

In the same year that the Federal Supreme Court determined that it will not be necessary to acquire legal authorisation, medical/psychological reports, nor surgical procedures in order to change one's name and sex before the civil registry,⁴³ Jair Mesias Bolsonaro is elected. His campaign utilised the same strategies of Donald Trump, having made use of "fake news",⁴⁴ among which stand out was the alleged existence of a "Gay Kit" distributed by the PT government.⁴⁵ At the same time, the election of Bolsonaro was not without resistance or collective organisation in the form of demonstrations and the movement *#EleNao* (*#NotHim*), with more than 40% of the population voting against him in the polls. After the election, out of fear of same-sex marriage recognition being repealed, civil registry offices across the country saw a 25% increase in this type of marriage.⁴⁶

In his first days as president, Bolsonaro reiterated his hate for the LGBTI community (the same hatred he expressed when he said: "I would prefer to have a criminal for a child than a gay child") by appointing to the charge of public policies for human rights, women and family, a pastor known for her support of "conversion therapy".⁴⁷ Damares Alves, with 2 weeks in government, announced to the media that for her "sex between women is an aberration"⁴⁸ and that under her watch "girls will be treated as princesses and boys princes". The minister reaffirmed her political stance that "girls wear pink and boys wear blue",⁴⁹ a phrase that triggered numerous protests on social media by artists, activists, researchers and politicians, questioning the state's attempt to present biology as a determinate to gender expression. There is a very strong consternation in the country against

the government's first measures which are an attack on gender, ethno-racial relations and sexuality in the school curriculum and the intensification of the criminalisation process of the indigenous population.

The threat of neo-fascism is a global movement, which requires that collective strategies unite different progressive sectors in defence of democratic liberties and republicanism. LGBTI activism must strengthen its links with movements that fight for land rights, housing, racial feminist equality and work. Whilst conscious as to not be seduced by the conciliatory homo-nationalist discourse which comes from antidemocratic sectors or to fear the struggle itself. Resistance thrives in the streets and tomorrow is another day!

The Andean Region, a Territory in Alert Marked by its Political Uncertainty and the Advance of Anti-Rights Groups

By David Aruquipa Pérez.⁵⁰

The policies of human rights protections for the LGBT population of the Andean Region have achieved significant advances in a legal sense.⁵¹ However, in practice exercising these rights are limited by the threats and pressures of neoconservative trends and the fragility of the

⁴³ "STF reafirma que pessoas trans podem o mudar nome no registro sem cirurgia", *UOL Notícias*, 15 August, 2018. The decision of the Supreme Court is binding for all civil registry offices. At the same time, the National Justice Council (the administrative body for Brazilian Judicial Power) enacted a provision that regulates the administrative process of changing one's name and gender in the country: *Provimento No. 73*, 28 June 2018. The ruling was highlighted by the Inter-American Commission on Human Rights. CIDH, *Comunicado de Prensa No. 85/18*: "CIDH welcomes the decision of the Brazilian Supreme Court to permit trans people to change their name through self-declaration", 23 April 2018.

⁴⁴ Fake news highlighted the distribution of books supposedly acquired by the Ministry of Education (MEC). Taking advantage of a controversial issue seeking to generate a discourse around "gender ideology" and to propose a bill titled "Schools without party". This fake news was put in the minds of Brazilians, especially those who yearn for a military regime, the small economic elite, religious profiteers and others attracted by the anti-corruption discourse.

⁴⁵ Under pressure from the evangelical block in Congress, in Dilma's first year in office, it vetoed the "School without Homophobia", an education initiative on sexual and gender diversity by the Education Ministry. See: "*Vetado por bancada religiosa, kit 'Escola Sem Homofobia' pode ser baixado na internet*", *Portal Aprendiz*, 11 February 2015.

⁴⁶ "*Casamento LGBT cresce 25% no país, diz associação; profissionais oferecem serviços gratuitos para celebrações*", *G1 Sao Paulo*, 7 November 2018.

⁴⁷ "*Exclusivo: Em clínica de 'restauração de sexualidade, Damares classifica homossexualidade como aberração*", *Forum*, 4 January 2019.

⁴⁸ "*Ministra brasileira volta a causar polémica: sexo entre mulheres é 'aberração'*", *TVI24*, 9 January 2019.

⁴⁹ "*Ministra Damares diz que 'nova era' começou: 'meninos vestem azul e meninas vestem rosa'*", *O Povo*, 3 January, 2019.

⁵⁰ David Aruquipa Pérez is an LGBTI activist and human rights defender, co-founder, former president and member of the Political Action Commission of Colectivo TLGB de Bolivia, Director of the Bolivian Campaign for the Right to Education (*Campaña Boliviana por el Derecho a la Educación*).

⁵¹ Centro de Promoción y Defensa de los Derechos Sexuales y Reproductivos (PROMSEX). *Encuentro adelante con la diversidad. Relatoría. Incrementando la protección y respeto de los derechos humanos de los derechos LGBTI en la región andina* (2018), 6-18.

States in a time of political instability.⁵² The anti-rights groups come bringing a strategy of delegitimising the activism and classifying it as alleged “gender ideology”,⁵³ promoting the suppression of intrusive rights and the ending of comprehensive sex education and the promotion of coexistence in the public national curriculum.⁵⁴

The country of the sub-region of ILGALAC with the most advances is Colombia.⁵⁵ Yet still, according to different LGBTI organisations, they are at risk with the election of the extreme right-wing government of President Ivan Duque,⁵⁶ who has a track record contrary to LGBTI and women’s rights.⁵⁷ In fact, in his first months in office he appointed anti-rights civil servants⁵⁸ and did not apply Decree 762/2018 established by President Juan Manuel Santos.⁵⁹ The Colombian situation has one of its principle elements, the Peace Accord, between the State and the FARC-EP with a focus on gender and the recognition of LGBTI victims of the armed conflict that currently is partially being fulfilled and facing difficulties and threats. At the same time, it has seen a growth in the murders of the leaders involved in this process.⁶⁰

Another country that has made important advances is the Plurinational State of Bolivia. In effect, its political constitution contains recognition of the rights of diverse sexual orientation and gender identity populations and includes the LGBT population in the National Action Plan of Human Rights.⁶¹ In 2016, it approved the Gender Identity Law No. 807,⁶² which was a victory without precedent and bore the fruits of a long and sustained struggle for the transsexual/transgender population. Yet, five months after having adopted this norm, a group of national parliamentarians brought before the Plurinational Constitutional Court an action of unconstitutionality. On the 9th November 2017,⁶³ by means of the Plurinational Constitutional Sentence 76/20179, the Constitutional Court declared the unconstitutionality in the phrase “change of sex data” and from that moment operated an unjustified regression in the exercise of the rights of trans persons,⁶⁴ and the effects of this ruling has not been remedied until now.⁶⁵ Finally, one of the most important pending issues is the recognition of the families formed between same-sex persons.

In relation to the Bolivarian Republic of Venezuela the political, social and economic panorama

⁵² This phenomenon can be identified very clearly in the documentary “Gender under attack” (original title: “Género bajo ataque”) by director Jerónimo Centurión (2018): the film has specific sections entitled: “Peru, a threat that does not stop” (“Perú, una amenaza que no se detiene”) and “Colombia: the peace frustrated” (“Colombia: la paz frustrada”): Alfredo Serrano Mancilla, “The Invisible Footprint of Conservative Restoration” (“La huella Invisible de la restauración conservadora”), *Centro Estratégico Latinoamericano de Geopolítica (CELAG)*, 21 August 2018.

⁵³ AWID - Asociación para los Derechos de las Mujeres y el Desarrollo, “Discursos principales de la oposición” en *Derechos en riesgo, Observatorio sobre la universalidad de los derechos. Informe sobre tendencias en derechos humanos* (2017), 84-85.

⁵⁴ *Id.*, 73.

⁵⁵ The latest achievement obtained by the Colombian LGBTI movement was the judicial sentence for the crime of Anyela Ramos Claros murdered on February 9, 2017. In this case, the murder of a trans woman was recognized as “femicide” for the first time, according to the information supplied by Colombian Diversa. See: “Primer caso de homicidio de una mujer trans que es reconocido como feminicidio en Colombia” (First case of homicide of a trans woman that is recognized as femicide in Colombia), *Colombia Diversa*, 2018.

⁵⁶ Consultations on the current Colombian political context were made to Corporación Femm and the León Zuleta Collective.

⁵⁷ The electoral Observatory for LGBTI rights of ILGALAC issued a statement dated June 16, 2018 about the second round of the presidential election in Colombia informing that the then candidate for the Democratic Center, Iván Duque, did not include the LGBTI population in its platform policy and, on the other hand, made statements contrary to the rights of LGBTI people.

⁵⁸ One of them is Alejandro Ordoñez as Ambassador to the OAS. See: “Duque posesiona a Ordóñez como embajador de la OEA pese a las críticas”, *El Espectador*, 12 de septiembre de 2018.

⁵⁹ The National Decree No. 762/2018 (*Decreto Nacional No. 762/2018*) promulgates a national LGBTI policy and with the objective to promote and guarantee the exercise of civil and political rights, in particular the rights to life, liberty, integrity, security and effective judicial protection; guarantee the right to participation and promote and guarantee the exercise of economic and social rights.

⁶⁰ Information regarding the peace process in Colombia was facilitated to the authors by Corporación Caribe Afirmativo. For more information, see: “Caribe Afirmativo presenta línea base sobre derechos de las personas LGBT en los municipios de las Casas de Paz”, *Corporación Caribe Afirmativo website*, 17 November 2017.

⁶¹ Political Constitution of Bolivia (CPE), article 14; Cecilia Urquieta Pardo, “Bolivia, avances en derechos de la población TLGB” en *LGBTI, compendio regional de buenas prácticas gubernamentales de garantía y protección de derechos” editado por el Instituto de Políticas Públicas en Derechos Humanos de Mercosur* (2017), 77-84.

⁶² *Ley de Identidad de Género No. 807*, The procedure for the change of the name and sex of transgender and transgender people is established, allowing for the exercise the right to gender identity (*Se establece el procedimiento para el cambio de los datos del nombre y sexo de las personas transexuales y transgénero, permitiéndoles ejercer el derecho a la identidad de género*) (2016).

⁶³ “TCP declara ilegal matrimonio entre personas del mismo sexo”, *Los Tiempos*, 9 November 2017.

⁶⁴ “Bolivia declara ilegal el matrimonio homosexual y transexual”, *Desastre*, 10 November 2017.

⁶⁵ Consultations were held on the current Bolivian political context to activists of the TLGB Collective.

presents great complexity.⁶⁶ Currently the little progress made in legislative matters is combined with an unprecedented international political attack, a virtual economic and financial blockade that makes it difficult for the population to access basic goods and services,⁶⁷ and a very important migratory phenomenon. The advances in this country relating to the LGBTI issues in the last two years were in the field of universal social policies – social missions – that in this context show a great importance,⁶⁸ for the beginning of the discussion of equal marriage in the Constitutional National Assembly and with the opening of a public policy in the Caracas Town Hall.⁶⁹

In Ecuador, after a period of advances,⁷⁰ the change of government and the election of President Lenin Moreno in May 2017 caused alarm and uncertainty, in most part by it not continuing with the previous political process.⁷¹ In this context, two emblematic cases stand out: on the one hand,⁷² the ruling of the Constitutional Court No. 184/2018 which recognised the enrolment of a girl with two surnames from her two mothers,⁷³ and on the other, the judicial ruling in which a trans girl was registered on the civil registry record with her gender identity.⁷⁴

Finally, in Peru there has been a resistance with the growth of fundamentalist religious groups and from the instability due to the resignation of President Pedro Pablo Kuczynski.⁷⁵ There have been no advances in the recognition in the unions of same-

sex couples or in terms of gender identity.⁷⁶ The organisations of civil society demanded the compliance of the 2018-2021 National Plan of Human Rights (NPHR 2018-2021) and achieved the Inter-American Commission of Human Rights elevating Case 12.982,⁷⁷ “Azul Rojas Marin and Other” before the Inter-American Court of Human Rights (ICHR) for the State to remedy the institutional violence which occurred in 2008.⁷⁸

Homophobia in Mesoamerica

By Gloria Careaga Perez.⁷⁹

The Mesoamerican region includes Mexico and the majority of Central America: it covers Mexico, Guatemala, El Salvador, Belize, Honduras, Nicaragua and Costa Rica. Therefore, for this report it is important to refer to the region in this manner, which makes it possible to point out some aspects related to the colonisation of the region.

The condition of LGBT people in Mesoamerica has already eliminated any hint of legal signalling that explicitly criminalises their situation. Even if there have been few steps in the advancement in the protection of their rights – this has been done unevenly across the countries – the main challenge is centred on the problem of needing a cultural change that goes beyond its legal status, achieving

⁶⁶ Alejandro Fierro, “Venezuela entre legalidad y legitimidad”, Centro Estratégico Latinoamericano de Geopolítica (CELAG), 10 de enero de 2019.

⁶⁷ Alfredo Serrano Mancilla, “Sabotaje económico a Venezuela” Página/12, 7 January 2018.

⁶⁸ The Fundación Base Lésbica Venezuela, in an interview with the author, stated that the Presidential Council of Popular Power for Sexual Diversity (Decree No. 2161/2015) in coordination with the Ministry of Popular Power for Women and Gender Equity and the Ministry of the Popular Power for the Communes favor the mainstreaming of different social policies so that they also reach LGBTI people.

⁶⁹ “ANC abre debate sobre derechos civiles de la comunidad sexo género diversa en Venezuela”, Ciudad CCS, 18 October 2018: n an act chaired by Mayor Erika Farias, ordinances were proclaimed for the creation of an office for LGBT issues and the month of June was instituted as the Month of the Rebellion of Sexual Diversity. See: “Gaceta Municipal en pro de la Sexodiversidad”, Ciudad CCS, 1 June 2018.

⁷⁰ Cristian Barraqueta, “Experiencia gubernamental de Ecuador” en *LGBTI, compendio regional de buenas prácticas gubernamentales de garantía y protección de derechos* editado por el Instituto de Políticas Públicas en Derechos Humanos de Mercosur (2017), 95-111.

⁷¹ “Claves de la disputa política en Ecuador”, Centro Estratégico Latinoamericano de Geopolítica (CELAG), 2 December 2017.

⁷² Consultations were held on the Ecuadorian context with Asociación Valientes de Corazón.

⁷³ Corte Constitucional de Ecuador (Constitutional Court of Ecuador), *Sentencia N° 184-18-SEP-CC*, Registro Oficial Año II. N° 61, 11 September 2018.

⁷⁴ “Una niña transgénero de nueve años consigue cambiar su cédula de identidad en Ecuador”, *El País*, 10 de diciembre de 2018.

⁷⁵ The documentary film “Gender under attack” (original title: “Género bajo ataque”) of 2018 by director Jerónimo Centurión features a section entitled: “Peru, a threat that does not stop”.

⁷⁶ Centro de Promoción y Defensa de los Derechos Sexuales y Reproductivos (PROMSEX). *Informe temático de personas LGBT en el Perú 2018. Perspectivas jurídicas y políticas* (2018), 7-17. Consultations on the current political context were held with the following organisations: Promsex, No tengo miedo and Alma Chalaca.

⁷⁷ Defensoría del Pueblo, *A dos años del informe defensorial No. 175. Estado actual de las personas LGBTI* (2018), 11.

⁷⁸ Centro de Promoción y Defensa de los Derechos Sexuales y Reproductivos (PROMSEX), *Un caso de tortura sexual por orientación sexual* (2018).

⁷⁹ Gloria Careaga is a psychologist, professor at the Faculty of Psychology of the UNAM (Mexico), Coordinator of Fundación Arcoiris. She was Co-Secretary General of ILGA between 2008 and 2013.