RATHER DEAD THAN GAY: COMPLICATING RIGHTS-BASED ACTIVISM AS A FINAL STEP FOR LGBTT+ BRAZILIANS

by Brooke Long

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Advised by Mara J. Goldman
University of Colorado—Boulder
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Mas a hora nossa é essa. Não há ameaça que nos assuste nem nos detenha. Queremos cidadania plena: os mesmos direitos com os mesmos nomes!

But this is our time. There is no threat to frighten or stop us. We want full citizenship: the same rights with the same names!

Jean Wyllys, 2013 – Brazil’s only openly gay politician and activist

Introduction

From January to April 2017, 97 murders of gender and sexuality nonconforming Brazilians have already been confirmed (Grupo Gay da Bahia 2017b). There is a recurring belief among gender and sexuality nonconforming social movements that legal rights will pave a way for acceptance in their communities and country. Around the world, gender and sexuality nonconforming people are burdened to demand that our governments validate our right to equal citizenship with varying degrees of success.¹ Violence against our communities is pervasive through physical harm, and the systemic violence enacted through the very denial of our diverse existences. All evidence heretofore seems to indicate no lessening violence for gender and sexual minorities, especially in Brazil. Legal rights for lesbian, gay, bisexual, transsexual, travesti,² and more people under a diverse gender and sexuality spectrum umbrella (LGBTT+) in Brazil have done little to protect them from the threat of violence. Particular interest has been drawn to hate crime legislation to further deter acts of murder or assault with the threat of greater punishments.

This thesis will explore the precarity of the precarity LGBTT+ Brazilians are placed in with

¹ I use “our” here specifically to signify that I belong to a gender and sexuality nonconforming community as well.
² The closest English equivalent to travesti would be our common understanding of “transwoman” in the United States. She is someone who has not undergone gender affirmative surgery, but lives feminine gender roles and expressions. It is a unique identity to South American countries where transwoman is not generally accepted as appropriate. The direct translation, “transvestite,” implies it is only a temporary identity, not “full-time” life.
regard to gendered and sexual citizenship, and the violence they are subjected to by a state that profists from a pretense of acceptance. There is willful negligence on behalf of the Brazilian government to enforce existing anti-hate laws, pursue perpetrators of LGBTTphobia, and to provide even the most bare minimum federal recognition to LGBTT+ people of their identities and their entitlement to a life free from hatred. As it stands in Brazil, rights-based action is incomplete and insufficient in serving the LGBTT+ community, and without appropriate enforcement of existing rights, the rights serve little more than lip service.

To begin to understand the “LGBTQ+ community” we must first look at the makeup of this queer group pushed to the margins. That which constitutes who a queer subject is and what queer means is hotly debated and will be for the foreseeable future. For the purposes of this paper, I acknowledge that “queer” is more nuanced than describing sexual orientation, gender expression, and the anti-normative. Briefly, queer as an identity is culturally Western; it is a reclaimed pejorative by gender and sexuality minorities for whom the words lesbian, gay, bisexual, and trans* may not fully describe, but at the same time can represent one’s LGBT identity in itself. With this in mind, I will refer to LGBTT+ subjects in Brazil periodically as queer subjects to represent the fact that holding a sexual orientation or gender nonconforming identity in Brazil is engaging a resistance to the cultural hegemony. Take, for instance, the prevalence of LGBTT+ as an acronym in Brazil as opposed to the Global North’s use of queer in LGBTQ+. In and of itself, the Brazilian acronym is evident of the different needs and representation required for social acceptance of queer subjects in Brazil.

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3 Trans* is used in the Global North as an umbrella to indicate transgender and transsexual or any identities that might consider themselves transgender (e.g. non-binary genders who may see ourselves as transgender), or at the very least not cisgender (someone whose gender aligns with the binary assignment of male or female at birth).

4 My intent is to avoid erasing the different experiences of queer Brazilians by including this “queer” umbrella and relating international analytics to the experiences of subjects lacking popular recognition. However, I must acknowledge some level of hypocrisy in calling to question the (often Euro-American) transnational powers manipulating discourse as it relates to LGBTT+ Brazilians while being complicit in the postcolonial production of knowledge about their lives using a term entrenched in Western cultural practice.
With so many efforts made to construct specific rights for LGBTT+ Brazilians by activists, what are the causes for apparent state reluctance when it comes to national anti-discrimination laws? Why is violence (state and physical) seemingly unhindered against gender and sexuality minorities, and what would hate crime legislation look like for LGBTT+ people in Brazil? Throughout this thesis, I will evaluate how the legal discourse around LGBTT+ individuals has provided little in the way of protection and prevention of violence against the community. I will focus on what we do know about transnational appropriations of inclusivity discourse, what hate crime laws have done for the gender and sexuality nonconforming community internationally, and evaluate the importance of intersectional analysis for future progress to be made in the community.

Literature Review

Framing Queer Subjects

There is no monolithic “LGBTQ” entity; meanings of what we call gay, lesbian, bisexual, and especially transsexual or transgender or queer are many and multiple, and vary across space and place. The only commonality across all places is that no acronym is sufficient to everyone’s varied acknowledgments of identities throughout and around the gender and sexuality spectrums. In many ways, it is this inability to contain nebulous and fluid categories in prescribed containers that limits both obtaining rights and executing them. Indeed, this is what I argue is the most egregious of oversights when pursuing equal rights in a rapidly changing world. Rights-based movements tend to abandon those who identify in between or around recognized identity categories and penalize them for their liminality while simultaneously burdening victims with the responsibility of pursuing justice in an already discriminatory system.
Just as there is no monolithic queer identity, there is also no singular “Brazil;” the experiences of queer subjects in Brazil are going to be just as varied as there are ways to be queer. This is evident in the way that parts of Brazil are celebrated for their support of queer subjects while having the world’s largest number of queerphobic murders. Understanding the multiple ways in which LGBTT+ identities can be conceived provides insight into the ways in which they can be discriminated against, and how needlessly difficult the act of obtaining rights becomes when relegated to an act of specification. De la Dehesa (2010: 115) points out the legislative turns of LGBTT+ activists and NGOs is a “construction of sexual rights as negative liberties, implying freedom from abuse or persecution rather than the positive liberties implied in the freedom to form a union.” The appeal of amending legislation in constitutional democracies might result from it being the intuitive solution to righting injustices for those systems. However, many constitutional democracies, and indeed Brazil’s, are also subject to forces of neoliberalism and Western hegemony. The following section will elaborate on the forces imposing a “global normal” that reinforces these rights-based logics in Brazil and elsewhere, and flow into the failings of hate crime legislation and anti-discrimination laws where they exist.

*Global Homocapitalism and Homonationalism as Constructive of Transnational Notions of Modernity and Morality*

It is necessary to go to great lengths to establish that generalizations about queer communities are problematic because that is exactly what has been happening on a global scale with the introduction of the “global gay.” Natalie Oswin adeptly reviews recent work that proposes many explanations for the global gay agent consistently being drawn from the Western psyche. Oswin (2006: 787) writes, “It is by now widely recognized that Western bias within
queer scholarship and activism is a violence directed against queer cultures around the globe,” and indeed, it has been posited that gay culture is diffused from “the West” to “the rest,” which would explain the focus on cissexist portrayals of gay white men as poster children for LGBTQ+ness. This is problematic for multiple reasons, not least because it privileges Western culture and the power structures that influence it (e.g. white supremacy, cissexism, patriarchy, colonialism, and capitalism), but also because it centers the progression of (neo)liberal modernity within the Global North.

In recent years, providing institutional inclusivity and acceptance to LGBTQ+ communities has been one way to gauge “progress” in the international arena. This section will provide global context to the underlying components that motivate institutional desires to present an inclusive portrait. Rao draws attention to what he calls “global homocapitalism,” wherein the queer subject is leveraged as an important component of the capitalist economy whose markets and nations lose potential growth by discriminating against LGBTQ+ individuals. International financial institutions (IFIs) like the World Bank and International Monetary Fund (IMF) have positioned themselves in a place of cultivated modernity as characterized by the inclusivity of queer subjects within the marketplace. As Rao (2015: 38) has argued, “IFIs are able to cast themselves as progressive forces in a greater moral struggle at precisely the historical moment in which austerity and capitalist crisis threaten to bring them into ever-greater disrepute.” By incentivizing LGBTQ+ inclusivity with funding, IFIs are (re)producing the teleological assumption that their development aid is based on, namely that more inclusive countries are more developed. Curiously, the historical involvement of these IFIs with the underdevelopment of specific regions and failings of structural adjustment programs are circularly used to inform
their prejudices. Even worse, this assumption supposes a manifestation of a ‘modern and moral’ place as determined by its economic and developmental viability.

For example, in 2014 the Bank delayed a 90 million dollar loan to Uganda after the country passed its Anti Homosexuality Act. The Bank justified its behavior with the argument that laws which prevent productivity of all persons in the market leave economies to suffer (Rao 2015). This valuation of a queer subject being beholden to their potential economic productivity hints at the more sinister definitions of personhood promoted by a neoliberal ethos. In truth, it appears that queer subjects are made into props to either provide or withdraw development aid, and their economic productivity is a qualifying component to the recognition of their agency. If a person is to contribute to the market, they need to be recognized by the state, and to be recognized by the state, the individual must conform to the categories of personhood made available to them. Rao (2015: 41) rather succinctly gets to the crux of this predicament by noting “There is something profoundly troubling about a strategy that makes respect for personhood contingent on the promise of that person’s productivity were their personhood to be fully recognized.” Likewise, to originate a person’s ability to operate within society from a legally recognized place is to deny their respectability without those codified acknowledgments, leaving all but the perceived standard cisgender white heterosexual man without institutionalized representation. In Brazil, this is all done while strategically effusing a pretense of homosexual inclusivity (especially in their metropolises). This phenomenon is a crucial component of the exertion of homonationalist power.

Originally put forward by Jasbir Puar in 2007, “homonationalism” is a term which describes a complex interaction of states utilizing sexual diversity as grounds for asserting Western hegemonic ideals that places opponents in places of ‘backwardness’ that are often
racialized. Later, Puar (2013: 337) clarified homonationalism as an analytic characterized specifically by “geopolitical and historical forces, neoliberal interests in capitalist accumulation both cultural and material, biopolitical state practices of population control, and affective investments in discourses of freedom, liberation, and rights.” Compared to the act of pinkwashing, wherein the state directly erects a visage of homosexual supportiveness (via campaigns, events, marketing, etc.), homonationalism is not deliberately utilized by the state. For instance, the overarching power structure of homonationalism is what compels the usage of pinkwashing, as exemplified by perpetuating the image of Rio de Janeiro as a gay tourist destination by its mayor. If life were a map, homonationalism is positioning gayness at or near the center of conceptions for modernity.

Puar’s (2013: 337) argument evolves to explain that homonationalism is “a facet of modernity and a historical shift marked by the entrance of (some) homosexual bodies as worthy of protection by nation-states, a constitutive and fundamental reorientation of the relationship between the state, capitalism, and sexuality.” Her specification of only some bodies being recognized is of course meant to be indicative of the lack of representation across sexualities, genders, races, and economic classes. Furthermore, this specification digs at the negligence of Western hegemony to acknowledge simultaneous and different conceptions of the queer world internationally from which queer culture is shared at every scale. However, even in that act of understanding difference, there is trouble.

Looking to international and multicultural reflexivity of queer modalities reinforces a “them” and “us” categorization, while still avoiding any introspection of a Western queer identity. Therefore, great potential is held in using these acknowledgments of difference to point the finger back at the presumed “Western as global” and “non-Western as local” discourse to
deconstruct the boundaries impeding exchange between the Western and non-Western queer subject at many scales. In so doing, Oswin (2006: 788) states, “it also makes clear that a global queer narrative without centers and peripheries is one that destigmatizes both the `backward' and the `forward'.” It is absolutely crucial to evaluate and specify different scales of the Western queer, because the idea that they are not subjected to acts of state violence themselves despite being subsumed by outward homocapitalist/homonationalist behavior could be thought of as preposterous. That is to say, we absolutely should call into question any nation that purports to be modern or progressive because of its stance on sexual citizenship, especially since many Western countries still do not allow gender and sexuality minorities full liberty (freedom from discrimination and hate) like their cisgender heterosexual counterparts under the law. Furthermore, it is obvious that Western countries strategically cultivate the façade of progressivism specifically for marketability, since there are no obvious repercussions for not following through on their word as the arbiters of progress or neoliberal modernity.

To understand Brazil’s place in this milieu of transnational forces, Rafael de la Dehesa offers a useful framework of hybridity to consider in his comparative research of gay and lesbian activism between Mexico and Brazil. His research suggests that in Latin America it is abundantly clear that gay and lesbian activists participate in transnational discourses that are overlapping, reflexive, and evince a plurality that belies the term “global” (de la Dehesa 2007). In this case, hybridity references the various interactions that are occluded by presuming a singular global narrative. De la Dehesa (2007: 49-50) goes on to describe “a parallel and embedded process at the level of social movement activism and a fledgling gay and lesbian politics…[through which] the penetration of democracy in the region (and outside it) can be ‘mapped’ on a sort of symbolic field through the institutional prism of citizenship.” Thus sexual
citizenship becomes the evidence of a permeable democracy with external influences. These maps are then colored by the intersections of identity that allow or disable people in varying degrees to enjoy said citizenship (de la Dehesa 2007). His paper specifically identified (low) economic class as an obstacle to sexual citizenship, and in the paragraphs to follow I will point to other categories and hurdles to the equitable implementation of gendered and sexual citizenship.

Complicating Hate Crime Legislation

Principles supporting rights-based movements for queer subjects seek to balance the scales of justice. With regard to hate crimes, this intention could not be clearer. Violence is punishable, and the punishment of violence motivated by a specific categorization of the victim is then intensified. In theory, it is validating to the victim’s identity; they are recognized by the state for being a person of whatever protected class, and the perpetrator is punished more severely for their prejudice. States can then appear supportive of gender and sexuality minorities by having protection for their classes codified, and hopefully prejudiced parties would be deterred from committing discriminating against or otherwise harming queer people. While that is an intuitive conclusion, there is no evidence to suggest that these laws actually deter criminals (Bronski 2013). Intuition also suggests that lawfulness might influence social behavior, but one must immediately wonder: does someone intent on harming another individual out of homophobia or transphobia truly care for the law? What are homophobic and transphobic acts, and how do victims distinguish that kind of violence from other acts? Where anti-discrimination and hate crime laws exist to protect gender nonconformity and sexual orientation, how do they impact crimes against us?
Queerphobia necessarily is a reaction to queer existence. In the United States, Perry (2001: 106) observes, “both hegemonic and subordinate forms of masculinity are shaped and maintained through active homophobia.” She places the most common homophobic social actors (young white males) as people constructing their masculinity on the queer victim they attack. As one could imagine, the transgender existence is also an inherent existential threat to cissexist constructions of gender. Given gender is constantly socially constructed and reproduced, gender identity is an especially nebulous category to pin down. Under Western hegemony, gender identity has been polarized by the masculine-feminine binary. Pervasive sex essentialism conflates gender with the presence of particular reproductive organs (and implicitly heteronormativity), and also serves to erase any intersex individuals in the process. Thus, gender is one lens through which society polices itself, and transgressions of gender expression are simultaneously viewed as indications of sexual nonconformity (Green 1999, Meyer 2015, Perry 2001). Homophobic and transphobic acts serve as tools of censure or policing of gender performance to reinforce the status quo. In this way, queer subjects are blamed for the violence they are subjugated to for being the transgressors of established social hierarchies.

Pinpointing the basis for violence against queer people is already difficult in heteronormative societies, but especially so when one considers the obfuscation added by hegemonic powers that privilege cisnormativity, patriarchy, Whiteness, and wealth. We begin to complicate the usefulness of hate crime laws further by asking how queer people determine that violence is based on their sexuality or gender? Doug Meyer’s study, and his body of work that follows, contributed to the scholarship of hate-motivated violence by actually focusing on the victims of hate-motivated violence and their experiences beyond the measurable psychological impact. He brings to the fore an intersectional lens with which to dissect the structures of gender,
sexuality, race, and class that are embedded within our social webs. These systems and
categories of oppression are constantly in play with one another, and can compound one another
with regard to discrimination and prejudice. Additionally, by privileging the victim’s voice,
those that experienced queerphobic violence at the hands of law enforcement are heard despite
suffering obvious injustice (Meyer, 2015). He actively searched for a diverse representation of
queer people, reaching out to multiple advocacy and service organizations, plenty of which are
known to provide services to queer people of color. The most obvious complications became
clear very quickly, specifically the ways in which gender was referenced and policed, and the
entanglement of race as a motivation for violence with other identities.

Many of the respondents expressed uncertainty about the nature of the violence they
experienced, especially queer people of color. When perpetrators are White (as they often are in
the USA), a variety of slurs are used to harm their victims, leading the victims in many cases to
question whether or not the violence is motivated by race, sex, class, or gender. Where queer
women of color were often deeply uncertain of the source for their victimization, White gay men
were almost always certain that the violence they experienced was due to their sexual
orientation. Even when perpetrators were of another race, Meyer observes White gay men
suspected the violence to be homophobically motivated because society privileges Whiteness,
thus sexuality becomes the center through which their violent experiences are faceted (Meyer
2015). It is impossible to separate a queer victim of color, underprivileged economic class, or
gender beside cis-male, from their experiences with those identities. Thus the origins of violence
cannot be clearly fixed, short of a statement of intent written by the perpetrator.

Taking a look at more specific relationships gender and sexuality nonconforming
individuals have with the law, Spade describes the methods and goals of current LGBTQ+
activists and organizations in the United States as they pursue trans* rights across the nation. He notes that anti-discrimination bills and hate crime laws are the foundation of trans rights advocacy despite the problems inherent to what he calls a “law and order” approach. The institutionalization of resistance within a neoliberal framework that seeks justice through anti-discrimination and hate crime legislation is also one that erases or trivializes the experiences and realities of marginalized communities (Spade 2015).

Naturally, the basis from which trans rights advocates originate is well-meaning. Providing queer people legal recourse to combat gender identity and sexual orientation discrimination is a noble goal. What is seldom acknowledged within this rights-based discourse are the limitations embedded in the larger system being altered; Spade’s work as a legal scholar indicates that where anti-discrimination and anti-hate laws have been implemented there is nothing to suggest they have any impact in reducing harm, bias, or marginalization (Spade 2015). More to the point, Spade (2015: 40) highlights “the persistence of wage gaps, illegal terminations, hostile work environments, hiring/firing disparities, and bias-motivated violence for groups whose struggles have supposedly been addressed by anti-discrimination and hate crime laws invites caution when assuming the effectiveness of these measures.” Likewise, what use are legal protections when an already demonstrably marginalized group must seek external resources to combat the discrimination or hatred to which they are being made victim?

The immediate limitation of the victim’s access to legal resources or their ability to pursue legal action against their discriminators is prohibitive to the execution of justice. If one is already trying to navigate systems of oppression to get a job, with what money are they supposed to find a lawyer to represent their case in the first place? To complicate matters further, Spade (2015: 41) elaborates a troubling lack of success for many discrimination cases for trans people,
“the Supreme Court has severely narrowed the enforceability of these [anti-discrimination] laws over the last thirty years, making it extremely difficult to prove discrimination short of a signed letter from a boss or landlord.” Even then, Spade laments that people who are discriminated against are likely to lose. Even when anti-discrimination laws are cemented by a state, people already pushed to the margins of society and most vulnerable to its systemic violence are left without reasonable options. The logic behind the codification of anti-discrimination laws somehow preventing or dissuading discriminatory people from behaving in such a way lacks evidential basis, especially given the unenforceable nature they appear to have.

Legislative activism is not in itself harmful or misguided. It simply exists as a reaction to a world of law and order that selectively determines the suitability of a subject to be protected by it. De la Dehesa (2010: 140) remarks on Brazil, “while activists have successfully entered the legislative field in the country, this success in many ways has been both predetermined by a language that limits what activists can ask for and circumscribed by its differential penetration in the private sphere.” Attempting to include intersectional crossovers of identity to be universally applied to legislation continues to be a key challenge, as the rise of the Evangelical and Catholic presence in politics declare their own oppression by LGBTT+ presence on their right to free speech. There is not a lot of room for the discussion of being at a cross-section of poorness, Blackness, and/or queerness when these political opponents denounce queerness as a contagion, suggest combating it with corporal punishment, or insinuate that queerness provides an existential threat to civilization and traditional families (Jacobs 2016). Simply put, belonging to a minority category that has carved its citizenship out of the law will always be juxtaposed by the suitability of subjects whose citizenship and intrinsic entitlement to rights was never questioned.
Brazilian Case Study

Introduction

Brazil is home to a large and vibrant LGBTT+ community, and is internationally recognized as a tourist destination for the global queer community (Gaycation 2016). Despite this, in recent years there has been a dramatic increase in homophobic and transphobic violence across the country. By looking at Brazil, we can examine the paradoxical spaces queer subjects are forced into within a country that obviously panders to an inclusive reputation but still struggles with the stigmatization of queerness.

My month in Rio de Janeiro, Brazil was split up in two parts; I had about two weeks each in June and August including travel days in 2016. In that time, I was able to meet with twenty LGBTT+ Brazilians, and had extensive conversations with seven. My research was interrupted by a particularly terrible case of influenza, a few other predictable tropical maladies, and I dramatically underestimated the impact of the 2016 Olympic Games would have on inconveniencing or entirely undoing the networking I had spent June accomplishing.

Despite these setbacks, my methods drew on literature and research I had reviewed prior to landing in Brazil to ground my interviews. I began every interview with this question, “Do you feel safe expressing yourself here as LGBTT+?” As it turns out, that one question is probably the hardest to answer, and is very revealing. Every respondent that said yes also said no. Without any intent to be evasive, this belief undergirds the reality that there is no reliable protection for LGBTT+ Brazilians.

Background

After toppling the military dictatorship in 1985, Brazilians set to work developing a constitution that sought to comprehensively grant individual rights that could not be
compromised by the state, while also demanding punishment for any infraction against civil
rights. Culminating in an ambitious document some might call idealistic, Carrara (2012: 186)
explains the “so-called ‘Citizen’s Constitution’ mirrored the prevailing configuration of different
social movements that sought to transpose to the public sphere a series of issues that were
previously considered exclusive to private life,” such as gender equity, and the diverse ways a
family could be defined. Even though the constitution was radically human rights-focused for its
time, gender identity and sexual orientation were unacknowledged as categories of
discrimination. To some degree, this should help place the rights of LGBTT+ Brazilians in
perspective to the overall social hierarchy.

In fact, one year after the constitution was created, an important amendment explicitly
determined that prejudice based on race or color was a crime punishable by law. It was not until
2004 that a bill was introduced that aimed to include gender identity and sexual orientation in the
list of categories also punishable by law. As of April 2017, there are still no national anti-
discrimination laws to protect all gender and sexuality nonconforming Brazilians, and there is no
national distinction of homo/transphobic acts as hate crimes. That is not to say that the LGBTT+
 Brazilians have not taken advantage of legislation-based methods of seizing rights during this
time. Arguably, the diligence of gender and sexuality nonconforming Brazilians resulted in some
of the most rapid granting of rights by a nation seen in the Western hemisphere, indeed eclipsing
the schedule set by the USA for most rights (de la Dehesa 2010). Brazilian anthropologist Luiz
Mott, the founder of the nation’s oldest LGBTT+ non-governmental organization Grupo Gay da
Bahia (Gay Group of Bahia, GGB) reported in 2006 that 64% of Brazilians approved of same-
sex partnerships, which is a questionable but important litmus for the acceptability of LGBTT+
individuals that may have held sway in creating inclusive laws. Some of these nationally
instituted laws include the right to change legal gender (2009) with gender-affirmative surgeries funded by the state health system, same-sex marriage (2013), joint adoption and stepchild adoption (2010), and lesbian access to in-vitro fertilization (2011).

Brazil holds the record for the largest LGBT(T)+ pride parade in the world taking place in São Paulo, and Rio de Janeiro reportedly aims to be the “world capital of gay tourism,” (Phillips 2011). Despite this, Brazil is also the country record holder for the most trans* people killed per year, accounting for 40% of reported trans* murders around the globe (GGB 2016). GGB is the only source for nationwide statistics on LGBT(T)+ murders in Brazil, using crowd-sourced information from news and social media to confirm the LGBT(T)+ identities of people murdered. In their review of homicide reporting in Brazil, Murray, Cerqueira, and Kahn (2013) describe a varying and unreliable quality of statistics gathered across states that paints a woefully incomplete picture. The most reliable data comes from hospital death records, although unregistered and unknown causes of death remain a source of concern. With that in mind, it becomes clearer why GGB and other activists appear to have little choice but to take up the mantle for reporting murders of queer Brazilians.

Since the turn of the century, LGBT(T)+ murders have risen from 130 to 260 in 2010, and from 2012 have been above 300 per year (GGB 2017). 2015 and 2016 were the first years in which the organization was able to compile data about the prosecution and pursuance of justice against perpetrators, since it seemed as if no governmental organization was willing to do so. Of the 318 murders in 2015, only 94 murderers were found, and less than 10% of those incidents resulted in prosecution and punishment (GGB 2016). In 2016, only 60 of 343 attackers were found, and once again less than 10% of them ended in prosecution and punishment (GGB 2017). According to Mott:
Such alarming numbers are just the tip of a violent and bloody iceberg, since there are no government statistics on hate crimes, such numbers are always underreported since our database is based on news stories published in the media, the internet, and personal information. The lack of official statistics, unlike what happens in the United States, is proof of government incompetence and homophobia, since President Dilma promised to approve a bill to criminalize and equate homophobia with racism but then ordered [to have the bill] shelved (GGB 2016, p. 3, translation mine).

As crimes against LGBT+ Brazilians seem to only worsen, the already profound need to respect the agency of queer Brazilians is made dire at their peril.

Research Questions

In 2013, Pew Research asked if homosexuality should be accepted by society, and 60% of Brazilians answered yes. Given this, and a rather progressive legislature, why are homophobia and transphobia so prevalent and seemingly unhindered? Why do existing laws fail to protect victims, and what would making homo/transphobia a hate crime do for LGBT+ Brazilians? Moreover, how do people navigate these paradoxically accepting and dangerous spaces in Rio de Janeiro, and is violence avoidable?

Data – Personal Interviews

I focus on seven individuals with whom I was able to establish a close rapport. I will call them João, Caio, Gabriel, Rodrigo, Felipe, Gustavo, and Lucas. They are all gay men with the exception of Rodrigo who is bisexual. All of them are between the ages of 20-25. One of the most valuable and informative conversations I had was with Gustavo, at the beginning of my research. It was June 13th, and the news of the Pulse Nightclub shooting in Orlando, Florida the night before had already reached Gustavo. We explained the tragedy for everyone else, and

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5 These are pseudonyms to protect their identities
Gustavo’s boyfriend Caio was visibly shaken. Gustavo was just telling me that even the “gay clubs” are not safe, because anyone who hates gay men knows where to find them. He was attacked outside of a gay club, he insisted, not by a random assailant, but by someone specifically committing a homophobic assault. Caio opened up to say, “That is my biggest fear—actually that is the scariest thing I worry for us.”6 Nevertheless, they continue to go out, and often to clubs where they know other LGBTT+ people will be.

On another warm winter evening, I brought up the topic of queer spaces in Rio specifically. Even if a place is not explicitly for gender and sexuality nonconformists, Felipe explained to me that social media has completely changed the way people can gauge the safety of an event. For example, if he sees on Facebook that his other LGBTT+ friends are going to an event, he said he could be reasonably sure it would be a safe place to go. Just moments ago we questioned the safety of a place by it being a designated queer space, and therefore a target. But the presence of other queer Brazilians affords a degree of reassurance. Lucas commented that it was because we all needed to work together to fight discrimination, and where there are more people embodying different experiences, they could challenge the heteronormative default, and even the homonormative. “Whether it is having a fat body, not being white, or being poor, gays in Brazil have a lot to challenge,” he paused as I raised an eyebrow skeptically; Lucas is a thin, white, upper class, cisgender gay man who insists that “the popular—normal—hot, white, gay, wealthy, tourist types of people we get in Copacabana,” have been damaging to the gay Brazilian psyche, and Lucas suggests that he is evidence of that pressure.7

João and his boyfriend Gabriel are both pardo (mixed-race), but find that it is getting easier to resist homonormativity, but homophobia is a much harder phenomenon to fight. This

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6 Interview, June 13, 2016, Rio de Janeiro
7 Interview, June 19, 2016, Rio de Janeiro
sentiment was repeated when João, Rodrigo, Gustavo, and I were exploring the Santa Marta favela another night. We were discussing heading to a gay club in English so as not to draw suspicion, and I asked what they thought about the aforementioned Pew Research poll statistic. They both thought it made sense, and had hope that the number will increase over time, because they consider the public opinion will move favorably with our generation. Gustavo laughed incredulously at the statistic, but agreed with João and Rodrigo’s optimism. Gustavo explained that Brazilians, especially in Rio de Janeiro, were going to say they approved of homosexuality outwardly due to the notoriety Rio has as a gay tourist destination. On another night, he and Caio added that if I really wanted to know how Brazilians feel about homosexuality, I just have to look at how they deal with it in their children. Gustavo’s father kicked him out of his middle class household upon finding out Gustavo was gay, and it took a year for his mother to convince his father to allow him back. Rodrigo is in a relationship a woman right now, but he is hesitant about his father finding out about his bisexuality. João and Gabriel have supportive families, but describe a palpable tension to avoid all discussion of homosexuality. Caio showed me a video of Jair Bolsonaro, an outspoken Rio politician, who stated among other opprobrious and LGBTT+phobic rhetoric that he would rather his son be dead than gay (Gaycation 2016). As troubling as that is, my friends are quite accustomed to the daily contradictions one encounters living in the supposed gay paradise of Rio; which brings us to my ultimate question for my friends, what can be done?

In a lot of ways, it feels as if my queer friends are reluctantly resigned to playing a waiting game. João alluded to the questionable validity of the new Brazilian administration, and had this to say about any hope of political recourse, “democracy died for foreign money, and no

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8 Interview, June 24, 2016, Rio de Janeiro
9 Interview, August 7, 2016, Rio de Janeiro
one cares about the prejudice killing people like us in the street.” Rodrigo, Gabriel, Caio, and Gustavo echoed this discontent, and Gustavo added that there was a feeling that the police were just as likely to attack or neglect them as their attackers. They felt that protection by the law was something that existed only on things that could be signed, like marriage licenses or hormone prescriptions. Protection from harm did not exist for verbal and physical harm except for in rare cases. However, Felipe also taught me that social media is changing the way people are discussing the deaths of their friends and getting more police cooperation. In early July, one of Lucas and Gustavo’s classmates was murdered on their college campus, and they said the pressure students were able to put on the university through social media entreated the police to investigate the murder of Diego Machado more seriously as a crime of homophobia. Unfortunately, like with most LGBTT+ murders, the perpetrator still has not been found as of April 2017.

Discussion

Institutions may remain recalcitrant in their denial of our existences as queer subjects, but it is clear to me now that we will not allow that to impede our rights to exist anyway. Do we stop going out? Do we stop going to the grocery store, teaching classes, going to any job that will have us because “the state” refuses to see us? Do we stop being ourselves because it suits the murderers whom the state cannot be bothered to pursue in the first place? My friends have laid out a complex and dynamic portrait of their experiences as gay and bisexual men in Brazil. Few are activists, but all of them are resilient and determined to bring an attitude of inclusivity and strength to the Brazilian queer experience, regardless of the danger. There really is no secret to

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10 Interview, August 10, 2016, Rio de Janeiro
answering how queer subjects navigate the forced paradoxical spaces they are in, because the answer is they just keep living. To paraphrase João, it would be too much like letting “them” win to just be scared into our homes, if we were lucky enough to have homes.

What struck me as especially interesting was Luiz Mott’s comparison to the United States as a competent and non-homophobic government, and Gustavo’s comment about how Brazilian parents treat their queer children. Numerous states in the USA still do not have anti-discrimination laws that include sexual orientation or gender identity, 40% of our homeless youth are LGBTQ+ (Durso and Gates 2012), and three Black transwomen were murdered in New Orleans during the 2017 Carnival season (Lane 2017). We are, however, a nation obsessed with criminal prosecution, and have included gender identity and sexual orientation in our hate crime reporting statistics by the FBI. In many cases, queer Americans lack the same legal recourse to live out their identities as queer Brazilians do, what with name-change restrictions and gatekeeping to trans-affirmative medical care, never mind the actual cost of medical care which is not nationalized in the USA like it is in Brazil. If anything, our governments appear to both be publicly convincing in the ways they do support queer subjects, while simultaneously failing to serve us in the many and varied ways we need.

Answering how the Brazilian government and its institutions which are supposed to protect all its citizens continually fail, and show no remorse in doing so, is much harder. Obviously, there are multiple forces at work that serve to marginalize the LGBTT+ community, namely machismo, religious ideations of propriety, resistance to the transformation of the traditional family, and probably more. Rio is still lauded as a gay-friendly tourist destination where 25% of their 800,000+ tourists identified as gay (Phillips 2011), despite the state of Rio de Janeiro accounting for almost 10% of LGBTT+ murders. There have been next to no
consequences for homo/transphobia so far, and not because the victims who survive or their families do not want justice, but because there is yet no sign that the justice system will lose anything by ignoring crimes of homo/transphobia.

In early 2017 *The New York Times* released a brief article about a particularly gruesome murder of Dandara dos Santos whose attack was recorded on a cellphone and then posted to social media. Maria da Silva, a trans lawyer and activist asserts that without the video, police would not have bothered to try and find Dandara’s murderers (Phillips 2017). Five of her assailants are in custody, while police look for more. In 2015, Piu da Silva was murdered and the video of her death was posted to social media as well, but none of her attackers were found (Jacobs 2016). Can we take this to mean that social media and popular opinion creeping toward tolerance is motivating police to actually perform their civic duty? No. As with all of this, there needs to be actual recording of data, and at that more data. Trends of crowd-sourced data show homo/transphobic murders are on the rise, averaging one LGBTT+ homicide every 25.5 hours in 2016 (GGB 2017a), and more than one murder a day thus far in 2017 (GGB 2017b). It will take a lot more than the police doing their job once, or even 10% of the time to demonstrate that states are not complicit in the violence against the marginalized communities laws are intended to protect.

**Conclusion**

Declaring crimes against the LGBTT+ community as acts of hate requiring greater punishment does nothing if perpetrators are not going to be punished in the first place. The systems of oppression that dictate the efficacy of laws corrupts the legitimacy of rights-based frameworks that activists have used for the construction of sexual and gendered citizenship, and
it is those oppressive systems that must begin to be deconstructed across the sociocultural levels they occupy so that the law can regain its appeal to justice. It is possible for nations to remain complacent or negligent when queer people are kicked out of homes, killed in the streets, or denied a job, because they will be rewarded with capital flows for being progressive regardless of whether or not blood flows with it.

After painstakingly carving specific rights for the needs of LGBTT+ Brazilians out of a constitution that was intended to provide equal human rights to everyone anyway, it should be clear that the law is insufficient if the validity of its applicability to everyone is contingent upon the interpretation of what everyone means. I return to the quote at the beginning of this paper, where Wyllys says “We want full citizenship: the same rights with the same names,” because it is deeply important that the state recognize that queer subjects are valid citizens with agency and equal right to exist as their cisgender/heterosexual compatriots. Only then will the classification of violence against sexuality and gender nonconforming Brazilians as hate crimes be more than a symbolic gesture, because it will imply the nation is attempting to fulfill its duty to protect those citizens. In truth, Brazil’s façade of queer acceptance may have undermined the nation’s ability to stay complacent forever; the resilience of queer Brazilians powerfully makes a queer Brazil “real,” whether the state recognizes it or not.
References


