes, religiosity and culture, play an important role (Parrott & Peterson, 2008). Similarly, societal attitudes and normative ideologies, such as heterosexism – the assumption that heterosexuality is the norm that drives the stigma and discrimination against LGBT+ individuals – and gender norms, contribute to the development of prejudice and stereotypes which are drivers of SOGI violence (Meyer, 2008).

Modern society has been organised in a way that heterosexuality and the binary classification of sex and gender are the main structures according to which both individual and societal attitudes are driven. Hegemonic masculinity is recognised by feminist theories as one of the main drivers of gender norms in our society, meaning the dominance of a specific idea of masculine men over subordinate masculinities and femininities (Hooper, 2001). These beliefs organise social life and perpetuate inequalities between men and women and whoever does not fit in the male-female and masculine-feminine dichotomies, such as part of the LGBT+ community. Additionally, these socio-culturally driven behaviours attempt to “normalise” identities, orientations and bodies which are not recognised as fitting the established norms. Various academics (Franklin, 2000; Cowan *et al.*, 2005) have advanced that the reasoning of hate crimes against the LGBT+ community predominantly lies in the perpetuation and protection of these heteronormative gender norms.

2.3 Latin America: The Relationship between SOGI Rights and Violence

If we consider violence in Latin America, by many is seen an “endemic” condition and it occurs in a variety of forms varying from guerrillas, armed conflicts, gang wars and police brutality. The countless people who were victim of forced disappearance in Argentina in the 1970s and 1980s, the civilians who lost their lives during the over 50 years long Colombian conflict, and the more recent extrajudicial killings during the Venezuelan’s political crisis are all examples of how the situation in the Latin American region requires specific attention depending on the country of examination (ACLED, 2020; Rettberg, 2020).

As indicated previously, the LGBT+ community faces violence at different levels, such as emotional violence, exclusion from the market and workplace and police brutality. As the scope of this paper is to evaluate the violence rates affecting the LGBT+ community through time, only the available data on homicides produced by the civil societies will be considered, in line with a series of other studies on violence in Latin America which analysed homicide rates as an operationalisation of violence (Vilalta *et al.*, 2016; Cano & Rojido, 2017). This aspect will have to be kept in mind when looking at generalisations of findings and could indicate further areas of research that could add to the present explanations on the persistence of violence in the region.

In Latin America, we are witnessing a high degree of violence based on sexual orientation and gender identity (UN, 2019). A potential explanation for this comes directly from the literature on ethnically motivated violence, where the threat to power is considered as a salient short-term driver of violence (Blalock, 1967). For example, migration of individuals of different ethnicities in a predominantly white neighbourhood would lead to a sense of threat to the social norms of said neighbourhood and consequently an increase in short-term violent behaviours. In a similar way, it appears that violence based on SOGI could be associated with a sense of perceived threat to social transitions and institutions such as the recognition of same-sex marriage if a favourable general opinion on the issue has not been generated. The potential positive long-term effects that would be witnessed following policy changes, namely reduction of SOGI related violence, would thus be anticipated by an increase in violence as a short-term effect linked with power threat (Levy & Levy, 2015). Conversely, Rebecca Stotzer’s pivotal findings on hate crimes on university’s campuses (2010) point at an increase in violence reporting rather than violence per se.

Furthermore, various studies have highlighted that the cultural ideology of hypermasculinity, also known as *machismo*, perpetuates specific gender norms, such as the dominance of masculine men over women, and it generates prejudice, discrimination and violent behaviours against men who do not fit the stereotypical category of hegemonic masculinity (Cowan *et al.*, 2005; Hooper, 2001). This consequently leads to an increased degree of hate crimes including both gender and SOGI violence as suggested by various authors (Corrales & Pecheny, 2010). Counterintuitively, and according to regional

findings from the US (Levy & Levy, 2015), positive legislation and jurisprudence could limit the effects of discriminatory social norms and shift people towards a more accepting and less violent behaviour.

This brings us to hypothesise that rights recognition could lead to either an increase in reporting or an increase in short-term violence, however, the distinction between the two can be very difficult to establish. The first hypothesis is:

H1 – SOGI rights recognition would lead to an increase in short-term violence or reporting.

It is important to keep in mind that several studies have also indicated a plethora of other elements as key in influencing the levels of violence. For example, income inequality has been reported as a relevant aspect leading to increased intolerance and consequently violence and discrimination towards the LGBT+ community (Andersen & Fetner, 2008; Fajnzylber *et al.*, 2002). This has been contested by other authors (Salama, 2008) that have rejected the causality between lack of economic resources and generalised violence and highlighted that there is a relation only if a series of other factors, and their evolution through time, are taken into consideration such as education and urban development. This is to show that the relation between the main drivers of violence is still often unclear to academics due to its complexity and specificity depending on the country under analysis.

2.4 The Court versus Congress Debate

As mentioned earlier, the advancement in the recognition and protection of SOGI rights in the Latin American region has been uneven. Indeed, while in selected European countries that have been traditionally resistant in promoting human rights a shift towards more positive attitudes and behaviours were witnessed in the general population (Helfer & Voeten, 2014), the acceptance of SOGI rights as human rights has faced strong resistance, especially in the Caribbean and parts of Central America (Corrales, 2015). This unevenness can also be traced back to the institutional actors promoting SOGI rights within the region, namely national Congresses and Constitutional Courts. Indeed, while in some countries such as Argentina and Uruguay, it was mainly the Congress that was able to push forward the LGBT+ agenda, in others such as Colombia and Ecuador, the Courts were the main subjects passing favourable SOGI legislations. This followed the wave of democratisation in the region, which began a strong SOGI litigation process within the framework of constitutional reforms (Campana & Vaggione, 2021). Court rulings have thus been of pivotal importance for the recognition and promotion of SOGI rights within the region where Congress was unable to do so. An additional example is the Advisory Opinion OC-24 issued by the Inter-American Court of Human Rights (2017) which publicly recognised the importance and requirement of all the countries in Latin America and the Caribbean to promptly safeguard SOGI rights in their national legal framework.

This contrast in actors advancing SOGI legislation has led to the interesting scholarly debate on the efficiency of Court rulings over Congress votes, as often appeared superimposed rather than taking into consideration the opinions of the general population (Keck, 2009). On one hand, some academics (Bergenfield & Miller, 2014; Andersen, 2004) have suggested that the increased obtention of rights through courts in the region have been symbolically critical to push towards an interruption of the traditional heteronormative narrative and generate a more favourable environment for the LGBT+ community. On the other hand, laws and legislations, often based on the flawed idea that individuals will be deterred to commit crimes by punishment, which appears to be insufficient in order to tackle structural violence (Mogul *et al.*, 2011; Meyer, 2015). This could resonate with the fact that if the opinion of the population is strongly negative towards the LGBT+ community, the advocacy led by Courts on SOGI rights could actually be counterproductive and raise ulterior backlash and violence. In support of this, Andersen (2004), although recognising the potentially positive externalities stemming from both litigation and legislation, believes that Courts are not able to efficiently generate social and behavioural change if public opinions are not favourable thus encouraging a generalised backlash.

Relevant to this scholarly debate is the perception of Courts and Congress as being reliable and trustworthy. The weakness of the state and the impunity of the judiciary system are often believed to be major factors influencing homicide rates within the Latin American continent. Indeed, according to Cano and Rojido (2017), if the State is unable to make justice and resolve conflicts, these will be resolved by society itself through violence. This is a traditionally used explanation of crime in the region which has however gathered conflicting evidence (Muggah & Aguirre Tobón, 2018). In parallel to the weakness of the state, there is also partial evidence supporting the idea that levels of impunity in the judicial system are related to higher reported violence. The results of a global study on homicides performed by the United Nations Office on Drugs and Crime (2013) showed an extremely low rate of conviction following murders in the Latin American continent compared to others such as Asia. This puts in evidence a potentially high level of judicial inefficiency that might consequently preserve and accentuate the already high levels of violence within the region.

This brings us to question if a difference in actors promoting SOGI rights within the country could lead to the creation of a backlash and an increase in violence rates if the public opinion on the matter is not positively increasing. It is thus expected that:

H2 – Countries with legislative driven change rather than a court-led inclusion of rights show less SOGI violence.

2.5 The Political Backlash

Let us now turn to a crucial theory related to the discussion on SOGI rights and tolerance: backlash theory. Backlash can be defined as a reactive phenomenon that occurs between a dominant and a minority group following a salient event that triggered it. It is believed that any challenges to the status quo, for example, values, rights or traditional behaviours from a group that usually finds itself in a weaker power position in relation to the dominant group are faced by a political backlash. These attempts to destabilise the social order and power structures by disadvantaged groups might lead to feelings that a high-status group's position is threatened and consequently led to a counterreaction (Karlsson, 2019). Both Klarman (2004) and Rosenberg (1991) are key proponents of the backlash theory, if the general opinion on the matter diverges with the judicial or political decision, the effectiveness of litigation and legislation might be undermined within the promotion of social change. The generalisability of much published research on this issue is however problematic.

To date, the literature has focused on analysing the potential backlash experienced by minority groups. It did so initially within the context of the civil rights movement in the United States in the 1960s and then found much resonance to the social opposition faced by the LGBT+ community (Bishin *et al.*, 2015). The debate on SOGI related backlash remains however wide open. On one hand, both Corrales (2020) and Encarnación (2011) have been supporters of the theory of backlash, anecdotally suggesting that SOGI rights recognition has led to a growing backlash from political and religious actors. In contrast, other authors have highlighted an increase in favourable public opinion towards the LGBT+ community following legislation or litigation recognising SOGI rights both in the United States (Flores & Barclay, 2015) and in Europe (Hooghe & Meeusen, 2013), distancing from the initial backlash theory. However, the increase in positive social acceptance and general opinion on LGBT+ issues and SOGI rights might actually be the result of a functioning democratisation process. More recent empirical studies (Abreu Maia *et al.*, 2020; Karlsson, 2019) tend to support that there is no backlash in the region requesting thus further cross-country investigation which leads to the hypothesis that,

H3 – SOGI rights recognition will not lead to a backlash against the LGBT+ community.

2.5 The Aspect of Religiosity

As the backlash theory appears to not be widely supported by empirical evidence, the analysis of major LGBT+ activists in the Latin American region (Corrales, 2020; Encarnación, 2016) is still useful in order to understand the role an important actor plays within the negative reception of SOGI rights. It is now well established from a variety of aforementioned studies that the renewed Evangelical movements, stemming from the Protestant Church, have gained extensive lobbying and veto power in the political debate in Latin America and the Caribbean.

Studies suggest that religion is the major factor that shifts public opinions on SOGI and LGBT+ debates. In countries where there is stronger religious participation or affiliation, individuals tend to be more homophobic and hold more intolerant views and attitudes against the LGBT+ community (Corrales, 2017; Malta *et al.*, 2019; Chaux *et al.*, 2021). Counterintuitively, the community finds increased support in countries where religion has a weaker role and interference in public affairs. The case of Latin America is a peculiar one due to its complexity and dynamism.

When analysing public surveys conducted in the past decade in Latin America, an expansion of secularism and a shift from Catholicism to Protestantism is evident. In the 1970s, the percentage of Catholics was around 90%, a percentage which has now dropped to 65%. This is in net contrast with the twofold and fourfold increase in respectively unaffiliated individuals and Protestants (Pew Research Centre, 2014). Although some religious leaders and groups have been active in promoting SOGI rights, especially the rise of Evangelical movements have lobbied for the protection of the traditional Christian family and values, thus spearheading campaigns against the so-called “gender ideology” (Chaux *et al.*, 2021). Gender ideology is a controversial term that is now being extensively used by anti-LGBT+ movements to encompass widespread opposition and discontent to the advancement of SOGI rights as they are believed to be threatening traditional values (Reid, 2018). The fight for the obtention of these rights is labelled as a new ideological movement, wrongfully considered to be removing rights to some rather than expanding the access to basic human rights to the LGBT+ community.

According to Corrales (2017, 2020), the backlash that rose from these movements is evident. This can be seen both in alliances with far-right conservative parties such as in Brazil with the Social Liberal Party that allowed the victory of Jair Bolsonaro in 2019, and through independent protests, such as the ones in Mexico in 2016 against same-sex marriage. The Evangelicals have also seen an increase in the numbers of obtained seats in Congress in various countries such as Brazil, Costa Rica, Colombia and Mexico (Boas, 2021). Therefore, it is evident that religion, especially Evangelical movements, is gaining strong power in politics, allowing it to pose roadblocks to the advancements of progressive SOGI rights and even setbacks to established SOGI legal frameworks. This would allow us to assume that both the backlash and thus the violence directed to the LGBT+ community is directly related to the threat perceived by both religious and political movements to traditional values and behaviours. It is therefore expected that,

H4 – Countries with a higher percentage of religiosity (particularly those affiliated with the Evangelical movement) will also show a lower level of tolerance towards homosexuality and higher violence rates.

3 METHODOLOGY

3.1 Selection of Case Studies

In order to select the countries in Latin America that will be considered for the comparative analysis, the table presented in Appendix 1 shows the key analysed variables of the study that allowed to narrow down the cases. It indicates whether the main SOGI rights laws were passed and by which actor, the affiliation percentage to Protestantism and the number of SOGI violence cases recorded in 2018³.

The main criteria for selecting Argentina and Colombia was the presence of widespread favourable SOGI rights. The SOGI rights were selected on the basis of the three main debates surrounding the topic. These are: the individual rights indicated by anti-discrimination laws and gender identity recognition, the couple rights identified by the ability to join in civil unions, and the right to create a family, as illustrated by same-sex marriage laws. It thus appears that the most progressive countries when it comes to SOGI rights are Argentina, Uruguay, Brazil, Colombia and Ecuador, consequently excluding the other cases.

As far as the rate of SOGI violence across countries, while the most violent regions appear to be Brazil (420) and Colombia (316), on the opposite side of the spectrum we find Paraguay (6) and Bolivia (8) with the least number of violent behaviours. These results could be skewed or imprecise due to the fact that individuals might not feel comfortable in reporting violence due to the backlash that they might incur, such as mistrust and discrimination from the authority or additional violence. Furthermore, Uruguay and Ecuador were not taken into consideration due to the lack of extensive national data on SOGI violence, while Brazil was also excluded due to its stronger cultural differences in comparison with the rest of the Spanish-speaking countries and for its extreme values displayed with over 100 cases of violence higher than the second most violent country. Both Argentina and Colombia show a relatively higher level of SOGI violence compared to the rest of the Latin American region.

The affiliation to Protestantism is fairly homogenous throughout the countries ranging between 14 and 17 with the highest percentage displayed in Brazil (26) and the lowest in Paraguay (7). Due to this, it did not present a critical factor in the exclusion or selection of any specific country. In the analysis section, further affiliation and unaffiliating for the selected countries will be examined.

3.2 Time Span Considered

When it comes to the time span that will be acknowledged for the analysis, important considerations had to be made with two main limitations in mind. The first factor is the introduction of meaningful

³ The year 2018 was selected as it allowed to provide data for 9 out of the 12 independent countries within the South American territory. In cases such as Guyana, Suriname and Uruguay that do not present a national observatory or registry on LGBT hate crimes, disaggregated data is not readily available. Similarly, in the case of Venezuela, the data from 2012 is reported as a reference as there is a lack of updated data due to its current political situation.

legislation within the countries of analysis. In the case of Colombia, the pivotal SOGI resolution in relation to the recognition of same-sex civil unions occurred in 2009 (Malta *et al.*, 2019). Meanwhile, in Argentina, while the progression began in the autonomous city of Buenos Aires where the first LGBT anti-discrimination law passed in 1996, only the later nationwide recognitions will be considered.

The second factor in need of attention is the lack of consistent data across the years in relation to violence against the LGBT+ community. On one hand, Argentina has been reporting data through the national observatory, “Observatorio Nacional de Crímenes de Odio LGBT”, which was created in 2016 in the city of Buenos Aires. However, data prior to the year of establishment of the observatory is poor, limiting the possible analysis of violence data. On the other hand, one of Colombia’s main civil society fighting for the obtention of SOGI rights, Colombia Diversa, has been efficiently collecting and reporting data since 2006.

This study will thus control for these limitations by narrowing the timeframe of research and focusing specifically on events and reports from 2006 in the case of Colombia, whereas in the case of Argentina, events from 2002 will be considered but the aspect of violence will be analysed only from 2016. This will allow us to understand the trajectory of both SOGI violence and rights promotion. However, while for Argentina it will be possible to analyse the violent trend only following the promotion of SOGI rights and drawing only partial conclusions, in the case of Colombia, the initial situation will also be clear providing a more comprehensive picture of violence in the country.

3.3 Qualitative Comparative Method

In order to test the hypotheses of the study, a comparative approach between the selected cases of Argentina and Colombia will be performed. The benefit of this approach is that it will allow an innovative understanding of the relationship between the selected drivers of SOGI violence and SOGI rights in cases that have not been previously analysed together. As was mentioned in the previous sections, one major source of uncertainty is if the selected variables could lead to causality as there are other minor drivers of SOGI violence not taken into consideration.

Regarding the first hypothesis, looking at the increase in short-term violence, the reports of the main LGBT+ organisations of the two countries, FALGBT and Colombia Diversa, will provide the necessary data to understand the trends of SOGI violence. In the absence of comprehensive data across the years, a qualitative analysis of data will be performed by observing the general trend which will provide potential support to the idea that following positive policy changes violence reporting would rise in the short-term. As explained earlier, this data could be biased due to underreporting. Furthermore, based on the studies mentioned in the previous sections (Vilalta *et al.*, 2016; Cano & Rojido, 2017), violence will be operationalised as the rates of homicide with a disaggregated analysis where the data allows it.

To answer the third hypothesis, the backlash and general opinions following the implementation of the mentioned legislations will be further analysed. By looking at reports from LAPOP, IPSOS and the Pew Research Centre, further qualitative analysis of data will be performed adding an additional layer of understanding. Degrees of approval of same-sex marriage will indicate the variance of the level of public opinion on LGBT+ matters and support towards homosexuality. Finally, the religious affiliation percentages will be considered to explain their potential linkage to the high rates of SOGI violence.

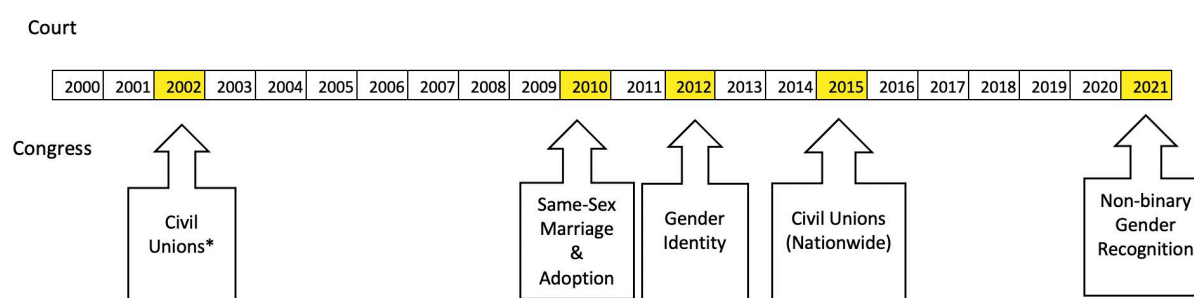
4 ANALYSIS AND DISCUSSION

4.1 Argentina: SOGI Rights and Violence

Argentina is considered by many one of the trailblazer countries when it comes to the protection of human rights related to the LGBT+ community both within the Latin American region and globally (Corrales, 2017; Encarnación, 2016). From the ban of gay discrimination in 1996 in the autonomous city of Buenos Aires to the approval of same-sex civil unions in both Buenos Aires and the Río Negro province, Argentina demonstrated a very progressive stance that has been commended by various international actors (UN General Assembly, 2019). What stands out in the timeline presented in Figure 4.1 is that this country has continued advancing in the recognition of LGBT+ identities and bodies and its related promotion of SOGI legislation throughout the 21st century. This has occurred despite a country arguably presenting strong signs of *machismo* culture and long-time political repression towards homosexuality and resistance to the debate on SOGI rights, reflecting a difficult climate for the LGBT+ community (Encarnación, 2016).

Figure 4.1 – Selected SOGI rights resolutions in Argentina.

ARGENTINA



*Only in the Autonomous City of Buenos Aires and Río Negro.

Sources: Malta et al., (2019); González Cabrera, (2021).

Given its form of government, a federal presidential representative republic, it means that the provinces, but especially the president as head of the executive power, has great power and autonomy when it comes to passing favourable SOGI laws that potentially conflict with more conservative political

ideologies (Corrales, 2015). The aforementioned local laws are the perfect example of this scenario. Furthermore, three major legislations were passed under the left-wing governments of Cristina Fernández de Kirchner, between 2007 and 2015, and of Alberto Fernández from 2019.

The first president, following one of the longest debates in Congress, signed both same-sex marriage and gender identity laws, with the latter referring to a law that permits an individual to change their personal information, such as name and gender, without the prior consent of a judge or a health practitioner. This is considered globally to be one of the most progressive legislation recognising the rights of different gender identities (González Cabrera, 2021). The second president, through an Urgent Decree, signed a law that allows non-binary⁴ citizens to record this personal characteristic on their identity cards, one of the few countries in the world to recognise this right. Surprisingly for the progressiveness of this country, the one law which is missing in this favourable SOGI landscape, not considering subregional laws, is a federal legislation that bans discrimination against sexual orientation and gender identity (Malta *et al.*, 2019).

Although it is clear that the major left-wing parties, the PJ (Partido Justicialista) and one of its factions, the FPV (Frente para la Victoria), supported the same-sex marriage legislation against the opposition of the PRO (Propuesta Republicana), the head of the executive branch was never vocal regarding support to this specific legislation (Schulenberg, 2012; Política Argentina, 2015). This demonstrates that the LGBT+ movements were able to gather the support of allies within the Congress but without having the direct and immediate support of the head of the State.

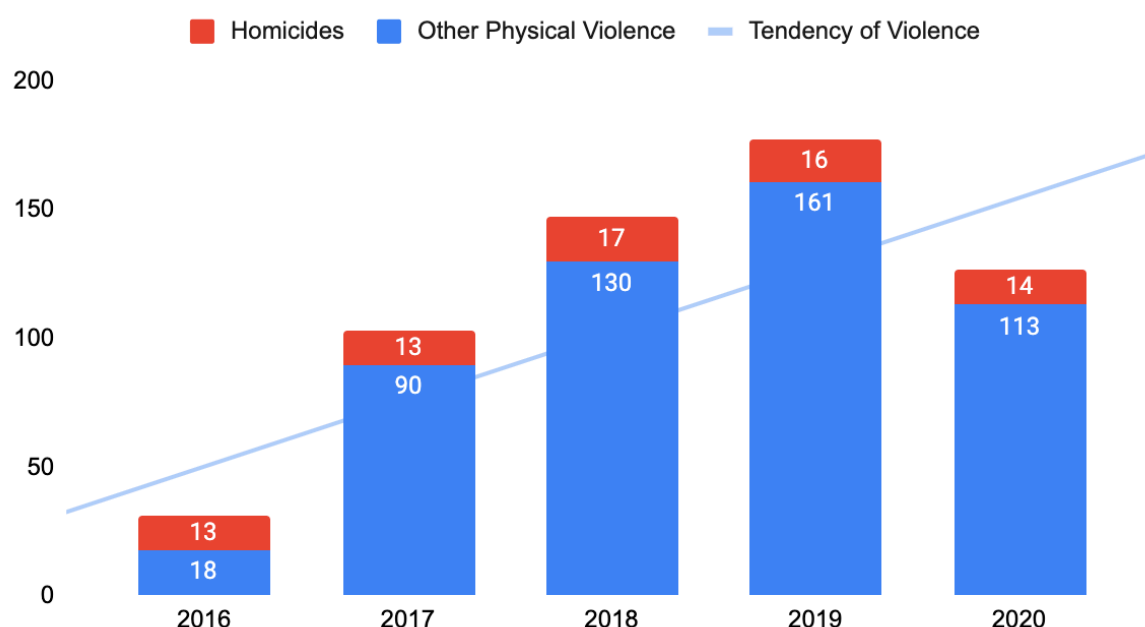
Turning now the attention to the violence in Argentina, while it has a relatively low homicide rate compared to other countries in the Latin American region (UNODC, 2019), the National Observatory on LGBT Hate Crimes⁵, created in 2016 in the city of Buenos Aires, has been tirelessly working towards making visible the context of violence faced specifically by the LGBT+ community (FALGBT, 2020). Figure 4.2 reports data collected by FALGBT that shows a gradual increase in overall physical violence in the last 5 years with a small decline in 2020, potentially due to the occurrence of the COVID19 pandemic. However, the disaggregated number of homicides does not show a clear tendency with an increase in deaths in 2018 and a decrease thereafter.

⁴ Individuals who do not recognise themselves as male or female.

⁵ Observatorio Nacional de Crímenes de Odio LGBT

Figure 4.2 – Data on physical violence against LGBT+ individuals in Argentina between 2016 and 2020.

Physical violence against LGBT+ individuals in Argentina



Source: FALGBT, 2016 – 2021.

A possible explanation of these results might be that the data is inexact as it includes only collected violence reported from civil societies, the governmental LGBT Defensor and media communication (FALGBT, 2020). This highlights a situation that might be much worse than what the official reports are painting and furthering the need for extensive research and data collection. Especially due to the lack of data from previous years, we are unable to make a clear conclusion regarding the first hypothesis linked to short-term increase in violence in the years immediately following favourable SOGI legislation. Finally, it must be conceded that the higher reporting of general violence, but not of assassinations, might simply be an improvement in data collection mechanisms or an increased feeling of security which encourages speaking up about violence, supporting Stotzer’s (2020) findings.

4.2 Argentina: The Courts, the Congress and the Backlash

Responsible for the rapid and constant progression towards favourable SOGI legislation are mainly civil societies, as they were able to push for a widespread mobilisation as seen in different moments in time (FALGBT, 2016; Corrales, 2017) and due to their framing of “gay rights” as “human rights”, in line with international ideologies (Encarnación, 2016). This framing allowed advocacy organisations, such as FALGBT, to not only lobby legislation to Congress but also to radically shift beliefs towards homosexuality. Indeed, it must be noted that FALGBT was not simply attempting to obtain marriage

equality for the LGBT+ community but rather amend the current legislation in order to remove any gender biases (Schulenberg, 2012). Civil societies advocating for SOGI rights were given partial support by the regional courts that provided a confused, but at times, favourable framework by the approval of same-sex unions even before the 2010 law. These court rulings paved the way for the debate that occurred in the National Congress, showing the important impact that this system had on legislators by setting the standards and considering unconstitutional the ban on same-sex marriage (Campana *et al.*, 2021). As clearly described by Campana et al.:

“The judiciary not only provided lawmakers with legal and constitutional arguments to justify their votes but also legitimated same-sex relationships as unions that deserved to be as equally protected by the law as heterosexual ones.” (p.7, 2021)

This demonstrates how favourable legislations indeed passed through Congress but that a fairly positive legal framework advanced by the courts was then picked up by an active grassroots social movement in order to propel a wider debate on SOGI matters. The Supreme Court is probably the exception as it maintained a quite conservative stance until recently (Corrales, 2017).

In parallel, the general opinion on same-sex marriage in Argentina has been increasing between 2010 and 2021 from 57.7% to 73%. This shows a very high level of acceptance of the LGBT+ community and the recognition of SOGI rights as fundamental human rights. Additionally, as indicated by a recent Pew Research Centre survey (2020), tolerance and acceptance towards homosexuality in Argentina average 76% with the younger generation scoring 85%, demonstrating an overall positive general opinion on SOGI issues.

Despite this widespread increasing support for homosexuality and related SOGI rights, some mobilisation occurred following the passing of SOGI legislation such as protests against same-sex marriage (Perasso, 2010; La Nación, 2010). These however have not led to a strong political polarisation or backlash trying to repeal SOGI rights. Indeed, the promotion of rights appears to have brought additional support towards homosexuality and LGBT issues among the general population and among politicians of both major political parties, such as both ex-presidents Fernández de Kirchner and Mauricio Macri, who are now more vocal towards SOGI rights.

With these aspects in mind, the prevalent role of Congress in passing favourable SOGI legislation, increased support towards the LGBT+ community and the absence of political backlash following the passing of progressive laws, we can tentatively support both H2 and H3. Indeed for H2, if compared to other countries in Latin America that passed SOGI legislations predominantly through the Constitutional Court, Argentina showcases a much lower number of SOGI murders. Regarding H3, a political backlash has not clearly developed following SOGI legislation as both left and right political parties, although changing their opinion through time, have not advanced reasons to appeal current

favourable legislation. Furthermore, the general opinion towards same-sex marriage showed a noticeable increase in the last 10 years.

4.3 Argentina: The Role of Religion

If the attention is shifted to religious affiliation in Argentina, there is an evident decrease in Catholicism and an increase in both Evangelical affiliation and non-affiliation. While data from Pew Research Centre (2014) indicates a drop of Christian Catholics of up to 26% since 1910, the Argentinian's national research institute (CONICET, 2020) estimated in 2019 that Protestants' saw an increase from 9% to 15%, with non-religious individuals incrementing from 11% to 18.9%. This highlights a strong shift in religious ideologies, from very traditional views to more radicalised ones.

Further data from Pew Research Centre (2014) indicates that Argentina is among the most favourable countries when it comes to favouring same-sex marriage, especially among unaffiliated individuals. This is in line with the percentages reported in the previous section.

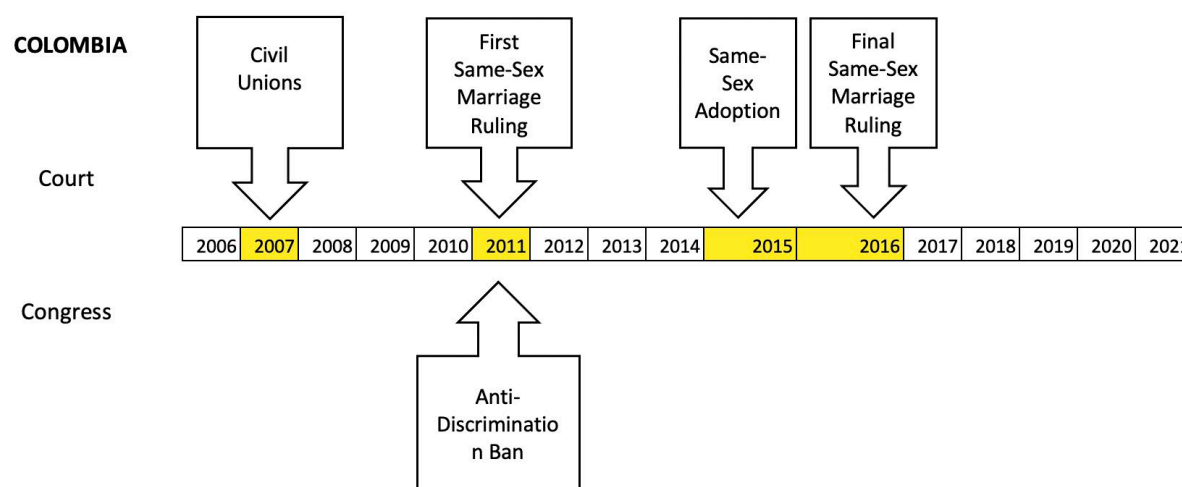
The indisputable rise of secularisation in this country is therefore a sign that could have propelled the staggering increase in support to same-sex marriage and homosexuality. However, the fluctuation towards more Protestant views and values, which are often seen as more hostile towards progressive SOGI rights (Encarnación, 2020), could point at a potential increase in SOGI violence in the future. Furthermore, the rise of non-religious individuals and support for homosexuality might also be occurring thanks to the process of political democratisation which has been at times linked with a decrease in religiosity and an openness to change (Ben-Nun Bloom & Arikan, 2013).

4.4 Colombia: The Civil Societies and its Court Allies

As in the case of Argentina, Colombia presents a very progressive situation when it comes to SOGI rights if compared with other countries in the Latin American region. However, this process of acceptance and recognition only started in the 1980s with the decriminalisation of homosexuality with the consequent rise of a strong civil society that was key in lobbying for the advancement of SOGI rights in the following years. The early 2000s signalled an important period for Colombia's history with the establishment of Planeta Paz, a platform that gathered the most vulnerable groups in society to provide them with a voice in the peace negotiations between the Colombian government and the FARC⁶. The inclusion of the LGBT+ community in this process was an exceptional event that marked the beginning of the recognition of SOGI rights but also of a noticeable backlash (Castillo Vargas, 2018).

⁶ Fuerzas Armadas Revolucionarias de Colombia, The Revolutionary Armed Forces of Colombia

Figure 4.3 – Selected SOGI rights resolutions in Colombia, passed by Colombia’s Constitutional Court (Top) and by Congress (Bottom).



Source: Malta *et al.*, (2019).

As early as 2003, there was an unsuccessful attempt at passing same-sex civil union in Congress. A similar opportunity presented itself in 2005, following the institution of Colombia Diversa in 2004, the main federation of LGBT+ civil societies that has been at the forefront of the movements that lobby for the recognition of SOGI rights in this country. These legislative efforts were however undermined by a strong conservative block in Congress which adamantly refused to give in to the “gender ideology” allegedly perpetrated by these civil movements (Wilson & Gianella-Malca, 2019). The prejudices towards the LGBT+ community however were not limited to the right-wing parties as also the more liberal left-wing was unable to vote unified in various bill opportunities (González, 2017).

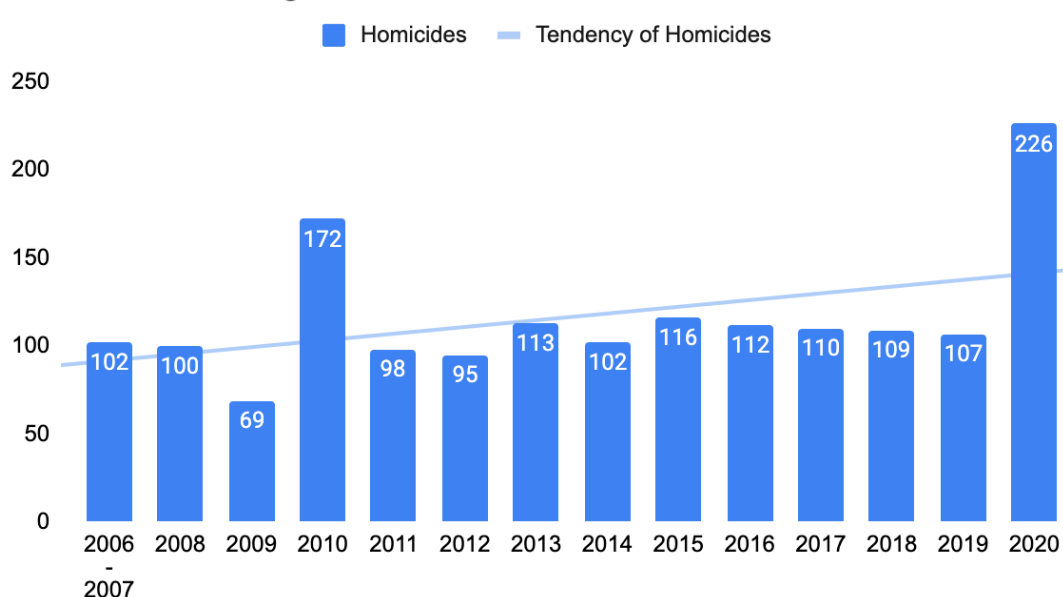
Thanks to the campaigning and lobbying efforts of Colombia Diversa in 2011, the Constitutional Court advanced instructions to Congress on the necessity of a clear legislation on same-sex unions and marriage (see Figure 4.3). However, after these instructions were not followed due to the persistent obstructionist behaviour of different political parties in the following years, the Court took the decision into its hand and ruled in favour of LGBT+ adoptions in 2015 and same-sex marriage in 2016. The latter was the same year that the Inter-American Court of Human Rights condemned Colombia in the key ruling *Duque v Colombia* (2016) for being unable to provide access to benefits to an LGBT+ individual. This was a pivotal ruling as it was the first time that the Inter-American Court of Human Rights positively pronounced itself in regards to SOGI social discrimination. Overall, we can thus perceive the key role that the Colombian’s Constitutional Court had in the advancement of SOGI rights within the country versus the obstructionist role of the Congress, providing initial support to H2.

4.5 Colombia: High Violence Levels, Intolerance and the Backlash

The overview on the SOGI rights situation in Colombia appears to set a positive context for the LGBT+ community. However, this is unfortunately not the case. From the analysis of the data reports on homicide rates provided by Colombia Diversa since 2006, Figure 4.4 reveals a very high number of murders per year. What is also striking about the bar graph is that the tendency appears to be constant, if slightly increasing, throughout the years with two major peaks in 2010 and in 2020.

Figure 4.4 – Data on LGBT+ homicides in Colombia between 2006 and 2020.

Homicide Rates against LGBT+ individuals in Colombia



Source: Colombia Diversa, 2011 – 2021.

While the 2010 peak has been explained by Colombia Diversa (2011) as a potential improvement of data reporting throughout the years, it appears that further variables might be at play. Similarly, the 2020 peak in violence could be explained by the increase in channels available for the LGBT+ community in order to denounce crimes in the past 10 years as it could be related to the outbreak of the COVID19 pandemic. Colombia Diversa (2021) stresses that this exponential increase in SOGI homicides, which goes against the national trend of decreasing number of homicides, is an alarming statistic that needs to be taken into analysis. However, the same foundation claims that the State is not taking the necessary steps to investigate proper ways to tackle these extreme numbers starting from a justice system that is unprepared and untailored to answer to the claims of LGBT+ victims and provide them with exhaustive protection. This data thus does not support the H1 as there is no noticeable increase in short-term violence following favourable legislations in 2007, 2011 and 2016. Contrary to expectations, Colombia actually demonstrated the opposite trend as a slight decrease in violence is

present following the aforementioned years. A potential explanation is, as Corrales (2015) advanced, that conservative groups were caught unprepared to develop a counterstrategy that would lead to a stronger backlash. However, this theory does not appear convincing given the strong religious and conservative mobilisation in the country.

It is not surprising then that, many violent attacks go undenounced or that they are hidden among official registers which do not highlight disaggregated data on SOGI (Colombia Diversa, 2021). This goes hand in hand with a lack of widespread approval of homosexuality. In fact, while in 2014 LAPOP (Maldonado, 2015) reported that only 34.8% supported same-sex marriage, this figure improved by 2021 according to IPSOS which recorded 46% of approval. This however indicates that there are still many people that believe that SOGI rights should not be up for discussion.

Some authors believe that the passing of SOGI legislation by the Constitutional Court might be at the root of the issue as they overstepped the power of the Congress and did not take into consideration the opinions of the general population. This would have then sparked the political backlash that has been witnessed from the obstructionism of Congress and the mobilisation among the population (Campana & Vaggione, 2021). This appears consistent with a strong political backlash that developed following the Court's rulings in 2011. In fact, different conservative movements formed and among these, one of the biggest ones in the country is the Fundación Marido y Mujer, which promptly fights for the protection of traditional marriage (Wilson & Gianella-Malca, 2019). Another example of how the political backlash developed within Congress is the call for signatures by a Liberal Party senator in order to repeal the Court's 2015 decision on same-sex adoptions. This political initiative gained impressive support reaching more than 2.1 million signatures from the Colombian population but was eventually defeated in Congress (Alsema, 2017). Notwithstanding the negative result of this repeal, the fact that such a large share of the population mobilised to halt the recognition of SOGI rights, namely adoption in this particular case, demonstrates the resistance that is still very much present in the country. This thus falsifies H3 as evident political resistance rose following the recognition and implementation of SOGI favourable legislation, supporting the ideas advanced by authors such as Corrales (2020) and Encarnación (2020).

Furthermore, if attention is paid to the aspect of religion, Colombia still presents a strong religious affiliation. According to the 2014 survey by the Pew Research Centre, 79% of the population is Catholic, 13% is Protestant and 11% is unaffiliated. Similar data have been reported by LAPOP in 2018 with a small negative influx only from the Catholic branch. The strong correlation that religion has in Colombia's general opinion is evident as less than 30% of individuals that recognise themselves as either Catholic or Protestant would support same-sex marriage.

Additional support to the H4 comes also from the backlash movements that rose in 2016 following the final same-sex marriage ruling from the Constitutional Court. Indeed, religious movements were at the

forefront of marches, campaigns and protests allegedly protecting the erosion of traditional values by the “gender ideology”. Many accuse these anti-SOGI/LGBT+ movements also of being the culprit of the failed 2016 peace negotiations between the Colombian Government and the FARC, as they were unwilling to concede further rights recognition to sexual minorities (González, 2017). This demonstrates that Colombia still suffers from what many have labelled as a backlash following recognition of SOGI rights due to the fact that conservative values and attitudes are enduring the favourable framework that the Colombian courts are trying to establish. The short-term negative effects of the growing power of the Evangelical Church might be detrimental to the successes reached so far in Colombia, however, the long-term positive effects of SOGI rights recognition might also be witnessed as shown by the growing support towards LGBT+ population of the younger generations (Pew Research Centre, 2020).

4.6 Argentina and Colombia: A Comparison

Having discussed the cases of both Argentina and Colombia separately, the final section of this analysis wants to compare the main variables of interest and test the hypotheses previously stated in Section 2. As indicated by Table 4.1, there are some nuances between the two Latin American countries that can be contributing to the understanding of the persistence of SOGI violence under the presence of a favourable legislative context. From the factors that have been analysed in this paper, some appear more convincing than others.

In terms of the main similarity presented by Argentina and Colombia, it is evident that both countries present 5 major SOGI rights protection enshrined in their national legislation. The main difference is that Argentina has introduced a progressive law recognising the existence of non-binary individuals in early 2021, whereas Colombia approved in 2011 a landmark anti-discrimination law. These advancements are evidence of a notable protection and recognition in the rights associated with sexual orientation and gender identity in both countries, demonstrating their progressiveness.

Table 4.1 – Comparison of the main analysed variables between Argentina and Colombia.

	Argentina	Colombia
Major SOGI rights recognised	5: Civil Unions, Marriage, Adoption, Gender Identity and Non-Binary Gender Recognition	5: Anti-discrimination, Civil Unions, Marriage, Adoption and Gender Identity
Main actor passing SOGI rights	Congress	Constitutional Court (with the exception of the anti-discrimination law by Congress)
SOGI homicide mean of the last 5 years	14.6	132.8
Approval of Same-Sex marriage, % (IPSOS, 2021)	73	46
Affiliated to some type of religion, % (Pew Research Centre, 2014)	86	92
Affiliated to Protestantism, % (Pew Research Centre, 2014)	15	13
Religiously unaffiliated, % (Pew Research Centre, 2014)	11	6
Evidence of Backlash	No	Yes, both political and religious

Sources: Abreu Maria, *et al.*, 2021; IPSOS, 2021; Pew Research Centre, 2014.

As far as the number of SOGI homicides is concerned, Colombia has showcased 9 times the number of killings in Argentina, showing an average of 132 in the last 5 years against 14. Although the ongoing Colombian conflict is expected to have had an impact on the extremely high numbers, it is clear that a wide gap between these two countries persists in relation to SOGI violence. What stands out from the data (see Figures 4.2 and 4.4) is that both states have shown an uneven SOGI violence tendency, neither strictly increasing, nor decreasing. The data from both Argentina and Colombia falsified our first hypothesis. While the first has a lack of data that prevents us to establish a complete understanding of the trend prior to SOGI rights laws, in Colombia's case, the homicide trend declined in the year

immediately after the passing of SOGI laws. This would therefore actually suggest that the promotion of SOGI rights could have an inverse relationship with violence rates in the short-term. This assumption would need to be thus further explored in different countries to assess causality.

Turning now the attention to the actors that were responsible for the advancement of progressive SOGI rights, Argentina and Colombia differ greatly. While on one hand, Argentina's Congress had the primary role in passing favourable legislation for the LGBT+ community, the Constitutional Court had the same role in Colombia's case. While some authors (Campana & Vaggione, 2019) regard Colombia's Constitutional Court as an "order instructor", it appears that the inability of Congress to follow its rulings encouraged the court to execute a more lawmaker role also thanks to the compelling and informed advocacy of social movements. Furthermore, if the approval of homosexuality based on same-sex marriage support percentages is taken into consideration, a more progressive and supportive view is showcased by Argentina compared to Colombia. This thus supports our H2 and the opinion of other authors (Campana & Vaggione; 2021, Corrales, 2017) according to which, a legislative-led change joint to a favourable general opinion would consequently result in a more tolerant behaviour, decreased violence and backlash.

In the case of backlash following the recognition of SOGI rights, we found two different situations. Argentina, although it has shown small general protests following the introduction of SOGI laws, it has not demonstrated a clear political backlash in Congress or through the lobbying of Evangelical movements. In contrast, Colombia's witnessed a strong backlash, especially from the Evangelical movements which have been shown to hold stronger negative attitudes and resistance towards SOGI rights (Chaux *et al.*, 2021; Corrales & Sagarzazu, 2019; Pew Research Centre, 2014). Therefore, while the results from Colombia are consistent with H3 and with the backlash theory supported by both Corrales (2020) and Keck (2015); Argentina appears to be an outlier. This inconsistency may be due to many reasons. Among them, an environment that is more favourable in countering SOGI backlash movements as suggested by Encarnación (2020). With such conflicting evidence, the debate on the existence of political backlash remains open with the need for further comprehensive regional and empirical studies on the matter.

Finally, with respect to the degrees of religiosity variable, Argentina and Colombia both demonstrate high levels of affiliation to religious groups. While the first surprisingly displays a higher percentage of Protestantism than the second, Colombia presents a generally higher religion affiliation. These data which would contradict H4 in the case of Argentina, as it concurrently shows a higher percentage of Evangelical affiliated, high tolerance towards homosexuality and lower levels of SOGI violence compared to Colombia, could be explained by two factors. The first is that individuals who consider themselves religious are 20% less committed to their practices and values in Argentina compared to

Colombia (Pew Research Centre, 2014). This is interlinked with the second factor which is that in Argentina both unaffiliated and religiously affiliated individuals are normally more tolerant of the LGBT+ community, whereas, in Colombia, individuals who are religiously affiliated, and thus the majority of the population, are only 30% supportive of LGBT+ rights. In other words, favourable general opinion towards the LGBT+ community might be a stronger driver in decreasing SOGI violence than religion to increase it. Colombia's high religious affiliation, lower LGBT+ tolerance and a high number of homicides would support this idea.

5 CONCLUSIONS AND LIMITATIONS

The present study was designed to determine under which conditions SOGI violence persists despite the presence of favourable legislation protecting the rights of the LGBT+ community. As expected, Latin America remains a continent rich in nuances and regional peculiarities as showcased by the differences and similarities between Argentina and Colombia in the context of SOGI rights protection. On one hand, these countries confirm that part of Latin America has shown remarkable progressiveness when it comes to securing fundamental rights to the LGBT+ community in the last two decades. On the other, violence and discrimination against this vulnerable minority is still an issue that remains unsolved even in the most tolerant regions.

In the present paper, different but not all, potential drivers of SOGI violence have been identified and analysed, with some showing a stronger validity than others. The most surprising result is that rights recognition has not necessarily translated into a clear-cut short-term trend of neither increase nor decrease of SOGI related violence. Further work needs to be done to establish whether other countries in the Latin American region have experienced similar trends in the short-term. The most important limitation lies in the fact that underreporting and missing data impacts the degree of analysis and make these findings less generalisable to the regional context. In the future, when additional and more comprehensive data will be available, the long-term violence rates should also be assessed across a wider number of countries, taking into account the uniqueness of the Latin American subregions, including the Caribbean.

The type of actor advancing SOGI rights and the degree of religiosity have also shown to be relevant in certain circumstances such as in the presence of a strong social movement advocating and lobbying SOGI rights. However, positive general opinions and attitudes towards homosexuality could potentially be overriding the aspect of religious affiliation as seen in the case of Argentina. Similarly, the validity of the backlash framework stemming from political and religious movements remains unclear. The backlash could also be overcome in a context that presents favourable attitudes recognising the rights related to the LGBT+ community.

Finally, an additional limitation of this study is the operationalisation of violence as the number of homicides. Generalisability appears difficult, especially because, as it has been previously mentioned,

the LGBT+ community faces an array of violence ranging from policy brutality to hate crime up to discrimination in the workplace, aspects which should also be explored carefully. Despite its limitations and exploratory nature, this study offers some insight into the potential linkage between SOGI rights recognition, violence trends and selected violence drivers such as general opinions and religious affiliation. It presents an opportunity for lawmakers to consider additional leading factors with intersectional lenses in order to generate a better understanding of the diverse situations of violence that LGBT+ individuals face and consequently strengthen public policies protecting this minority group. Greater efforts are needed to tackle the issue of SOGI violence and Latin America could be, once again, the region pioneering important discoveries and further progress towards an improvement of the legal framework protecting the LGBT+ community.

6 APPENDIX

Appendix 1: Affiliation to Protestantism, SOGI violence and selected SOGI rights in Latin America.

<i>Country</i>	<i>Affiliation to Protestantism (%)</i>	<i>SOGI violence in 2018</i>	<i>Selected SOGI rights laws</i>			
			<i>Civil Unions</i>	<i>Same-Sex Marriage</i>	<i>Anti-discrimination Laws</i>	<i>Gender Identity Recognition</i>
<i>Argentina</i>	15	147 (a)	Yes	Since 2010	Yes	Yes
<i>Bolivia</i>	16	8	No	No	Yes	Yes
<i>Brazil</i>	26	420	Yes (c)	Since 2013 (c)	Yes	Yes
<i>Chile</i>	17	169 (a)	Yes	No	Yes	Yes
<i>Colombia</i>	13	316 (a)	Yes	Since 2015 (c)	Yes	Yes
<i>Ecuador</i>	13	124	Yes	Since 2019 (c)	Yes	Yes
<i>Guyana</i>	n/a (b)	n/a (b)	No	No	No	No
<i>Paraguay</i>	7	6	No	No	No	No
<i>Peru</i>	17	173 (a)	No	No	Yes	Yes
<i>Suriname</i>	n/a (b)	n/a (b)	No	No	Yes	No
<i>Uruguay</i>	15	n/a (b)	Yes	Since 2013	Yes	Yes
<i>Venezuela</i>	17	237 (2012)	No	No	Yes (c)	No

- (a) Hate crimes including both murders and other types of direct violence.
- (b) Recently updated data not available.
- (c) Law passed by the Supreme or Constitutional Court of the country.

Data sources:

Affiliation to Protestantism – Pew Research Centre (2014),

SOGI violence – FALGBT (2018); Sin Violencia (2020); MOVILH (2018); DIVERLEX (2013); Observatorio de derechos LGBT (2019),

SOGI rights – Malta & Cardoso (2019); Chaux et al. (2021).

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