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LGBTI

Landscape Analysis of Political, Economic & Social Conditions

Astraea LESBIAN FOUNDATION FOR JUSTICE
Ecuador LGBTI: Landscape Analysis of Political, Economic and Social Conditions

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This report was produced by The Astraea Lesbian Foundation for Justice, the only philanthropic organization working exclusively to advance LGBTQI rights around the globe. We support hundreds of brilliant and brave grantee partners in the U.S. and internationally who challenge oppression and seed social change. We work for racial, economic, social and gender justice, because we all deserve to live our lives freely, without fear, and with profound dignity.

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Ecuador stands out among its Latin American neighbors as a strong proponent of policies in favor of lesbian, gay, bisexual, trans* and intersex (LGBTI) rights. Its Constitution establishes wide-ranging legal protections for LGBTI people, and issues of sexual orientation and gender identity are prominently debated in national politics. But LGBTI Ecuadorians face discrimination and other harsh conditions—exemplified by the continuation of “de-homosexualization” or “lesbian torture” clinics—that expose a clear rift between legal rights and the lives LGBTI people truly live.

Amidst these contradictions, activists have established a national presence, and the LGBTI community has won recognition by the president and other politicians. Employing creative legal, policy and cultural strategies, Ecuador’s LGBTI social movement continues to overcome persistent opposition to LGBTI rights.

What follows is a snapshot of the social, political and economic landscape for LGBTI people in Ecuador. This report is developed out of research by Ana Cristina Hernández, and produced by Astraea Lesbian Foundation for Justice.

The report draws on a unique combination of data and expertise from international organizations, government sources and, most critically, Ecuadorian LGBTI organizations and activists themselves. In synthesizing diverse material and firsthand insight, it provides an overview of Ecuador LGBTI social movement, a window into what life is like for LGBTI Ecuadorians and a summary of the opportunities and challenges activists face as they work to advance LGBTI rights protections and translate them into meaningful change.

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1 A note on terms: The notation “trans*” is used to refer to the entire range of possible gender identities, including but not limited to transgender, transsexual and transvestite and many specific to local cultures and contexts. In addition, this report uses the acronym LGBTI (lesbian, gay, bisexual and trans*) to be broadly inclusive of sexual orientation, gender identity and bodily diversity. The term LGBT or the identification of specific groups, such as lesbians or trans* people, is used where it is reflective of organizations or activities referenced.

2 For more information on the Astraea Lesbian Foundation for Justice, please refer to page 2.

3 Methodology: Data was collected in July and August 2013 through desk research, phone interviews and an in-depth review of resources from Ecuadorian human rights, women’s rights and LGBTI rights organizations; the United Nations and Organization of American States; the Ecuadorian government; Ecuadorian newspapers; and academic databases and institutions. The Astraea Foundation has incorporated a number of additional studies which have gathered indicators on the lives of LGBTI individuals since the original research was conducted.
Social and Economic Indicators

In 2013, Instituto Nacional de Estadística y Censos (National Institute for Statistics and Census or INEC), the federal agency in Ecuador responsible for census and population research, conducted an unprecedented national survey of LGBTI adults. The survey covered a range of issues, and participants shared that, 58% do not have access to social security or other supplementary health care coverage; 27.8% earn $292 dollars or less per month; 45.6% earn between $293 and $584 dollars per month, and only 5.9% earn $1,168 dollars or more per month; 70.9% have experienced discrimination from their families, including control, rejection and violence; 36.1% participate in a group or social movement and of that number, 73.5% participate in an LGBTI group or organization.

These data highlight the mixed realities in which LGBTI people face high rates of violence and poverty, but also organize strongly as a movement.

The INEC study is a rare example of state-funded research on LGBTI populations, though activists point out its limitations, including lack of disaggregation and in-depth analysis. Indeed, information about LGBTI people has been mostly anecdotal, with activist organizations left to collect basic data. Promisingly, a number of recent studies by civil society organizations (CSOs) have expanded the baseline data about LGBTI lives.

Together, these reports point to an abiding gap between lived realities and legal protections, particularly the high rates of violence and discrimination LGBTI Ecuadorians face, which are expanded upon in the remainder of this report.

Violence Against LGBTI Ecuadorians

Overall, violent crimes are on the decline in Ecuador. But general indicators belie the extent of violence against LGBTI people. Trans* people and trans* sex workers in particular face disproportionate levels of violence and abuse in public settings. Violence perpetrated by families against lesbian and trans* women is common. And young lesbians have been...
subjected to egregious rights violations, even torture, at clandestine “de-homosexualization” clinics. In spite of legal advances, activists continue to document discrimination and abuse, and LGBTI activists’ complaints of a lack of enforcement are on the rise.

“De-homosexualization” clinics, where families forcibly send young lesbians primarily to be “cured” of their sexual orientation, represent an extreme threat to LGBTI rights. There are as many as 200 to 300 centers, though a precise number is difficult to pin down because they often operate clandestinely within unregulated drug and alcohol rehabilitation centers. Women who have escaped report physical, sexual and psychological abuse, including rape and other forms of assault prohibited under the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Inter-American Convention to Prevent and Punish Torture. While activists have worked tirelessly to expose the clinics’ presence and practices to Ecuadorian authorities and international human rights bodies, they continue to exist, despite government promises to eradicate them.

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13 Ibid.


Cultural Attitudes

While LGBTI people continue to be marginalized in their daily lives, activists attribute recent policy and legal victories to an uptick in public support of LGBTI issues and a growing intolerance of anti-LGBTI hostility. In 2013, for example, for the first time in Ecuador, an electoral tribunal chastised a public figure for his homophobia. After making several offensive comments during his campaign, former presidential candidate and evangelical pastor Nelson Zavala was fined and suspended from running for office or voting for one year. Such official condemnation of anti-LGBTI speech may suggest a cultural shift in favor of LGBTI rights, but Ecuador still ranks well below the regional average in its support of marriage equality, a bellwether issue for LGBTI movements globally. In 2010, a study found a mere 18.4% of Ecuadorians favored marriage equality.

Legal Protections

In 1997, Ecuador decriminalized homosexuality, and in 1998, Ecuador became the first country in the Americas, and the third in the world, to establish protections for sexual orientation in its constitution. Even broader LGBTI rights protections were written into the 2008 Constitution, which was approved by popular vote on the heels of current President Rafael Correa’s first election. The constitution includes some 444 articles intended to expand access to a number of rights including health care, social security and education. The 2008 Constitution, seen by many as a win for LGBTI and other marginalized people in Ecuador, is said to be an expression of “buen vivir,” or good living, a broad concept threaded throughout the document that acknowledges the interdependence of the rights, dignity and well-being of individuals, communities and the environment. Called “sumak kawsay” in the indigenous language Quechua, “buen vivir” is thought to derive from the worldview of the indigenous Quechua people of Ecuador.

While legal provisions do not in and of themselves stop violations of LGBTI rights, the protections outlined in the 2008 Constitution are making a tangible difference in people’s lives. For example, Elizabeth Vásquez of the trans* and intersex activist group Proyecto Transgénero reports, “trans access to education is the biggest improvement in the last four years.” The constitutional right to aesthetic freedom, according to Vásquez, has also “facilitated the respect of the trans* aesthetic in every Ecuadorian institution.”

17 Please see: https://www.youtube.com/watch?v=pD8h9H1Ujac
Ecuador’s legal commitment to LGBTI rights extends beyond its constitution, including important hate crimes legislation and state participation in key international and regional human rights agreements (see box below). Indeed, Ecuador has established many protections for LGBTI people. But as reports on the ground reveal, the lack of meaningful implementation keeps many members of the LGBTI community from fully accessing these rights.

**Ecuador’s 2008 Constitution: An Overview of LGBTI Rights**

The Constitution guarantees:

- The right to protection from discrimination on the basis of sexual orientation and gender identity
- The right to form civil unions and the recognition of the rights of diverse families, including those comprised of common law ties
- The right to aesthetic freedom
- The right to make informed, voluntary and responsible decisions regarding sexuality and one’s sexual life and orientation
- The right to protection from the abusive or discriminatory application or interpretation of constitutional laws and other regulations, including those that regulate public order and morality
- The right to protection from the reliance on misdemeanors and other lower rank criminal offenses to facilitate arbitrary arrests in the public space

Conversely, the Constitution explicitly denies LGBTI people the right to marriage and adoption, limiting those rights to heterosexual couples.

**Other Key LGBTI Rights Protections:**

- A 2009 reform of the penal code criminalizes hate crimes on the basis of sexual orientation or sexual identity, including acts of violence and the denial of services.\(^{24}\)
- A 2005 reform to the labor code prohibits discrimination on the basis of sexual orientation.\(^{25}\)
- Citizens have the right to change the name on their national identity card for free, via a civil registry administrative request.\(^{26}\)
- A 2013 reform to the communications law prohibits discrimination on the basis of sexual orientation.\(^{27}\)
- A 2014 resolution allows for same-sex civil unions to be displayed on national identification cards.
- Ecuador participates in core international and regional human rights agreements that explicitly safeguard the rights of LGBTI people, including the 2013 Inter-American Convention against All Forms of Discrimination and Intolerance.


\(^{26}\) Jones, R. (2013, January 8). *The word on women—transgender rights in Ecuador: A legal, spatial, political and cultural acquittal.*

Ecuador’s progressive LGBTI legal framework exists because activists and organizations lobbied vigorously for the inclusion of LGBTI rights in a new progressive constitution. Activists have continued to raise the visibility of LGBTI issues to the point where political candidates are now frequently asked whether they support issues like marriage equality. Through these efforts, the LGBTI movement has proven itself a powerful force in Ecuadorian society.

One of the most visible markers of the LGBTI movement’s success is in the 2012 appointment of Carina Vance Mafla as Ecuador’s Minister of Health. Mafla is an out lesbian—the first to be appointed to a presidential cabinet in all of Latin America—and former director of the lesbian activist organization Fundación Causana (Causana Foundation).

Still, despite its success, some LGBTI activists worry that the movement is too divided along specific lines—gay or lesbian, for example—and that, as a result, the movement may lack shared goals. It is widely recognized that trans* people bear the most egregious levels of violence and abuse in public spaces, but trans* safety has not been championed by the movement as a whole. One activist also observed that the more resourced organizations tend to be those that focus on HIV/AIDS treatment and advocacy for gay men.

The LGBTI movement is also not without its opposition, namely the Catholic Church and 14 Millones (14 Million), a group that advocates very publicly against marriage equality. President Correa, who supported LGBTI rights at least nominally during his presidential campaign, more recently voiced his vehement opposition, on religious grounds, to marriage equality and adoption by same-sex couples.

Another challenge LGBTI organizations face is Executive Decree 16, adopted by President Correa on June 4, 2013, which states that organizations “interfering in public policies that undermine internal or external State security that might affect public peace” can be dissolved. The decree has been criticized by civil society and international human rights organizations because it grants the government power to intervene in groups’ operations, creates new procedures to obtain legal status and “requires international organizations to undergo a screening process to seek permission to work in Ecuador.” Organizations must also report if they are receiving international funding.

Organizing for Legal and Policy Change

The most high-ranking advocacy goals of LGBTI activists are the investigation and shutting of “de-homosexualization” clinics (see box on page 6), trans* rights and marriage equality.

In August 2013, for example, Pamela Troya of the LGBTI rights group ¡Igualdad de Derechos Ya! (Equal Rights Already!) launched the campaign “Civil Marriage Equality, the Same Rights by the Same Name” by filing documents with the civil registry office in Quito to marry her partner, Gabriela Correa. Their request was denied, but their attempt and other creative tactics like it have drawn significant media

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32 Ibid.

attention. President Correa, who opposes marriage equality, proposed putting the issue before a popular referendum in February 2014, but as of this writing, the vote has yet to take place. 34

Sectors of the movement, like the aforementioned groups Asociación Silueta X and Proyecto Transgénero, also push for changes in the civil registry laws that would benefit the trans* community, including replacing the “sex” category on official documents with “gender.” 35


Rally against homo-lesbo-trans phobia in 2012 around IDAHOT. Organized by Mujer y Mujer and other LGBT collectives in Guayaquil, including Asociación Silueta X. Image courtesy of Mujer y Mujer.
In many ways, Ecuador has shown itself to be a leader in its support for LGBTI rights. Its constitution provides expansive protections for LGBTI people that far outpace those in many other Latin American countries. And having an LGBTI person in a prominent government post reflects some progress in public and political support.

However, the egregious persistence of “lesbian torture clinics” and other forms of violence against LGBTI people deeply undermine the country’s purported commitment to the LGBTI community. President Correa’s—and the public’s—opposition to marriage equality suggest a steep climb for LGBTI activists in overcoming barriers to LGBTI Ecuadorians’ well-being and human rights.

Even so, Ecuador’s LGBTI movement has achieved remarkable success, particularly since the 2008 Constitution was drafted and approved. Through a combination of innovative and traditional social-change strategies, it has demonstrated its potential to tackle pernicious challenges, and its promise to remain a beacon for other LGBTI movements regionwide.

### Recommendations for Advocates, Allies and Funders

The following recommendations are based on analysis presented in this report and reflect the needs and priorities identified by LGBTI movement actors in Ecuador.

1. Identify and close all “de-homosexualization” clinics.
2. Reverse Executive Decree 16, which presents undue barriers to the operations of civil society organizations.
3. End the harassment, violence and discrimination directed at LGBTI people, specifically trans* people; provide the health care necessary to support gender expression; and address trans* people’s particular vulnerability to poverty.
4. Raise the visibility of LGBTI people and support arts, education and activism to shift attitudes and beliefs in support of LGBTI rights and advance the inclusion of LGBTI people in Ecuadorian society.
5. Ensure access to legal protections that exist, and overcome barriers to rights that are expressly denied, such as marriage equality and adoption by same-sex couples.
6. Develop and support diverse LGBTI leadership and prioritize the concerns and activism of trans* people, lesbians and others who have been marginalized within the LGBTI movement.
7. Reform civil registry laws, the Organic Health Code—which would help regulate and close “de-homosexualization” clinics—and other secondary laws that discriminate against LGBTI people.
8. Build on LGBTI activists’ creative, strategic use of the Internet and social media.
SELECTION OF ASTRAEA LGBTI PARTNER ORGANIZATIONS IN ECUADOR

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