

Murder by Proxy: Extrajudicial Killings of LGBTQI+ Mexicans and Brazilians



ReportOUT



ReportOUT Response to the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions: Call for Input: Killing of LGBTQI+ persons



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ReportOUT is a global SOGIESC human rights organisation
For more information, please visit our website: www.reportout.org
Registered Charity Number (England and Wales): 1185887

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Who are ReportOUT?

Since 2019, ReportOUT have been at the forefront of protecting the human rights of sexual and gender minorities in the United Kingdom and globally. As a registered charity in England and Wales (registered charity number 1185887) we are fearless, determined, and relentless in our belief that human rights are fundamental to advancing the lives of sexual and gender minorities, and their communities.

We recognise that we need to succeed in our aims and objectives by also using principles from international development alongside human rights frameworks, and we believe that both approaches should always include sexual and gender minorities as part of them. We align all our work with Agenda 2030, in that no one should be left behind.

ReportOUT's official aim and objectives are:

To promote human rights (as set out in the Universal Declaration of Human Rights and subsequent United Nations conventions and declarations) throughout the world for sexual and gender minorities by all or any of the following means:

- Eliminating infringements of human rights;
- Research into human rights issues;
- Raising awareness of human rights issues;
- Educating the public about human rights;
- Monitoring abuses of human rights;
- International advocacy of human rights;
- Providing technical advice to government and others on human rights matters.

Our guiding principles:

- Principle 1: No one should be left behind in delivering the articles set out in the Universal Declaration of Human Rights.
- Principle 2: Every person has a part to play in achieving the goals and targets set out in the United Nations Sustainable Development Goals.
- Principle 3: Positive change should be led by communities within a nation state and ReportOUT will support them to do this.

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Foreword from the Chair and Lead Trustee, Human Rights Research

Dear Dr Morris Tidball-Binz - UN Special Rapporteur on extrajudicial, summary or arbitrary executions.

It is a privilege to submit ReportOUT's response to your call for contributions to your Report on unlawful extrajudicial, arbitrary or summary executions of LGBTQ+ people.

Founded in 2019, ReportOUT is a human rights research organisation in the United Kingdom that documents the lived experiences of SOGIESC (Sexual Orientation, Gender Identity, Expression and Sexual Characteristics) people and communities in different nations across the globe. We use our research to inform the public, educate others and to influence governments and organisations about SOGIESC human rights infringements.

By mid 2024, ReportOUT will have published six 'deep dive' projects into the lived experiences of SOGIESC communities in Uganda, Zimbabwe, Belize, Morocco, Ethiopia and Mongolia, with further projects to follow on countries including Mexico, Bangladesh, Kenya, Nigeria and Pakistan. These include both 'deep dive' projects and thematic reviews on such subjects as so-called 'conversion therapy' practices and the trans and non-binary lived experience. We are proud to be an entirely volunteer-led charity, with volunteers and trustees originating from over thirty nation-states, two of whom contributed to this report.

Continued overleaf



Drew Dalton
Chair of Trustees
ReportOUT

Drew is the founder and currently the Chair of ReportOUT. He has spent the last 20 years working within the NGO sector on both a national and international level in a range of varied roles. Drew brings key skills to ReportOUT, such as fundraising, charity operations and strategy, international development, human rights, and volunteer management. Alongside this, he also has a background in education, is a qualified teacher, and is currently working as an academic and social researcher. Drew has a degree in BSc (Hons) Sociology and Social Research, MSc Social Research, MA Gender Research, and a PhD in Sociology. Drew has featured on various media outlets, including the BBC, Channel 4 News, ITV, and the New Arab. He enjoys travel, culture, politics, and social issues. He describes himself as bisexual and as a cisgender male.

Foreword from the Chair and Lead Trustee, Human Rights Research *continued*

Our submission to this study focuses on Brazil and Mexico, two countries with formal legal frameworks which should offer protection to LGBTQI+ communities. However, our research demonstrates gaping deficiencies in both countries' applications of these frameworks, which facilitates an environment of impunity where extrajudicial killings of SOGI/LGBTQI+ individuals is commonplace. We trust that our research, compiled by our dedicated team of global volunteers will be a valuable contribution to your final report and we thank you and your team's work for investigating this under-researched topic that resonates so profoundly in countries across the globe today.

Best wishes,

Drew Dalton, Chair of Trustees & Founder of ReportOUT
Phil Thomas, Lead Trustee, Human Rights Research

May 2024



Phil Thomas **Lead Trustee** **Human Rights Research**

Phil became a Trustee of ReportOUT in November 2022 with responsibility for the Research portfolio. He is passionate about geopolitics and LGBTQI+ histories around the globe and has undertaken research for ReportOUT on a diverse range of countries including Mongolia, Afghanistan, and Ukraine. Phil holds a master's in international relations from University of Cambridge (UK), MBA from Duke University (USA) and a BA in Modern Languages from University of Durham (UK) alongside professional marketing and project management qualifications. He currently resides in Cambridge, England, having previously lived and worked on four different continents, with his passion for travel and discovering new cultures continuing to this day.



Our Research Team at ReportOUT



Jessica Peck (US/UK) – Jessica holds an MA in Human Rights along with a BA in International Studies with a concentration in Global Health, Human Rights, and French. Although her primary focus is on global health and bioterrorism, she also conducts research on sexual and gender inequality as well. She aspires to work within the global health sector, specifically with communicable diseases, specifically on prevention and care within vulnerable communities. At ReportOUT, she currently works as a Human Rights Researcher while also campaigning and fundraising for the organisation.



Joshua Hurn (UK) works for the UK Civil Service. He graduated from Durham University in 2022, having completed English Studies with a Year Abroad at the Sorbonne in France, where he focused on international relations and politics. He is due to start an MSc in International Public Policy at UCL in September of 2024. In his current work, he focuses on charity funding and providing support to third sector organisations across the U.K. He has held various charitable positions throughout his career so far, including as a branch president of Students for Sensible Drug Policy. He also works as a Human Rights Researcher with ReportOUT, joining the team in February 2024.

This report has also received support from a human rights researcher based in Latin America, who has requested to remain anonymous.

Introduction and methodology

Lesbian, gay, bisexual, trans, queer, intersex, and other gender diverse persons (LGBTQI+) worldwide face a higher risk of violence, including unlawful deaths, as result of their perceived or actual sexual orientation, gender identity, and sex characteristics. In this regard, this paper briefly examines the context within which the laws and existing institutional frameworks in Mexico and Brazil contribute to the protection or lack thereof from violence, including unlawful deaths of persons based on their perceived or actual sexual orientation, gender identity, and sex characteristics.

Methodology and Approach

- We have chosen to focus our response on two countries, MEXICO, and BRAZIL: two countries with a demonstrable link on SOGIESC and related human rights issues.
- Word Count (excluding question titles and bibliography) 1,860 words.
- NB: ReportOUT uses SOGIESC (Sexual Orientation, Gender Identity, Expression and Sexual Characteristics) and LGBTQI+ within our terminology in this response to refer to sexual and gender minorities.

Mexico - a country of contradictions

In MEXICO, the current position of the LGBTQI+ community is paradoxical. On one hand, hate crime protections for gender and sexual minorities are robust, and equal rights, such as gay marriage nationwide, have been adopted (Al Jazeera, 2022). LGBTQI+ Mexicans can access gender affirming care, are legally protected from discrimination, and non-binary citizens have legal recognition (Equaldex, 2024). However, there is another reality reflected by the violation of human rights abuses of LGBTQI+ persons in Mexico.

LGBTQI+ persons in Mexico are suffering from a lot of violence, including sexual, physical, and verbal violence, which in some cases can lead to suicides and murders. As we will examine, the killings of LGBTQI+ Mexicans are taking place with impunity due to an inadequate judicial system. Perpetrators of violence against LGBTQI+ people are seldom convicted, as only 1% of crimes were reported, investigated, and resolved in 2022 (Janetsky, 2022). Such disturbing statistics augment the concern that killings of LGBTQI+ individuals are under-reported by the authorities and heighten the overall lack of confidence LGBTQI+ people have in the judicial process.

Mexico does not have an information and reporting system that expressly incorporates variables on sexual orientation and gender identity; therefore, the following report is based on figures gathered by civil society organisations (CSOs) such as Letra S, which collect information following news reports and on specific cases they follow up with the authorities. In 2021, the Instituto Nacional de Estadística y Geografía / National Institute on Statistics and Geography (INEGI), conducted a survey, the Encuesta Nacional sobre Diversidad Sexual y de Género / National Survey on Sexual and Gender Diversity (ENDISEG), found that of the 97.2 million people aged 15 and over in Mexico, at least 5 million people self-identify as LGBTQI+, equivalent to 5.1% of the country's population (INEGI, 2021). Recent reported figures around homicides of LGBTQI+ persons in the nation are alarming, with 453 incidences between 2018 and 2022 alone (Cole-Schmidt, 2023). However, the scale of these figures is likely much higher, with many LGBTQI+ killings inevitably going unrecorded and undetected. For example, reported murder statistics of LGBTQI+ persons in 2022 (78) could be, in reality, closer to 200 according to well-informed local sources such as La Prensa Latina Media (2023). Three transgender persons were murdered in January of 2024 alone (ABC, 2024), indicating no improvements in the security of LGBTQI+ individuals. With these statistics, Mexico is one of the most dangerous countries in the world to be transgender based upon reported homicide statistics, second only to Brazil (Grant, 2021). Paradoxically, Mexicans largely hold positive opinions of transgender rights, with 83% agreeing that they should be protected from discrimination by the government (The Williams Institute at UCLA School of Law, 2021).

Legislative progressiveness in Mexico is reflected by Puebla's 2021 "Ley Agnes" federal law, which reforms the Criminal Code to recognize and classify transfeminicide as an autonomous crime (Estado de Puebla, 2021). Similarly, the "Ley Abril" law, approved in the State of Chihuahua, aggravates the penalties for those responsible for this type of crime (Estado de Chihuahua, 2007). Additionally, in 2022, the National Supreme Court introduced a protocol which compels judges to regard hate crime cases with a LGBTQI+ perspective, enhancing the punishments by adding aggravating factors (SCJN, 2022), among multiple judgments.[1] Despite these legislative advancements, impunity prevails in the investigations of violent deaths of LGBTQI+ persons. In 2020, CSO Letra S recorded 79 deaths of LGBTQI+ persons, 78 deaths in 2021, and 87 deaths in 2022. As a reflection of this impunity, of the 87 killings of LGBTQI+ persons recorded in 2022, 20 perpetrators responsible for the killings were identified, but only 11 of them were referred to criminal procedures, 6 of them are imprisoned, 2 of them are under substitutive measures to detention, and 1 is at large (Letra S, 2022 and 2023). This indicates strongly that the existing legislative framework is insufficient at hindering impunity amongst perpetrators of violence against LGBTQI+ individuals.

[1] All LGBTQI+ legislative advances from a federal level:

https://www.conapred.org.mx/wpcontent/uploads/2024/02/FT_DiversidadSexual_Noviembre2023_v3.pdf

Brazil - an unwanted record

In BRAZIL, unlawful killings of LGBTQI+ individuals are a tragically common phenomenon. Much like Mexico, the country's progressive legislative and political situation for LGBTQI+ individuals contradict the extreme levels of violence they face. Gay individuals make up about 10% (around 20 to 22 million people) of the population, while the transsexual and transgender population is around 1 million (Cruz, 2024). Alongside this, Brazil has LGBTQI+ positive laws which include the legalization of homosexuality, same sex marriage, adoption, and anti-discrimination laws, and has even decreed that homophobia is equal to racism and is punishable by 2 to 5 years in prison (France 24, 2023; Malta et al., 2023; Equaldex, 2024). However, there have been a significant number of LGBTQI+ killings since 2020, with 237 reported in 2020, 228 in 2021, 273 in 2022, and 257 in 2023 (The Guardian, 2021; France 24, 2023). Due to the lack of justice regarding these killings, individuals are discouraged from seeking judicial redress, often leading to reduced prosecutions and allowing these perpetrators to reoffend (Malta et al., 2023).

Caribe, a queer Brazilian streamer and content creator, shared his point of view on living in São Paulo as a pansexual man. When asked if he felt that the unlawful killings of LGBTQI+ individuals were frequently included in the media, Caribe believed that the killings were not reported in the media as much as they should be, stating: "when there's any information about it, normally it's stigmatized as if it's happening as a consequence of promiscuous behavior, unsafe environments or any other excuse to blame the victim instead of raising awareness about the reality of LGBTQ people in Brazil". In addition, he acknowledged that while he doesn't know anyone personally who has been killed, since moving to São Paulo, he's "heard of a few LGBTQI+ people who had been murdered, either being lured into inviting someone home, getting beat up and robbed, getting beat up on the streets after exiting a party, or being discriminated against in public just because they were displaying affection to one another".

Caribe also acknowledged that there has been an increase in awareness around São Paulo due to the rise of killings within the city centre. When asked why he believes Brazil is so dangerous for LGBTQI+ individuals and revealed that the danger mainly stems from religion and extremism within the government. Caribe stated that religion has a massive influence on politics and that the lack of LGBTQI+ individuals within the government also contributes to the lack of tolerance towards homosexuality. This inside look on the life of an LGBTQI+ individual in Brazil showcases the dangers of living in a country that is seemingly so accustomed to killings of LGBTQI+ people. The violence committed against LGBTQI+ people is often attributed to their lifestyles and behaviours and underscores the existing daily fear for these individuals.

With this testimony, it is important to note that there are currently several legal provisions in place in Brazil to protect LGBTQI+ individuals from violence and discrimination. Anti-discrimination is woven into Brazil's constitution, stating that no discriminatory laws are allowed to be created. While these provisions do not explicitly discuss discrimination against the LGBTQI+ population, it does discuss the forbiddance of discrimination of "origin, race, sex, color, age or any other forms of discrimination," (Constitution of the Federative Republic of Brazil, 1988). If discrimination occurs, there are often sanctions and penalties for states that engage in discrimination (Outright International, 2024).

While there are provisions in place to protect LGBTQI+ individuals from discrimination and violence, these do little to protect these individuals from daily realities. Historically, Brazil was a Catholic state for almost 400 years; therefore, these practices and beliefs are still woven into Brazilian culture (Harvard Divinity School, 2024). While Brazil is currently a secular state, the influence of Catholicism appears to still have a grasp on how homosexuality is viewed in much of the country (Ogland and Verona, 2014).

Brazil - an unwanted record

There has also been large opposition against homosexuality from right-wing politicians, which has been personified by the bigotry of former President Bolsonaro, who has stated that he would rather have a dead son than a gay son (BBC News, 2019). With such rhetoric, it is hardly surprising to see the disturbing statistics about killings of LGBTQI+ individuals and the lack of confidence in the judicial system members of the community has in reporting such crimes. As examined, Brazil is one of the most dangerous countries in the world to be LGBTQI+, since reported killings are frequent and unreported murders likely even more prevalent. Much like Mexico, there is an extreme juxtaposition between legislative and political rights for LGBTQI+ citizens and the risk of violence, as Brazil's extensive protections for LGBTQI+ persons appear to have done nothing to defend their right to life. Killings have remained stubbornly high, with no sign of abating despite the continued progressive legislation being introduced.

Conclusion and recommendations

Based on the above brief highlight, it is obvious that killings of LGBTQI+ individuals across Mexico and Brazil have been highly exacerbated by the failures of political and judicial structures, as well as a seeming indifference towards the killings of LGBTQI+ individuals. This is an extraordinarily paradoxical situation in countries where LGBTQI+ citizens, in comparison to many nations across the globe, enjoy strong legal protections and are viewed favorably by large proportions of non-LGBTQI+ citizens. Undoubtedly, the extreme levels of violence suffered by these communities in both nations will continue, as impunity from prosecution, and a lethal insouciance on the part of their governments and police continues.

Recommendations

Based on the above cited examples in Mexico and Brazil, we propose:

- **To establish information or mechanisms for reporting and registration of violence against LGBTI+ persons that provide disaggregated and differentiated statistics, considering the specificities of SOGIESC, with an intersectional approach.**
- **Legislative homologation at a federal level on the offences of homicide and aggravated assault and battery on the grounds of hatred, prejudice or discrimination, among the different states of each country.**
- **To develop a specific investigation protocol on homicides, femicides and transfeminicides of LGBTQI+ persons, which including a differentiated approach to ensure proceedings free of prejudice and discrimination, as well as guaranteeing access to justice for victims their families, consanguineous and/or social.**
- **To design and implement trainings and education programmes for personnel involved in investigations and judicial proceedings to avoid stereotypes related to sexual orientation and gender identity/expression.**
- **Greater public challenge to religious-motivated hatred towards LGBTQI+ communities, as sewing the seeds of impunity in which killings of LGBTQI+ citizens occur without recompense.**

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