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Laws for the Support of Transgenders in Argentina and Brazil

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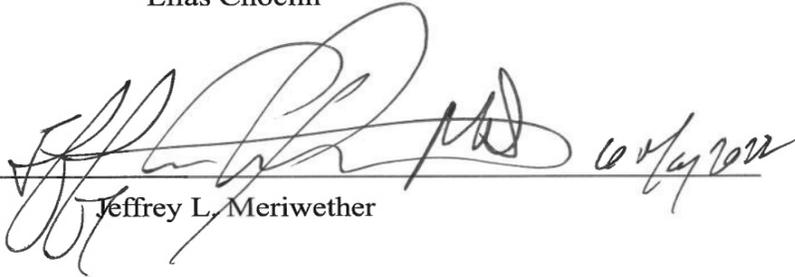
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Laws for the Support of Transgenders in Argentina and Brazil

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Introduction

In the last decade, the feminist and LGBTQ+ movements have shown the challenges transgender people face in different countries of the world. Specifically, Brazil and Argentina have proposed different regulations and laws that protect these individuals from violence and that intend to incorporate them into the job market. However, these countries have vastly different policies regarding healthcare for transgenders such as transition medication and surgeries, which will be further identified and explained in the paper.

In 2019, Brazil elected an oppressive leader, Jair M. Bolsonaro, who has turned his gaze away from human rights issues, especially toward sexual and gender minorities who are not protected by law. Even though transphobia is now a criminal offense in Brazil, the country still has the highest number of trans and queer individuals murdered in the world. In 2021, Brazil topped the list for the 13th year in a row. Since data collection began in 2008, the total number of trans women and queer persons murdered has reached an all-time high.

Unlike Brazil, Argentina is one of the few countries in Latin America that allows the change of gender identity for trans peoples.

In 2012, the Argentinian Congress passed Law 26,743 on gender identity which meant significant progress in this area. This law, which is made up of only 13 articles, allows trans people to have their preferred name and gender documented in their records, as well as the necessity for protection for trans girls, boys, and adolescents. One feature of this rule worth mentioning is that it requires all gender-specific medical treatments to be included in the Mandatory Medical Program, ensuring that all practices are covered across the health system,

whether public or private. At the time of its approval and enactment, it was the only gender identity law in the world that did not pathologize the trans condition, as it prohibits requiring proof of surgical intervention for total or partial genital reassignment, hormonal therapy, or any other medical or psychological treatment. Furthermore, the procedure's confidentiality is guaranteed to trans people.

Argentina has been a leader in trans rights in Latin America, as it is one of the most prominent and progressive countries in the region. When compared to Brazil, which lacks progressive medical and political rights for transgenders, Argentina can be looked at as a model for implementing legislation that would benefit transgenders whether that is in Brazil or other Latin American countries. Argentina and Brazil have vastly different laws when it comes to their treatment as well as public perception of the transgender community.

In this paper, I will analyze and research policies like healthcare, economics, and equality that differentiate Argentina and Brazil when it comes to the treatment of their transgender population and how Brazil could mirror their health models similar to Argentina to create a more progressive society for not only transgenders but the whole population. More specifically, the paper will analyze more trans women issues since there is more abundant information and they have higher rates of crimes against them due to machismo ideology. I will also discuss how Argentina should be looked at by the rest of South America as new legislation is passed to assist the lives of their transgender population. Before discussing Argentina's progress toward transgender rights, I will distinguish sex and gender as they impact the conception of transgender people and also the prevalence of machismo in Latin American societies as its violence affects transgender people in their everyday lives. Following that explanation, I will then go into detail

regarding Brazil's issues when it comes to violence, policing, healthcare, and mental illness when it comes to their transgender community. Lastly, I will discuss Argentina's laws, healthcare, violence, and police to get a different perspective from another Latin American country that has institutions in place that serves to protect anyone who is transgender.

Sex and Gender

Being transgender challenges the expectation of alignment between assigned sex at birth and gender expression, which leads to a series of problems and inequalities for transgender people daily.

The differences between these two concepts are that Sex is defined as "the biological and physiological differences between males and females, such as reproductive organs, chromosomes, hormones, and so on."¹ Sex is more of a biological definition of what sex is in terms of anatomy, unlike gender "The socially constructed features of women and men – such as norms, roles, and connections of and between groups of women and men" is what gender refers to. It differs from one society to the next and can be altered often based on societal norms.²

There is even third sex, known as intersex which occurs when a person is born with reproductive or sexual anatomy that does not fall into the "female" or "male" categories. Although this is very rare, it still plagues a significant percentage of the world population and is not up to the person whether they are intersex. While biologists have anchored a concept of sex in species evolution and the ability to produce little or large gametes, doctors have faced a practical issue in treating patients whose bodies or identities are difficult to define as male or

¹Council of Europe. "Sex and Gender,"

²Council of Europe. "Sex and Gender,"

female. As a result, the history of sex in medicine is also the history of doctors adapting and changing sex theories to the task of practicing medicine.³

We have seen how diagnostics and classification systems have stigmatized persons whose bodies, identities, or desires did not conform to social norms throughout the last 150 years. However, history shows that doctors have listened to the concerns of trans patients and used their medical skills to give compassionate care. Doctors have supported some bodies and ways of life while invalidating people who question their gender by molding and guarding the concept of sex. In the end, the medical terms homosexuality, intersex, and transsexualism affected how we think about sex today.⁴

Although doctors' definitions of sex have often been based on physical characteristics, medical understandings of sex have evolved in response to technological advances and political, bureaucratic, and legal demands, such as a desire to provide clear-cut answers in criminal cases or to promote the cultural ideal of marriage. Throughout medical history, the common has frequently been confused with the normal.

Impact of Machismo

Machismo is one of the main reasons why we see so much mistreatment and violence toward transgender people in Latin America. Machismo, defined as a strong sense of "manliness" that comes with the attributes of strength, courage, and even the right to dominate, is another reason for the mistreatment of transgender people in Latin America. the social and cultural construction of societies with a strong sense of sexism believes only in strong and masculine

³ Slagstad, Katil. "The Political Nature of Sex-Transgender in the History of Medicine."

⁴ Slagstad, Katil. "The Political Nature of Sex-Transgender in the History of Medicine."

men, which has created gender stereotypes and widespread violence against transgender people throughout Latin America. Machismo can also be understood in an American sense as "toxic masculinity." Both terms are similar in expressing a sense of masculinity as dangerous against others who are not cisgender men. Machismo has created a fixed standard of what men are supposed to

Both Argentina's and Brazil's societies are plagued by the thought process of Machismo, which creates a toxic environment for people who were not born a man. This has caused many transgender people to leave their country of origin in search of a new place to live where threats of discrimination and murder are less likely to occur. Other roadblocks include the inexpressive filling of the fields of motivation for transphobic crimes in police reports, as well as the low rate of filling the information in the fields of sexual orientation and gender identity when they exist in police reports.⁵

Brazil is the most impacted by Machismo as they have some of the highest rates of violence against women and rapes in the world. In Brazil, violence against women is at an all-time high. In 2017, 4,963 Brazilian women were murdered, according to the 2019 Violence Atlas, the highest number in ten years. The murder rate for Black women increased by over 30%, while the rate for non-Black women increased by 4.5 percent. Between 2012 and 2017, the number of women murdered with a firearm in their own house climbed by 29%.⁶ The number of rapes in Brazil is believed to range from 300,000 to 500,000, with underreporting accounting for the discrepancy. According to data from a public safety annual report, the country experienced the highest number of instances since monitoring began in 2007. That year, there were 66,000

⁵ Rocha, Ana Paula. "Brazil Continues to Be the Country with the Largest Number of Trans People Killed."

⁶ Martinelli, Andrea, and Marcella Fernandes. "Brazil Is Known For Its Macho Rhetoric. Women Can No Longer Bear The Brunt Of It."

victims, or 180 each day.⁷ According to World Data Atlas, Argentina's rape rate in 2015 was 8 occurrences per 100,000 people. Though Argentina's rape rate has fluctuated significantly in recent years, it has tended to rise from 2006 to 2015, peaking at 8 incidents per 100,000 in 2015. There doesn't seem to be any specific information regarding Black women rape victims since one was not able to identify as black in the Argentinian census until 2011.

Men have also suffered from machismo and many are affected mentally due to the stigma that all men should be tough and show no emotion. This results in men suffering from gender dysmorphia as all they know is that they should be manly and they can never express how they feel.⁸ Machismo is taught from generation to generation and then it is expanded by Latin American society with the excuse that it is acceptable to use violence. In rural countries such as Argentina or Brazil, where the 'gaucho' culture is prominent, masculinity is especially important. Suicide is a widespread habit among farmer males, according to anthropological studies, and it presents a challenge as well as an opportunity to test their virility.⁹ When a 'gaucho' loses his power and ability to govern the natural environment, he loses his manliness and his identity as a 'gaucho.' This is interpreted as a feminization of his role, resulting in his moral loss and social death.¹⁰

Many societies around the world suffer from heavily masculated societies, but none as toxic as machismo in Latin America. For transgender violence to de-escalate, it will be necessary to get rid of machismo because it welcomes violence against anyone who is not considered a

⁷ Martinelli, Andrea, and Marcella Fernandes. "Brazil Is Known For Its Macho Rhetoric. Women Can No Longer Bear The Brunt Of It."

⁸ Saez, Emara. 2020. "Machismo: Toxic Masculinity Within Hispanic Culture." Academy of the Holy Names.

⁹ Mascayano, Franco. "SUICIDE IN LATIN AMERICA: A GROWING PUBLIC HEALTH ISSUE."

¹⁰ Mascayano, Franco. "SUICIDE IN LATIN AMERICA: A GROWING PUBLIC HEALTH ISSUE."

strong straight male figure. It will be very difficult to do because it is so prominent in Latin American society, but it is certainly possible if it is brought to the attention of societies not only in Latin America but throughout the world.

Violence Against Transgenders in Brazil

For many years, transgender women in Latin America have been mistreated both by society and by governments charged with “protecting” people from violence and establishing laws for equal opportunity and rights. In more recent times, the inequalities experienced by transgender people have increased yet Latin America has the highest rate of violence and hate crimes against sexual and gender minorities in the world.

In Brazil, 175 trans women were murdered in 2020, 41% more than in the previous year's statistics.¹¹ In 2021, it was 43.5 percent higher than the average since the monitoring began in 2008. During that time, there was a 20% increase in similar crimes. Unlike previous years, all murders in 2020 were committed against transvestites and trans women, with no indication of trans / trans-male men being murdered.¹² Trans Women make up the bulk of trans femicide victims. According to Transgender Europe (TGEU) study, trans women and trans-feminized people account for 96 percent of all murders worldwide, with sex workers accounting for 58 percent of all trans people killed. Because transgender persons endure systemic, institutional, and interpersonal prejudice, past research suggests that many transgender women see the sex work industry as their sole realistic job option. The average age of individuals killed is 30 years old. Around 36% of the killings occurred on the streets, and 24% occurred within the victims' home.¹³

¹¹ Sudre, Lu. “Brazil: Transgender Murders Increased 41% in 2020.”

¹² Sudre, Lu. “Brazil: Transgender Murders Increased 41% in 2020.”

¹³ Rocha, Ana Paula. “Brazil Continues to Be the Country with the Largest Number of Trans People Killed.

Policing of Transgenders in Brazil

One of the hindrances that result in non-transparency and lack of clarity by governments is the lack of sexual orientation and gender identity sections in police report filing systems. According to trans man Kaio de Souza Lemos, coordinator of the Trans Studies Magazine and Transmaculinités Brazilian Institute (IBRAT, in Portuguese), the paucity of police records renders transphobia an unseen crime that makes it difficult to map public policies. According to him, the rise in violence against trans people has become part of the political climate, which is "characterized by a fundamentalism of heteronormativity that manifests itself in the paucity of data regarding violence against the LGBT population."¹⁴ The lack of police records showing crimes against the trans community in Brazil has made it impossible to analyze the seriousness of crime against them since it is under-counted. A correct system of showing the true number of crimes against trans people can highlight the need for protection for them in a society that lacks protection.

In Brazil, the criminalization of transphobia has yet to become a reality. The TV news program *Jornal Hoje* broadcasted by TV Globo explored allegations of homophobia and transphobia in police stations in October 2021. The requested data from all Brazilian federal entities under Brazil's Law on Access to Information (LAI), specifically the state agencies of public security. Only 15 states and the federal districts provided data. Ten states indicated their systems prevented them from calculating figures on crimes against this group, while the state of Santa Catarina provided an ambiguous response.

¹⁴ Rocha, Ana Paula. "Brazil Continues to Be the Country with the Largest Number of Trans People Killed.

The dearth of formal statistics on trans persons makes it difficult to develop public policies. In Brazil, organizations such as the Brazilian Trans Institute of Education (IBTE), the National Association of Travesties and Transexuals (ANTRA), and the Trans Network (Rede Trans) collect information about the trans community. Transempregos is a website that connects trans persons with work opportunities. Trans individuals, according to its originator, trans woman Maite Schneider, are not recognized as “respectable citizens” who contribute to Brazilian society and she claims "A nationwide census that includes trans individuals is needed." A census that would include transgender folks would allow for the government to see the issues about their transgender community as they face violence and oppression from political, societal, and social issues.

The research, which is based on data collected in 2020, paints a methodical image of dehumanization and trans femicide throughout the country. They must be examined through the prisms of class and race. The government is attracted to the erasure of this group because it eliminates the need to invest in public policies.¹⁵ According to Antra data, one trans person dies every 48 hours in Brazil. It's worth noting that black persons make up 82 percent of trans victims. Many of these black trans victims often live in lower-class areas of Brazil, often called “favelas”, which is a term used for poor housing in the country. In 80% of the murder cases, severe procedures such as carbonization, stoning, and decapitation were used against trans folks.

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¹⁵ Rocha, Ana Paula. “Brazil Continues to Be the Country with the Largest Number of Trans People Killed.”

¹⁶ Rocha, Ana Paula. “Brazil Continues to Be the Country with the Largest Number of Trans People Killed.”

Transgender Healthcare in Brazil

Other sources of violence that trans-people face is connected to discrimination and accessibility to transition-related health care (i.e., people who self-identify as transgender, female, or transvestite, among other titles, who were designated male at birth). Transgender people have been receiving transition-related health care for more than a century. Due to their easy availability and low cost compared to procedures, the use of gender-affirming hormones (hereinafter "hormone use") among trans women is a common way to “feminize” physical features. Hormone therapy is widely accepted as an essential and often life-saving procedure for trans women who want to improve their self-esteem and address gender dysphoria.

Trans women have made significant progress in social campaigns to have their human rights recognized, which in Brazil includes access to transition-related health care. The Unique Health System, or SUS (Sistema Unico de Saude in Portuguese), in Brazil, now offers gender transition medical procedures free of charge. SUS offers multimodal care to transgender people, including hormone therapy, surgeries, psychiatric counseling, and clinical follow-up. However, there are not enough resources, facilities, and medical staff to meet the demand for transition-related treatment and care so, for example, many trans women take hormones without a prescription. This shortage and underfunded areas of healthcare result in long waiting times and overworked and underpaid employees, limiting access and reducing the quality of services. Trans women also face considerable stigma and discrimination based on gender identity resulting in an unwillingness to seek services to avoid confrontation.

Trans women have made significant progress in progressive movements to have their civil liberties recognized, which in Brazil includes access to transition-related health care. The

unified health care system, or SUS, in Brazil, now provides gender transition medical services for free. SUS offers transgender persons multimodal care, including hormone therapy, surgeries, psychiatric counseling, and clinical follow-up.¹⁷ Nevertheless, there are insufficient resources, centers, and medical personnel to match the demand for transition-related treatments and care. These shortages result in long wait times and overworked and underpaid employees, limiting access to and lowering the quality of services. For this reason, they take large doses as they are not prescribed these hormones and therefore lack instructions on how much and what to take. Additionally, Many transgenders also believe that taking heavy doses will lead to a faster transition, even though that is untrue and increases the danger. And, because everyone is different, drug or dosage may differ significantly from person to person, or from the internet, in books, or discussed in online forums.¹⁸ There are few statistics on the incidence of non-prescription hormone use and the characteristics of trans women receiving hormones outside the medical system. An investigation looked at non-prescription hormone use among Brazilian trans women, focusing on the types of hormones used and the profiles of users vs. non-users to uncover gaps in transgender health care and possible future health risks.

A study by LGBT Health found that nearly all (93.4 percent) participants that were trans women in Sao Paulo, Brazil, had used hormones for feminization at some point in the past, and the majority (87.0 percent) had used hormones without a prescription.¹⁹ The majority of trans women (57.2%) reported using hormones for the first time when they were between the ages of

¹⁷ Costa, Maria, Will McFarland, etc. "Prevalence and Correlates of Nonprescription Hormone Use Among Trans Women in São Paulo, Brazil."

¹⁸ Deutsch, Maddie. "Information on Estrogen Hormone Therapy."

¹⁹ Costa, Maria, Will McFarland, etc. "Prevalence and Correlates of Nonprescription Hormone Use Among Trans Women in São Paulo, Brazil."

13 and 18, while 10.1% reported using them for the first time between the ages of 6 and 12.²⁰ The combination of estrogen and progesterone was the most frequently used over-the-counter hormone, accounting for 67.0 percent of people taking over-the-counter hormones. 28.9% of the women in the study took estrogen and progesterone together (both prescription and nonprescription). Trans women reported using intermittent hormones in 68.7% of cases. More than a third of trans women (37.7%) had not seen a health care provider in the previous 12 months and 40.1% had been discriminated against by a health professional. More than half of those surveyed (54.7 percent) said their current health care did not meet transgender-specific requirements. Almost half of the participants, 389 (49.2%), were not using hormones. 110 trans women (13.9%) said they currently used prescription hormones, while 291 (36.8%) said they currently used non-prescription hormones.²¹

Over-the-counter hormones are used by a large percentage of Brazilian trans women for feminization, and the use of hormones without medical supervision is linked to structural impairments. In this study, the trans women who used nonprescription hormones were younger, less educated, and living in unsafe housing. They also used estrogen and progesterone (ie birth control pills). Trans women who went to a doctor and believed their specific trans requirements were satisfied, on the other hand, were less likely to use non-prescription hormones.²²

Health care use may have been low due to a lack of trust in providers, previous experiences with discrimination in the health care system, and low expectations in the ability of

²⁰Costa, Maria, Will McFarland, etc. "Prevalence and Correlates of Nonprescription Hormone Use Among Trans Women in São Paulo, Brazil."

²¹Costa, Maria, Will McFarland, etc. "Prevalence and Correlates of Nonprescription Hormone Use Among Trans Women in São Paulo, Brazil."

²²Costa, Maria, Will McFarland, etc. "Prevalence and Correlates of Nonprescription Hormone Use Among Trans Women in São Paulo, Brazil."

the health care system to meet specific health care needs for trans people. Trans women may also have experienced challenges as a result of the high demand for medications issued by SUS. Long waiting lists for clinic appointments have resulted from a lack of drug supply, few distribution locations, and an insufficient number of clinics.²³ Other obstacles include bias in health providers or lack of training in trans competence, the scarcity of gender transition treatments covered by the SUS, and the high cost of estrogen-only and antiandrogenic drugs. Also, estrogen and progesterone birth control pills are available over the counter in Brazil, making them readily available.²⁴

The report emphasizes the need for more research on the incidence and clinical implications of trans women using hormones without a prescription. Unfortunately, the use of hormones without a prescription can have long-term repercussions. Systems change is needed to promote health equality for trans people, with services free of stigma, and transition-related treatment that is accessible and consistent with their long-term health goals, based on connections and obstacles to hormones found in our study. There is also a need for public awareness and health education about the dangers of using hormones without a prescription, as well as alternatives.

Mental Health of Transgenders in Sao Paulo, Brazil

Dealing with the medical system and its narrow definitions of “normal bodies” was not the only challenge that transgender people faced during this time in Brazil. Lack of a permanent

²³ Costa, Maria, Will McFarland, etc. “Prevalence and Correlates of Nonprescription Hormone Use Among Trans Women in São Paulo, Brazil.”

²⁴ Costa, Maria, Will McFarland, etc. “Prevalence and Correlates of Nonprescription Hormone Use Among Trans Women in São Paulo, Brazil.”

address, lesser education levels, oral and sexual assault, discontent with relationships, help from peers, or availability of gender-affirming surgeries and methods are all commonly reported determinants of poor psychological wellbeing for trans women in Brazil. Elevated levels of depression and problematic drug and alcohol use in Brazilian trans women mirror a global trend of trans people suffering from mental health issues.

There was a specific study done on trans women in Sao Paulo, Brazil, that highlights the issues of Mental Health. This study can also be interpreted broadly throughout Brazil since trans women in the country face similar obstacles to each other, including mental illness. In Brazil, trans women have been proven to have disproportionately poor physical and mental health results. Although it is customary to discuss violence against trans persons, less is known about trans women's mental health outcomes and suicidality experiences, particularly in poor nations. The goal of the research “*A cross-sectional study of mental health and suicidality among trans women in São Paulo*”, (2021), examined the risk variables and their links to mental health, suicide ideation, and suicide attempts among trans women in Brazil's largest metropolitan region, São Paulo.

The research included a total of 763 trans women. More than a quarter (26.5 percent) of them had previously been diagnosed with anxiety, while nearly one in five (19.1 percent) had been diagnosed with depression.²⁵ More than half of trans women (41.9%) had moderate to severe psychological anguish.²⁶ Over 50% of the trans women who took part in the study said they had previously had suicidal thoughts or attempted suicide (25.0 and 31.2 percent

²⁵ Reis, A., Sperandei, S., de Carvalho, P.G.C. et al. A cross-sectional study of mental health and suicidality among trans women in São Paulo, Brazil.

²⁶ Reis, A., Sperandei, S., de Carvalho, P.G.C. et al. A cross-sectional study of mental health and suicidality among trans women in São Paulo, Brazil.

respectively).²⁷ Homelessness, income, current sex work as the only source of income, stimulant drug use, history of physical abuse, depression diagnosis, and access to mental health care were all linked to moderate to severe psychological distress in multivariate regression. Racial group color, housing arrangements, marital status, current sex work, history of sexual assault, depression and PTSD diagnoses, accessibility to mental health care, and psychological trauma were all linked to suicidal thoughts and suicide attempts.²⁸

Brazil has a clear issue when it comes to the Brazilian mental health care for not only trans people but for the rest of its general population. Despite growing understanding of the social costs of mental illness, public health system investment in mental health services remains woefully inadequate. This is especially true in low- and middle-income nations, where mental health care is underfunded by the government. For example, France spends over USD 420 per person on mental health and Australia spends USD 265, Brazil spends about USD 1.79 per person on mental health.²⁹

Brazil seems to have ignored this issue of mental health and has gone in the wrong way by incorrect treatment, along with the little investment into the issue. Aside from a lack of funding in mental health care, medicalization is the most popular method of control and treatment for the signs of common mental health disorders, with little regard for the unique vulnerabilities of patients, who frequently belong to populations targeted by specific forms of violence, such as gender-based violence or racial prejudice. There is a strong link between the

²⁷ Reis, A., Sperandei, S., de Carvalho, P.G.C. et al. A cross-sectional study of mental health and suicidality among trans women in São Paulo, Brazil.

²⁸ Reis, A., Sperandei, S., de Carvalho, P.G.C. et al. A cross-sectional study of mental health and suicidality among trans women in São Paulo, Brazil.

²⁹ Reis, A., Sperandei, S., de Carvalho, P.G.C. et al. A cross-sectional study of mental health and suicidality among trans women in São Paulo, Brazil.

formation of these diseases and socioeconomic factors such as gender, race, poverty, and a lack of education. It's still unclear if such diagnoses indicate clinical disorders or medicalization of societal concerns. In any event, medicating the symptom is unlikely to eradicate the structural variables that cause it.³⁰

Compared to the cisgender demographic, trans persons have greater rates of mental health difficulties, such as depression, which leads to a higher incidence of suicidality, like suicidal thoughts, attempted suicides, and suicide rates. These rates are clearly shown to be higher in Brazil for trans people as they lack the investment from the federal government to support them and their mental health. According to the American Psychological Association, over 40% or more of trans persons have tried suicide at least once in their lives. Studies reveal that trans women have a greater incidence of suicidal thoughts than trans men in this community, although there is no definitive data about the frequency of suicide attempts.³¹

The study done on mental health is alarming, to say the least since Brazil is the largest populated country in South America and has a significant transgender community. This issue must be identified by Brazil if they want to install the correct incisions that will serve to help their transgender community. Since much has already been stated about Brazil's lack of support for transgenders, I will switch to the neighboring country of Argentina which has much more progressive laws and institutions for its transgender community.

³⁰Reis, A., Sperandei, S., de Carvalho, P.G.C. et al. A cross-sectional study of mental health and suicidality among trans women in São Paulo, Brazil.

³¹Reis, A., Sperandei, S., de Carvalho, P.G.C. et al. A cross-sectional study of mental health and suicidality among trans women in São Paulo, Brazil.

Argentina: Pioneer for Sexual and Gender Orientation Rights

In July 2010, Argentina became the first Latin American country to legalize same-sex marriage, marking a watershed moment for a Catholic country in Latin America. This legislation also made it possible for same-sex couples to adopt, and lesbian couples now have the same access to IVF treatment as heterosexual couples.³² It was the second country in the Americas and the ninth in the world to do so, making it a global pioneer in gay rights recognition. Previously, in 2005, the provinces of Rio Negro and Buenos Aires established same-sex civil unions conjugal visits for gay inmates were also legalized in Cordoba.

President Alberto Fernández signed an executive order (Decreto 476/2021) on July 20, 2021, directing the National Registry of Persons (RENAPER) to allow a third gender option, denoted by an "X," on all national identity cards and passports. Non-citizen permanent residents with Argentine identity cards are also subject to the policy. Argentina is one of the few countries in the world to legally recognize non-binary gender on all official documents after passing the Gender Identity Law in 2012.

Aside from that, Argentina has a strong LGBT community, particularly in the city of Buenos Aires. Some numerous gay clubs and parties cater to persons of all genders and sexual orientations. Every year, tens of thousands of people gather and celebrate Gay Pride in Buenos Aires, which culminates in a parade through the city. Argentina is, on the whole, fairly accommodating and tolerant of people of various genders and orientations, but there is still a long way to go.³³

³² O'Higgins, Sorcha. "A Look at the Progressive LGBTQ Rights in Argentina."

³³ O'Higgins, Sorcha. "A Look at the Progressive LGBTQ Rights in Argentina."

Transgender Laws in Argentina

In keeping with the legislation that promotes rights for gays and lesbians, Argentina Congress also sanctioned the aforementioned “Gender Identity Law” in May 2012. REDLACTRANS and ATTTA, the Argentine Association for transvestites, transsexuals, and transgender people, were instrumental in the passage of a law in 2012. This law was the first of any kind in the world to allow trans people to legally alter their gender without the need for a judge's approval or medical involvement. This law recognizes the right to self-defined gender identity, allowing for gender, image, and birth name modifications on one's identification card (ID). This has helped Argentina not only become a leader in trans rights in Latin America but in the rest of the world. In 2012, the law also allowed for any medical procedures from hormone therapy to gender reassignment surgery to be covered by the public healthcare system. One year later, the first minor at the age of 6 years old was able to legally change their gender.³⁴

There is even a high school specifically for transgender people in the capital city of Buenos Aires that opened up in 2012 at the time it was the only one of its type in the world up until 2018 when another school opened up in Chile.³⁵ Chile has used Argentina's progressive model for trans rights with the opening of a transgender school. Brazil should mirror Chile's progress by expanding rights for transgenders.

Some hospitals in Argentina have even opened upward for transgender patients to avoid abuse and discrimination from being in a male or female ward. This action was introduced in hospitals after a 2013 survey found that 40% of trans people in Argentina have avoided seeking

³⁴ Salomon, Joesfina. 2019. “HOW ARGENTINA HAS BECOME THE NEW BEACON OF TRANS RIGHTS.” AROUND THE WORLD.

³⁵ Salomon, Joesfina. 2019. “HOW ARGENTINA HAS BECOME THE NEW BEACON OF TRANS RIGHTS.” AROUND THE WORLD.

medical attention because of the fear that they might be discriminated against and how they might be treated.³⁶ Sometimes discrimination against trans people is intentional but often this mistreatment of transgenders in hospitals and other medical care facilities is connected to the lack of training and education of the medical professionals. Many transgenders are often afraid to seek medical attention fearing discrimination. Transgender women continue to face challenges to healthcare in a variety of contexts, including stigma and prejudice. Argentina has a national healthcare system and legislation that facilitate transgender women's access to healthcare. In this context, however, little is known regarding impediments to healthcare access for transgender women.

Healthcare for Transgenders in Argentina

Argentina has a national but diverse health system made up of three subsystems: (a) public, (b) social security, which covers formally employed people and their families, and (c) private health care. All three subsectors are overseen by the Ministry of Health. Anyone (even foreigners) can use the public hospital and health center network, which is ostensibly free. However, the public sector primarily offers care to low-income people who do not have alternative types of health insurance, which accounts for about 30% of the population³⁷. Concerns remain about a variety of social and structural variables that may limit transgender people's access to health care in this context, thereby harming their health. Transgender women, for

³⁶ Salomon, Joesfina. 2019. "HOW ARGENTINA HAS BECOME THE NEW BEACON OF TRANS RIGHTS." AROUND THE WORLD.

³⁷ Socias, Maria Eugenia. "Factors Associated with Healthcare Avoidance among Transgender Women in Argentina."

example, have a life expectancy of about 35 years (compared to 79 years of ciswomen).³⁸ Furthermore, HIV prevalence is projected to be 34.1 percent among transgender women in Argentina, compared to 0.4 percent in the overall population.³⁹ Many infectious diseases, including syphilis, tuberculosis, and viral hepatitis, are also more common among transgender women, contributing to greater mortality rates. In response to these public health and other social problems, Argentina has established legislation for trans folks that need basic medical care and even coverage for transition medication and surgeries.

A study done by Equity Health Journal in 2014 found that around 40% of transgender women forgo healthcare because of their gender identification. Internalized stigma, having encountered prejudice by healthcare professionals or patients, having been exposed to police aggression, and currently living in the Buenos Aires metropolitan area were found to be independently linked with reports of avoiding healthcare. Transgender women with extended health insurance, on the other hand, were less likely to resist seeking medical help. These findings highlight concerns regarding the significance of numerous social-structural elements in shaping transgender women's access to healthcare, as well as worries about poor access to care within a population facing a variety of dangers, including persistently high HIV infection rates. Inappropriate or nonexistent treatment standards for transgender clients, as well as uneducated and often discriminatory attitudes among health practitioners and personnel, are challenges that transgender women confront while trying to get healthcare. These difficulties may lead to transgender women's views of low care quality and disrespect, which in turn shapes their

³⁸ Socias, Maria Eugenia. "Factors Associated with Healthcare Avoidance among Transgender Women in Argentina."

³⁹ Socias, Maria Eugenia. "Factors Associated with Healthcare Avoidance among Transgender Women in Argentina."

healthcare-seeking behaviors. In a multivariable analysis, we discovered that having internalized stigma and having experienced prejudice in healthcare settings were positively related to avoiding healthcare, which is consistent with previous research.

The findings of this study reveal that discrimination in healthcare facilities might originate not only from healthcare practitioners and personnel but also from patients, which could reflect the pervasiveness of transphobia in society. A national qualitative study done by the Ministry of Health among 218 LGTB people (57 transgender people) found that experiences of stigma and discrimination are pervasive among this group, not only in hospital settings, but also in educational, job, and other public contexts.⁴⁰

The Association for the Struggle for Transvestite-Transsexual Identity was founded in 1997 to protect transgender people's rights. In 2006, the Supreme Court overruled a previous court finding that stated that transgender individuals did not have a legal right to organize and campaign for their rights. The Supreme Court declared in 2007 that a 17-year-old girl had the legal right to undergo a sex change and have her legal records updated to reflect the procedure. Marcela Romero was awarded an honorary title by the government in 2009 after winning the legal right to have her identity altered. The cities of Rosario and Santa Fe in Santa Fe Province stated in 2018 that numerous trans persons have been accepted for the Historical Reparation program, which provides pensions to victims of the previous military dictatorship.⁴¹ Gabriel David Marino was sentenced to life in prison on June 18, 2018, in Buenos Aires for the murder of transgender activist Diana Sacayán. The Argentine Justice acknowledged for the first time in history that the murder was "a hate crime against the travesty identity," often called "travesticide"

⁴⁰ Dirección de SIDA y ETS . Condiciones de vulnerabilidad al VIH-Sida e ITS y problemas de acceso a la atención de salud en personas homosexuales, bisexuales y trans.

⁴¹ "La lucha de las trans". Página/12

or "trans vesticide." The decision was highly applauded by LGBT campaigners and hailed as "yet another sign of Argentina's changing landscape."⁴²

On March 19, 2019, the province of Neuquén established a pension for trans individuals over the age of forty who are unemployed. As part of a Historical Reparation program, they will receive a monthly monetary contribution that "recognizes the systemic breach of their rights."⁴³

Additionally, Argentina has legislation that would increase the number of trans people in the public workforce, the first for any country in South America, proving that it also has one of the world's most advanced trans rights legislation. After the Argentinian Congress handed final approval to a bill reserving 1% of Argentina's public sector jobs for transgender individuals, LGBT+ groups said it will revolutionize daily life for the country's trans community.⁴⁴

Argentina's senators voted decisively in favor of the law, which already has some. In addition to the state-mandated job quota, the bill provides tax breaks and low-interest loans to private enterprises that recruit trans individuals in Latin America's third-largest economy.⁴⁵ "This law will have a significant impact on our lives. For a heterosexual person, having a formal job, a salary receipt, and a credit card are natural things, but not for us"the Argentine Federal Transgender Convocation's Claudia Vasquez Haro remarked (CFTTA).

While the quota applies to state-owned banks, public corporations, and hospitals, as well as municipal and federal government agencies, the new law also includes economic incentives to assist trans individuals in finding work in all sectors. The ratification of the law was hailed by Alba Rueda, Argentina's undersecretary for diversity and the first trans person to be appointed to

⁴² "Killer handed life sentence for brutal murder in historic transvesticide trial". Buenos Aires Herald. June

⁴³ Loncopan Berti, Laura. "Entregarán una "Reparación Histórica"

⁴⁴ Valente, Marcela. "New Law in Argentina Could Change Lives in the Transgender Community."

⁴⁵ Valente, Marcela. "New Law in Argentina Could Change Lives in the Transgender Community."

a top government position, but she stressed much more needed to be done. "Ending structural inequality is a major issue for the state," she told the Thomson Reuters Foundation. According to a 2017 Buenos Aires poll, only 9% of trans persons have a professional job, while 70% are sex workers.⁴⁶ Although the majority had not completed high school, 92 percent of those polled expressed a desire to complete their education.⁴⁷ According to the new legislation, having a minor criminal record or not having completed high school cannot prevent you from being hired or gaining permanent employment. Instead, trans candidates will be required to work while completing their studies.

Violence Against Transgenders in Argentina

Although Argentina has very progressive laws and a healthcare system that supports its transgender community, there are still high numbers of crimes against them providing that machismo is prevalent in both Brazilian and Argentinian societies. While it is positive to see strides moving forward for the protection of the transgender community in Argentina, violence is still prevalent within the community. In 2018, 59 transgenders were killed and it was found that many transgenders rely on sex work due to discrimination.

According to the transgender people and travesties examined, police searches were conducted by male officers on the 'suspicion' that they had committed a criminal violation relating to the Narcotics Law. How this behavior has been surveyed demonstrates that security forces have treated people in a demeaning and discriminating manner.⁴⁸ It is no surprise that there is evidence of mistreatment of transgender people in Argentina as many other countries are

⁴⁶ Valente, Marcela. "New Law in Argentina Could Change Lives in the Transgender Community."

⁴⁷ Valente, Marcela. "New Law in Argentina Could Change Lives in the Transgender Community."

⁴⁸ Lorenzino, Guido. "Assessment on the Compliance With The Convention Against Trture and Other Cruel, Inhuman or Degrading Treatment Or Punishment."

plagued by the police force overstepping their boundaries. Evidence of this was found by the Ombudsman Office's Observatory on Gender Violence (Observatorio de Violencia de Género, OVG). OVG aims to make ready an additional report prepared by the which examines the Argentine State's progress, setbacks, flaws, and omissions in fulfilling its obligation to respect, guarantee, and regulate the Convention's rights.

In one crucial case, police discovered Soledad Iturre, a transsexual lady in the city of Moreno, province of Buenos Aires, battered and utterly unconscious on the street. She was taken care of by police officers who arrived on the scene after neighbors and passers-by alerted them. The police dispatched an ambulance, and she was transported by police personnel to the provincial public hospital, where she had neurosurgery.⁴⁹ Almost a month after the incident, neither a police officer nor a public health official had filed a complaint to investigate Soledad's extraordinarily violent behavior. Soledad Iturre went to the General Prosecutor's Office in Moreno after following the OVG's suggestion to submit a complaint about the occurrences that had never been reported to the Judiciary before.⁵⁰ At the judiciary office, they declined to accept the allegation, citing reasons to delay the likelihood of having justice take note of the occurrences and begin seeking the perpetrators.

According to this OVG.⁵¹ Another important aspect in regards to the judiciary system is a reform of the Penitentiary Service of the Province of Buenos Aires (SPB) that recognizes the needs of transgender people but has yet to enact any actions aimed at regulating those

⁴⁹ Lorenzino, Guido. "Assessment on the Compliance With The Convention Against Trture and Other Cruel, Inhuman or Degrading Treatment Or Punishment."

⁵⁰ Lorenzino, Guido. "Assessment on the Compliance With The Convention Against Trture and Other Cruel, Inhuman or Degrading Treatment Or Punishment."

⁵¹ Lorenzino, Guido. "Assessment on the Compliance With The Convention Against Trture and Other Cruel, Inhuman or Degrading Treatment Or Punishment."

recognitions concerning the trans and travestite population held in the province of Buenos Aires' prisons, Penitentiary staff continue to ignore and infringe on the rights of trans individuals and transvestites, who are considered and treated with little respect for their gender identity. This inability of adaptation may even be seen in file procedures, which is why it is so difficult to tell how many trans individuals are currently detained in the province of Buenos Aires' detention facilities.

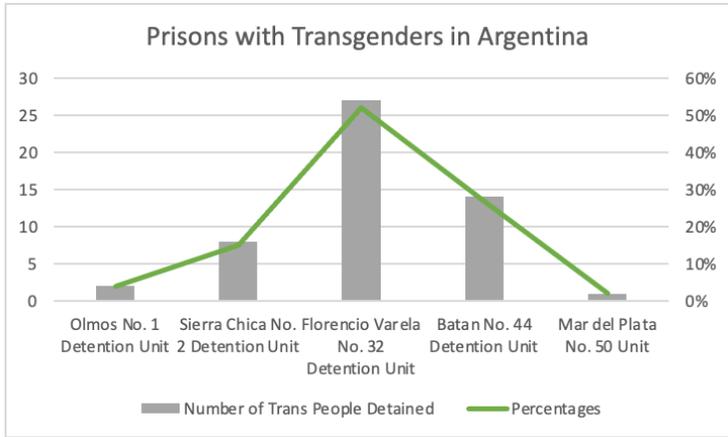
Without a question, the trans and travestite population is subjected to the high levels of sexual abuse in both provincial prisons and police institutions.⁵² The statistics and accounts from inmates depict mistreatment from a broken system that seems like it needs to be fixed. Argentina's progress for transgender rights is unfortunately not seen in the prison system and only serves from insitutions and society outside of prison.

Policing of Transgenders in Argentina

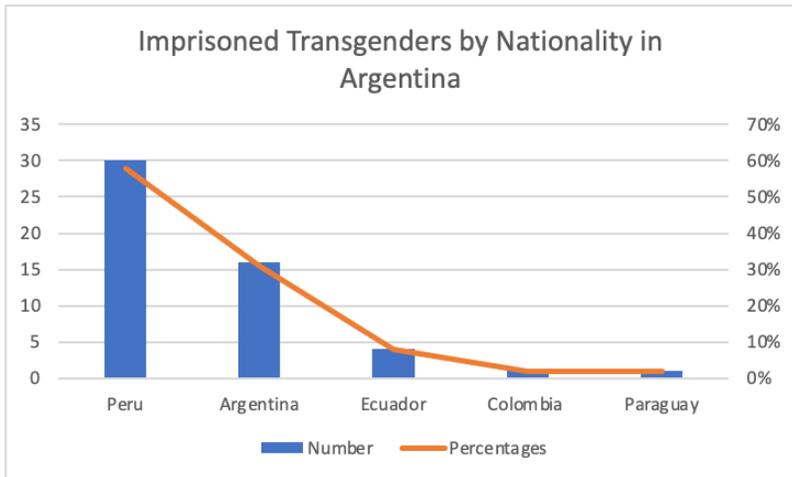
Trans persons and transvestites with feminine identities are detained in male jails, wards, and police stations in the province of Buenos Aires. They are named and registered as males in prison camps, and they live in "units for homosexuals" or "units for those who are not heterosexual".⁵³ Trans persons, as well as people designated as homosexuals by the SPB, are housed there. They even cohabit with people who have been prosecuted or convicted of crimes against sexual integrity. In women's prison centers, trans persons with masculine self-perceived gender identity are held.

⁵² Lorenzino, Guido. "Assessment on the Compliance With The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment Or Punishment."

⁵³ Lorenzino, Guido. "Assessment on the Compliance With The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment Or Punishment."



Curiously, the majority of transgender individuals and travesties who are imprisoned in Argentina are non-nationals. A reason why we see many non-Argentinian transgender people in Argentina is due to the progressive laws that have been placed over the past decades, but there is are still issues about policing



Improved health conditions and access to care for jailed individuals were one of the sanitarian programs enacted by Argentina's Ministry of Health over the last decade. As a result, a statewide study was done between 2015 and 2017 to evaluate the prevalence of HIV, syphilis, hepatitis B and C, and tuberculosis in Argentina's federal prisons. A representative sample of the universe of 10300 prisoners imprisoned in federal prisons was used to design an observational

cross-sectional study. HIV, HBV, HCV, and syphilis were studied using extracts. To perform a bacilloscopy, samples were obtained from people who reported TB-related symptoms.

A self-administered survey on sexual behaviors, medical history, and drug usage was conducted. The fieldwork took place in 2016. A bioethics committee approved the study, which was backed by UNAIDS, PAHO, and UNODC. The Ministry of Health and the Ministry of Justice reached an agreement allowing access to prisoners. In six federal prisons, 2181 blood samples were taken and 2277 surveys were conducted (89 percent men, 10 percent women, and 1 percent trans).

Through sample weights, the estimates and prevalence values reported here were modified based on the structure of the jail population (taking into account 6 variables). Positive HBsAg was 0.51 percent (0.37 percent -0.65 percent); positive Anti-HBc and negative HBsAg was 6.1 percent (5.5 percent -6.5 percent); HCV was 3.3 percent (3 percent -3.6 percent). Bacilloscopy was positive in one instance, resulting in a TB prevalence of 29.6 per 100,000. The data show that the illnesses evaluated have a significant frequency in the prison population, emphasizing the need for measures that make prevention, diagnosis, and treatment more accessible to this population. This research also helped to improve the diagnosis and care systems in the jails where it was conducted. Argentina's federal prisons contain 15% of the country's overall jailed population. The rest of the prisons probably have a somewhat greater prevalence of the illnesses analyzed.

Conclusion

Transgender rights have been a heated discussion globally as more and more countries have started to pass legislation and put institutions in place to support the transgender population that seems like be growing as the world becomes more progressive. Some states, like Brazil, have seen some growth compared to what they were a decade ago, but still lack transgender protection when it comes to legislation against violence as well as mental health issues within their transgender community. The lack of resources in the SUS provoked many transgender people to decide to take medications and hormones without supervision, putting themselves at risk.

Argentina, on the other hand, has seen some of the most progressive laws, not only in Latin America but in the rest of the world. Although the machismo mentality still plagues the great nation of Argentina (and others in Latin America), this, it still has incorporated healthcare laws that allow for easy gender transition surgeries and other legislation to incorporate transgenders into the workplace. Without being said, the rest of South America, which lacks transgender protection, should look at Argentina as a role model so they can incorporate the right legislation to support the transgender communities that have been severely impacted historically by the lack of assistance and violence against them.

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