

## **Improper Subjects: Thoughts on Discrimination Bills and Online Discrimination Against Lgbtiq People**

Magalí Daniela Pérez Riedel

Universidad Nacional de Quilmes, Argentina

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### **Abstract**

In Argentina, Lgbtiq organizations have recently attempted to change anti-discrimination bills with no luck. Some of their legislative bills included requests to regulate online content. Here I argue that discrimination bills must include discrimination on the basis of sexual orientation, gender identity and its expressions. But our study showed that moderators cannot help protect users from hateful content and can do very little to prevent violence in online spaces. We found that attacks against Lgbtiq people in Lgbtiq blogs were common, and they are now being discriminated against in the name of freedom of speech and religious freedom. Moreover, the perpetrators used religious discrimination as a way to defend themselves from further attacks.

**Keywords:** discrimination, Lgbtiq, communication, Internet, blogs.

## 1. Introduction

In this article, I reflect upon the practices of discrimination against people with non-normative genders and sexualities in Argentina to address the question: can discrimination bills actually challenge discrimination against this group? I argue that while a bill like this is necessary due to its possible symbolic effects, it changes little in the short term. I support these statements by conducting semi-structured interviews to experts and to the moderators of Lgbtiq blogs *Tod@s* and *Boquitas pintadas*. Additionally, I analyze 5,095 comments that were published in the comment sections of those blogs between 2012 and 2015, years in which Lgbtiq people had just obtained the recognition of some of their rights thanks to the *Marriage Equality Act* (2010) and the *Gender Identity Bill* (2012).

My research shows that Lgbtiq communities are being targeted in gay-friendly forums by people who oppose to their demands. These users post comments that represent non-cisgender and non-heterosexual people as sick, deviant and perverts who are a menace to the “normal” society. Additionally, they portray them as violent and intolerant and accuse them of discriminating those who would not put up with their insanity by arguing that they are asking for bills that only benefit and give privileges to this community at the expense of disadvantaged groups, like impoverished children, the disabled, the poor elder people and the average working men and women. These arguments are a mechanism to justify the violence that is directed at Lgbtiq people, turning them into scapegoats and blaming them for wider societal issues in a context of a growing economic crisis, a generalized climate of distrust towards the political institutions and an increasing empowerment of the religious sectors.

This work makes an original contribution to the fields of communication and culture by shedding light on the current power struggles that take place in online environments and the different conditions that enable and limit the dissemination of discriminatory discourses in online forums in the tensions between the right to freedom of speech, the right to a life free of discrimination and the debates over online content regulation.

## 2. Bills against discrimination

In many countries, people with non-normative genders and sexualities are being attacked for being who they are. These attacks are mostly symbolic and they are taking place in developed European countries, Australia and the United States of America, where government representatives and prime ministers raise concerns on *gender whisperers* and ban transgender military in an attempt to erase trans identities and to put a stop to their growing legal recognitions. In Latin America, left-wing governments have been keener on Lgbtiq movements and many countries have passed bills on same-sex marriage and gender identity long before this happened in the leading countries of the World. The protections and guarantees that the government of Cristina Fernandez (2007-2011; 2011-2015) and the Argentine parliament members secured for Lgbtiq people have no precedents: this is a country where people can get married, adopt children and have free access to medical procedures with no barriers, with no intermediaries and with no need to have a judge or a doctor rule in their favor. However, whilst there is a significant progress in the formal aspects, there is a strong backlash against subjects with dissident sexualities and genders, who face different forms of homo and transphobic violence on a frequent basis. Since the national bill against discrimination does not protect civilians against these practices, Argentine Lgbtiq movements are pushing to pass a bill to include discrimination based on gender identity, gender expression and sexual orientation. But will a bill like this suffice? Are other measurements necessary? How does this power struggle translate in every-day communication in online forums?

In Argentina, the National Bill against to Penalize Discriminatory Acts dates back to 1988. It aims to tackle discrimination, which is defined as acts and omissions that arbitrarily impede, obstruct, restrict or diminish the fundamental rights and guarantees that are protected by the National Constitution. It explicitly condemns discrimination based on race, nationality, ideology, political opinion, trade union, sex, economic status, social condition or physical characters (n. 23.592/1988). Its definition is not comprehensive and it excludes discrimination on the basis of sexual orientation, gender identity and gender expression.

Since the nineties, different Lgbtiq organizations have made numerous efforts to have this bill changed to include sex-gender discrimination. Elsewhere (Pérez Riedel 2018), it is argued by members of organizations like Federación Argentina Lgbt, La Fulana, Otrants Argentina, 100% Diversidad y Derechos and Comunidad Homosexual Argentina (Cha) that discrimination based on prejudice against Lgbtiq people is the outcome of years of socialization of a culture of hatred that needs to be changed. Hence, a bill can and should battle those prejudices. They prefer to talk about hate against Lgbtiq people and not about homo- or trans-phobia, as this may give the impression that there is an irrational fear, and may justify any action to stay away from which makes us scared, similar to the homosexual panic defense in some countries. While references to hate speech are less common in Argentina, the Cha has recently started to publish reports and statistics on hate crimes against Lgbtiq people.

Discrimination against this community is not a recent phenomenon. As a matter of fact, Osvaldo Bazán (2010) suggests that homophobia has been imported by Europeans who had a Christian moral. He finds that aboriginal people in the region actually valued people with non-normative genders and sexualities, and that what we would call ‘transsexuals’ today were seen as spiritual guides in their communities back then. Professor Byrne Fone (2008) contends that the Western moral against homosexuality is based on misinterpretations of the Bible, especially the story of Sodoma. Argentine researcher Jorge Salessi (1995) adds that discrimination against homosexuals in Argentina was promoted by the state in a way that first allowed to label them first as sinners, then as criminals and later as deviants.

Can a bill against sex-gender discrimination automatically change centuries of discrimination against Lgbtiq people? Having passed the Marriage Equality Act in 2010 and the Gender Identity Law in 2012, is a new discrimination bill necessary? Professor Alfredo Martínez-Expósito (2018) argues that we are currently undergoing a process of hipernormalization or homonormalization, where homosexuality is the new normal. Bills like the one on same-sex marriage may make people believe that the “battle” is won and that there is no need to focus on discrimination, as if a bill of such kind would be redundant. But it is especially because of the approval of the bills on same-sex marriage and gender identity that the prejudices against Lgbtiq people were made visible – and passing

the laws was, in a way, like sweeping the dirt under the carpet. A sociocultural change is necessary, and efforts must be made to raise awareness on the prevailing discrimination against sex-gender minorities.

As expert Danielle Keats Citron (2009) points out, a new bill on discrimination has more of an expressive or symbolic value as it can shed light on some issues and on their possible solutions. Talking particularly about online communication, Citron believes that while it is important to safeguard freedom of speech, it is also necessary to guarantee equal access and participation: online harassment can lead to a decrease of participation by the targeted person or group, which would impact negatively on their enjoyment of their rights and even in their social and economic conditions.

A law of this kind needs to go hand by hand with other laws that enable and promote processes of sociocultural change. This is the conclusion we drew from our interviews with three experts on human rights and communication. Paula Carri, director of the program Platform for an Internet free of discrimination of the National Institute against Discrimination, Xenophobia and Racism (Inadi), says that more digital education is necessary. People need to know and defend their rights, and online communication is as real as non-digital communication, and people should be able to seek help even in online spaces. She adds that online publications can reach big audiences immediately, which is why it is important to act quickly to stop the dissemination of hateful content and to create the means for people to block or report the people or contents that offend them.

Dr. Dora Barrancos, feminist scholar and member of the National Scientific and Technical Research Council of Argentina (Conicet), explains that it is important that social organizations act as watchdogs to restrain hateful content, to provide an immediate and efficient response to protect human rights as a whole. She argues that new laws do not translate in immediate social change, so more measurements must be adopted to lead to a sociocultural change. On a similar note, founder of La Fulana and congresswoman María Rachid claims that a bill to tackle online sex-gender discrimination is imperative. The state must recognize equal rights for all, and although formally we are all equal to the Law, it is not so true in everyday life. In consequence, she emphasizes that a cultural battle is necessary.

### 3. Online content regulation and the role of the moderators

The most recent attempts to have a bill to battle sex-gender discrimination have been unsuccessful. The main reason against these legislative bills were their requests to regulate online communication. It is known that different bills affect media in general, and the Internet is just one of them. Now, the Internet can be thought both as a medium and as a forum (Jensen and Helles 2010). When thinking about it as a medium, there are two main perspectives: one that argues that it is already regulated by transnational and local communication bills and that minorities must be protected, and other that says it is not regulated and it ought to stay this way (Herring *et. al.* 2002). When talking about Internet as a social forum, the second perspective prevails: freedom of speech is imperative, and nothing must get in the way. The juxtaposition of this view with the one that deregulates Internet as a medium are the focus of those opposing any bills that try to fight online discrimination and violence.

Members of the Argentine congress and scholars who have opposed the legislative bills said that their application can be politically biased. Scholars contend that they can be used to push an agenda to dismiss partisan opposition and limit the liberties of those who want to express points of view or disseminate information that may jeopardize the reputation and legitimacy of those in power (Bertoni and Sadinsky 2015). In this context, it is important to distinguish between protected speech and the categories of speech that are not protected by the law: incitement of violence and hate speech are just two examples. Therefore, any attempts to diminish freedom of speech must be justified and must be proportional and necessary.

Others focus on its practical implications: what is the jurisdiction of a bill that tries to regulate the Internet? And most importantly, who can be held responsible of regulating something as vast and wide as the web? Some websites that have comment sections also have a moderator or a person who is in charge of administering the publication or elimination of content that may violate the rules of the site. Some of these norms are made accessible to users when they register or can be available in a separate section. Some are not explicit and depend on the moderators or on the affordances made within each online community.

In our case study, we held two interviews with the people in charge of the blogs Tod@s and Boquitas pintadas. Both blogs belong to the largest media outlets of the country, Grupo Clarín y La Nación. Although they have always opposed to the recognition of Lgbtiq rights, they made possible the creation of these Lgbtiq blogs. In the first case, journalist and activist Bruno Bimbi was invited to set up the blog, task he happily accepted. In the other, journalist Verónica Dema set up the website on her own after presenting the project to heads of La Nación.

Bimbi and Dema say that the blogs are for all. However, a quick glance to the homepages lets us see the colors of the rainbow flags, an indication of what topics are to be found there. During our interviews, we asked questions to learn about their roles as moderators, which we later contrasted with the activities we found during the years of the research. To begin with, we notice that Bruno Bimbi (Tod@s) does not call himself a moderator, but he acknowledges he tries to read all the comments that get published on his blog. Therefore, he does not erase the comments and he only asks the moderators of the site to delete specific content if he considers it to be a fundamentalist or radical text. Although in practice he does not operate as a moderator, he does act as one: we noticed that he participated in 213 occasions in efforts to respond or contest the views of other users. He has even threatened to erase the comment of another person if s/he kept on spreading hateful ideas.

On the other hand, we saw that journalist Verónica Dema (Boquitas pintadas) has a different approach: she only participated once by responding to a user that had a pejorative view on the Lgbtiq community. She did not erase the comment, though. She claims she must read and approve all the comments before they get published, but she has other tasks and finds it difficult to handle the comment section all on her own. Her activity as a moderator can be labelled as abstentionist, similar to a communicational *laissez faire*. Besides, she says, the editors of media outlet that owns Boquitas pintadas suggested letting people debate. Bimbi received the same suggestion: «let there be debate». It gives visibility to the blog and it allows people to learn from the perspectives of others.

However, the recommendation resulted in a continuum of violence against Lgbtiq people. More than half of the comments we gathered in that period of time held derogatory views on people with non-normative genders and sexualities in blogs that were open to

discuss topics on sex-gender diversity. Additionally, the people who participated in these comment sections expressed their points of view but discussions were futile: violence was answered with more violence, and a change of minds was seemingly less and less likely. If anything, violence obstructed dialogues and reinforced the positions that were already held by the users. The accusation of violence was then used to contribute to the segregation of those who had opposing perspectives and even the moderators were accused of censoring people who identified as religious, cisgender and heterosexual in order to only express a unified point of view.

#### **4. Discrimination on the basis of religion or sexuality and gender?**

In this section, we work on a small selection of the 5,095 comments of our corpus. They were studied with the methods of critical discourse analysis and the appraisal theory (Fairclough 1995; Wodak 2003; Kaplan 2004). I focused on the discursive strategies users employed to name and value Lgbtiq people in the texts, which had been previously quantified using *Atlas.ti* in order to assess the violent attitudes towards this group. A research I conducted in 2011 showed that the stereotypes about Lgbtiq people in Boquitas pintadas represented them as perverts who are sick, immoral and deviant (Pérez Riedel 2014). In our most recent research, we find that those representations persist in the following years not only in that blog but also in Tod@s. Moreover, newer comments present Lgbtiq persons as violent, intolerant and discriminatory subjects. They are portrayed a menace to society because they want to impose their abnormal values by subverting the notions of family and marriage. It is said that they want to confuse children to make them believe that homosexuality is good by erasing the natural differences between women and men. But they are even more dangerous because of their political influence: allegedly, there is a gay lobby whose gender ideology is pushing the approval of laws, changing the contents that are taught in schools and even presenting religions in a negative light.

One of the users from Boquitas pintadas says:

Antonio Pentito to Karen Bennett: You had human rights from the moment you were born male or female. What you really propose is that a minority 1,2% of society

intends to change the values, moral and family to the remaining 98% of heterosexuals who do not accept or will never accept that change. You violate the human rights of the majority and corrupt the basic institution of society that is marriage and family. Therefore, the defence of the 98% of their values, morals and way of life that you violated, is expressed in the comments of people who think differently. If you do not feel comfortable in the “heteronormative model” there are psychologists and therapists, but that does not mean that marriage should be corrupted. The last thing I say, is that you are spitting up, because if you are systematically attacking and in any possible way to those who do not think like you, when this government is over, you and also those who think like you will be attacked systematically and in all possible ways<sup>1</sup>.

This quote shows the dichotomy and the polarization between two opposite parts, the queer and the non queer, where the parameter of normalcy is based on a heterosexual and binary standard. Those who do not fit the mold are the ones who threaten, corrupt and violate the rights of the rest. The user says something that we found in other comments, that is a belief that the end of the presidency of Fernandez would lead to a shift of paradigm that would stop that queer nonsense – indeed, the new right-wing president Mauricio Macri has not do as much for Lgbtiq people as the former president. There is also an idea that Lgbtiq people already had the rights they are requesting to be acknowledged now. According to that logic, if gay men want to get married, they can always marry a woman.

Other users persisted on the idea that homosexuals are evil:

Maria Laura Jauven Balderrama to Bruno Bimbi: I’m tired of you, Bruno. Accept that you can’t stand anything that we heterosexuals say. What? You think that there

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<sup>1</sup> Original text: «Los derechos humanos los tenían desde el momento en que nacieron hombre o mujer. lo que ustedes realmente plantean es que una minoría 1,2% de la sociedad le pretenda cambiar los valores, moral y familia al 98% restante heterosexual que no acepta ni aceptará nunca ese cambio. Ustedes violentan los derechos humanos de la mayoría y corrompen la institución base de la sociedad que es el matrimonio y la familia. Por lo tanto, la defensa del 98% de sus valores, moral y forma de vida que ustedes violentaron, se expresa en los comentarios de la gente que piensa diferente. Si ustedes no se sienten a gusto en el ‘modelito heteronormativo’ existen psicólogos y terapeutas, pero no por eso se tiene que corromper el matrimonio. Lo último que te digo, es que estás escupiendo para arriba, porque si buscas agredirte sistemáticamente y de todas formas posibles a los que no piensan como vos, cuando este gobierno se termine también te van a agredir a vos y a los que piensan como vos sistemáticamente y de todas formas posibles».

are no gay murderers, [or] rapists? There are, but they are not so common because they are the minority, it is obvious. And that thing, that you hide behind of [the shield of] homophobia, there are phobias everywhere, do not be so paranoid and exercise your profession that I admire you for your intelligence. And do not waste that gift and your time writing your opinion about these stupid things, I have seen how gays fight with the hetero and they are so violent!!! Or a trans woman hitting like a man<sup>2</sup>.

It was not uncommon to find passages stating that transgender women are actually men, or using the word ‘homosexual’ to describe the Lgbtiq population as a whole, making less visible the issues faced by lesbians and in a lesser extent, by bisexuals, intersexual people, non-binary people, trans men and so on. But here we can also see that Maria Laura is trying to diminish the discursive other by responding with the same words that are used to attack her and the group she identifies with: you gays are violent too, you gays are rapists too etc. In other comments she would even express she feared that she would be killed because of her religious beliefs.

The second aspects that differs the most with my previous research is the finding of an alleged religious discrimination. Lgbtiq people are said to be discriminating those with religious beliefs, just as it can be seen next:

Alicia Giacomini to Noelia Grisel Sologuren: I am divorced but I respect the rules of my religion and I accept them, but lately I get the feeling that in our society there is a certain intolerance with those who do not accept seeing two people of the same sex kissing, for example. And those two people has as much right to do it, like others that do not like it or feel rejection, is it clear??? That cannot change by any law, only the years... Live and let live<sup>3</sup>.

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<sup>2</sup> My translation, original text: «Me tenes cansada Bruno, acepten que no soportan nada de lo que decimos los heterosexuales, que te crees que no hay asesinos, violadores gay? hay pero no son tan comunes porque son la minoria, es obvio, y eso de que se escudan detras de la homofobia, hay fobias en todas partes, no seas tan perseguido y ejerce tu profesion que te admiro por tu inteligencia y no malgastes ese don y tu tiempo opinando de estas boludeces, yo he visto como se pelean los gay con los hetero y son re violentos!!!, o un traba pega como un hombre».

<sup>3</sup> The text in Spanish is as follows: «Soy divorciada pero respeto las normas de mi religion y las acepto, pero últimamente me da la sensación que en nuestra sociedad hay cierta intolerancia con quienes no aceptan ver dos personas del mismo sexo besándose, por ej., y tiene tanto derecho esas dos personas de hacerlo, como otros en que no les guste o les produzca rechazo, se entiende??? Eso no lo puede cambiar ninguna ley, sólo los años... Vivir y dejar vivir».

And this one:

Alejandro Orellana: Congratulations, Bruno. You managed to divert from sexual discrimination to religious discrimination. Are you proud? You do what you criticize, your inconsistency is a pity... Regrettable. It is precisely because of people like you that we do not move forward as a society, and that we go back to the archaic method of continuing to respond to violence with violence...<sup>4</sup>

While the first user defends her right not to like the fact that heterosexuals and homosexuals have equal rights, the second one is more explicit when it comes down to presenting Bimbi as violent and discriminatory. This accusation was more frequent in his blog than in Dema's because of the topics he addressed in Tod@s: his blog dealt with political debates, while hers discussed themes of general interest. Although Tod@s had more political debates, we found more violent interventions in Dema's blog. But what both spaces had in common were overlapping battles between heterosexuals and non-heterosexuals: those who struggled to maintain their rights to marry, those who stood for their rights to express their points of view and those who defended their religious freedoms.

We notice that the religious people who feel under attack are taking ownership of the discursive locus of the queers and they are subverting it in a way that now the religious people are the new minority, they are the new marginalized group. If gay is the new normal, then Catholics and Christians are presenting themselves as victims of a persecution that is replacing sex-gender discrimination with religious discrimination. Although our research was focused on two Argentine blogs in a particular context, we noticed some similarities in the current struggles of Lgbtiq people in the Western world. Their progress in protections of human rights is being challenged by religious groups who claim they are being denied their right to exercise their right to freedom of speech, and that they are being imposed values that oppose their own by forcing them to wed or to provide a service to a homosexual couple, for example.

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<sup>4</sup> The original text is: «Mis felicitaciones Bruno, lograste desviar la discriminación sexual por discriminación religiosa ¿Estás orgulloso?. Haces lo que tu mismo criticas, una lástima tu inconsecuencia... Lamentable, es justamente por personas como tu que no avanzamos como sociedad, y que nos remitimos al arcaico método de seguir respondiendo la violencia con violencia...».

At least in Argentina, and in our particular analysis, Lgbtiq people are the scapegoats and the recipients of multi-faceted forms of violence that affect them not only because of their sexual orientation, their gender identity or expression, but also because of their alleged attempts to take advantage of the rest of the society asking for benefits and privileges in a context of financial and political crises. And under the assumption that being gay or trans is a choice, then they might as well not deserve to be given what they ask for if that is to satisfy their whims. They ask for job quotas and financial aid while people are losing their jobs, their salaries are low, there are dying and starving children, and the elder are suffering without asking for help from the state. In other words, the comments argue that there are other more urgent and important priorities, and homosexuals and transgender people are being selfish by putting themselves first.

As shown by a report made by researchers Eugenia Siapera *et. al.* (2018), minority groups are blamed and targeted in contexts where there are triggering events that increase the anxieties against the alleged threats they represent. But radical points of view emerge in connection to media and political discourses that can help defy or sustain them. These perspectives can be more or less explicit, and can be more and less pervasive. Social networks can help produce and spread hateful contents in different formats, but can also share them in a massive scale. Nonetheless, as the study shows, witnesses do not always report hate speech because of four reasons: the protection of freedom of speech as a fundamental and absolute right, the belief that as a user one is a bystander who does not have or need to report these texts, or because they do not believe that it is worth it because there is a lot of hatred online, or because their perpetrators are not worth dealing with. However, we must add two more: the fear of being perceived as a member of the targeted group (and getting equally attacked), and the belief that this is just the way things are. The Internet is perceived as a space where everything can be done or said, a place where anyone can be the victim or the perpetrator, the bystander or the judge; in short, a shit-storm (Han 2014). But the way the Internet is used can be modified. Just as Cornelius Castoriadis (1993) once said, the technique is not the problem, it is the uses that we make out of it. It is then time to learn to make other uses out of it, and bills and other measures may help create a larger change.

## 5. Conclusions

In this article, I argue that the Argentine bill to penalize discriminatory acts must be updated to include discrimination on the basis of sexual orientation, gender identity and its expression. Research shows that Lgbtiq activists and experts believe this could help fight the systemic oppression against them, although a bill of this kind is not sufficient if it stands on its own. Our interviewees contend that other measurements must be taken, such as digital education, online watchdogs and regulation of online forums. I theorize that the latter is the most challenging aspect in the sense that there are practical implications that cannot be easily addressed. Furthermore, the moderators of the blogs we studied have not been able to promote an inclusive space that was free of violence. Although their blogs intended to raise awareness on Lgbtiq issues, the comments expressed stances that were not prone to change. If anything, the users used violence as ways not only to reaffirm their own views but also as a way to distance themselves from the rest and to segregate those who were different. The accusation that the discursive other was violent was revealing when we found the assumption that Lgbtiq people discriminated others because of their religious beliefs. This led us to the realization that they are used as scapegoats to channel the social anxieties caused by a fast-changing environment that is prone to attending this group's needs, and to resist to these processes of change. As a result, this article contributes to the growing literature on contemporary representations of Lgbtiq people and online communication. Additionally, it helps think on the false opposition between religious and sex-gender discrimination. Lastly, it offers a way to develop further research on the dichotomy between freedom of speech and online regulation.

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