

Report from the Monitor Marielle Franco from MundoSur to the call for input: [Killing of LGBTQI+ persons](#), issued by the Special Rapporteur on extrajudicial, summary or arbitrary executions (UN OHCHR)

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1. Overview of the most recent data on hate crimes in Latin America from the Monitor Marielle Franco, from MundoSur (2023):

- **In 2023, a total of 228 hate crimes against LGBTQI+ individuals were recorded in the Latin American region.** When broken down by country, Brazil had the highest number of hate crimes, with 80 cases, followed by Colombia with 50 cases, and Mexico with 39 cases.
- It's important to note that **this report's analysis reflects an under-reporting of hate crimes**, as not all crimes are reported by the media. Generally, only cases that result in murder are publicized.
- The perpetrator is unknown in 41.23% of the crimes surveyed (94 cases). **Over half of the hate crimes (54%) were committed by more than one person, not by single individuals:** Out of the 134 cases where the perpetrator is known, 41% (55 cases) were committed by an individual, groups of individuals committed 38.8% (52 cases), 14.9% (20) were committed by organized groups/mafia/hitmen, 3.7% (5 cases) by State security forces, and 1.5% (2 cases) by private security forces.
- **When analyzing the identity of hate crime victims, we observed that nearly 70% of them identify as trans-feminine.**

IDENTITY OF THE VICTIM	NUMBER OF CASES	%
Trans female	158	69,30%
Cis- gay men	34	14,91%
Trans male	9	3,95%
Travesti	8	3,51%
Non-binary	7	3,07%
Lesbian	5	2,19%
Not specified	2	0,88%
Non-binary trans	2	0,88%

Other	2	0,88%
Muxe	1	0,44%
TOTAL	228	100,00%

2. Legal Framework in Latin America and the Caribbean [Laws, institutions, policies, and practices that may constitute direct breaches of international human rights obligations in relation to the right to life of LGBTQI+ persons]

The progress in LGBTTTIQNBA+¹ rights in Latin America and the Caribbean is by no means homogeneous. On the contrary, there are great distances between one country and another. Concerning hate crimes, and according to the ILGA database, only 13 Latin American countries recognize attacks against LGBTTTIQNBA+ people as an aggravating circumstance in their criminal legislation. These are Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Ecuador, El Salvador, Honduras, Nicaragua, Peru, and Uruguay. In the case of Mexico, there are some protections at the state level but not at the federal level. On the other extreme, we find Guatemala, Haiti, Panama, Paraguay, the Dominican Republic, and Venezuela, whose punitive laws do not offer differentiated protection in these cases.

Concerning consensual same-sex sexual acts among adults, it remains illegal in Grenada, Guyana, Jamaica, Saint Vincent and the Grenadines, and Saint Lucia. Same-sex marriage is only partially or fully legal in 9 countries: Argentina, Brazil, Chile, Colombia, Costa Rica, Cuba, Ecuador, Mexico, and Uruguay. In 2023, there were still Latin American countries where “gender conversion therapies” were not punished, regulated, or restricted.

Moreover, to date, only five countries in the region guarantee the legal recognition of self-perceived gender and registration change in identity documents without any type of restriction: Argentina, Uruguay, Colombia, Brazil, and Mexico (in the latter case, the exceptions are the states of Guerrero and Querétaro). The rest of the countries of the continent that do allow for gender or identity change in documents perpetuate innumerable limitations and hostilities, such as the presence of witnesses in procedures, gender affirmation surgeries, forced sterilization, medical diagnoses, hormone replacement therapy, request for divorce, future inability to adopt and/or gestate children, among others. These circumstances mean that the procedure to guarantee the right to self-perceived identity is, at the same time, medicalized, pathologized, expensive, inaccessible, and, therefore, restrictive.

The right to identity is fundamental for a life free of violence for the LGTTTBIQNBA+ community. Effectively guaranteeing this right not only grants the ability to have identification that matches someone’s identity and expression but also allows them to access other basic rights to sustain daily life, such as comprehensive health, education, housing, and the labor market.

¹ LGBTTTIQNBA+ stands for lesbian, gay, transexual, transgender, travesti, intersex, queer, non-binary, asexual people and people with any non-conforming gender identity or sexual orientation.

3. Need for systematic collection of statistical information with a gender-inclusive perspective [Laws, institutions, policies, and practices for the investigation and prevention of potentially unlawful deaths of LGBTIQ+ persons/that may result in the reduction of unlawful deaths of LGBTIQ+ persons]

A crucial response to preventing unlawful deaths of LGBTIQ+ persons, including hate crimes, involves the systematic collection of statistical information. Governments should establish mechanisms to gather and analyze data on violence against LGBTIQ+ individuals. This standardized data collection will inform and improve laws, policies, and practices, enabling targeted interventions and better resource allocation to protect LGBTIQ+ communities effectively.

In 2015, the Inter-American Commission on Human Rights (IACHR) recommended that States systematically collect statistical data on violence against LGTTTBIGNBA+ individuals in Latin America and the Caribbean. The IACHR observed that the available statistics do not reflect the true dimension of violence faced by LGBTI people in the American continent and that the data collection mechanisms in the countries from the region are very limited. Moreover, the Commission highlighted that the low rates of complaints and the absence of official data collection mechanisms make violence against LGBT people invisible and hinder the effective response of States.

In 2019, the IACHR identified a problem in accessing justice and seeking reparation for trans women. The issue is the insufficient training of police officers, prosecutors, and forensic authorities. This inadequate training can lead to inaccurate documentation, such as not recognizing the gender identity of trans victims and instead relying on their sex assigned at birth.² An example of this assumption is the attempted femicide of “Constelación” in Ecuador in 2020. The prosecutor in the case stated that in 2019, the trans woman had already survived an attempted murder. The prosecutor sought to reclassify the crime as femicide, as the victim was a woman. The judge handling the criminal case referred to the information on the person's ID, which had not been updated to reflect their new name and gender. However, there was a report from the Prosecutor's Office stating that the document was in the process of being updated. Despite this, the judge acknowledged the individual's self-identified gender based on the Inter-American Court of Human Rights' Advisory Opinion 027 of 2017.

Furthermore, the States that have ratified the American Convention on Human Rights are not making sufficient effort regarding the mandatory jurisprudence of the Inter-American Court of Human Rights. This jurisprudence indicates that the design and implementation of a system for collecting data and statistics related to violence stemming from prejudice against LGBTI³ individuals depends on the State. In this regard, countries must assume the mandatory jurisprudence that the Inter-American Court has ordered through the Sentences of *Azul Rojas Marín and others vs. Peru* in 2020 and *Vicky Hernández and others vs. Honduras* in 2021.

² IACHR, *Violencia contra Personas Lesbianas, Gays, Bisexuales, Trans e Intersex en América*, par. 100.

³ Corte IDH, “Sentencia de 12 de marzo de 2020”, reparación 15 y Corte IDH, “Sentencia de 26 de marzo de 2021”, reparación 17.

We understand that this lack of information reveals that the same cis-hetero-patriarchal structural and cultural conditions that normalize violence against women, girls, and diversity are embedded in our countries. The data regarding the LGTTTBIGNBA+ community, as well as those referring to femicides, are a perfect example of "missing data"⁴. In this context, it is not surprising that these crimes continue to happen. The perpetrators have the complicity by action or omission of governments of all ideological shades, security forces, churches, the media, and a portion of civil society that remains uninvolved. Without rigorous, respectful, and systematic statistical information, it becomes impossible to confront this organized violence, and public policies that seek to address it will, consequently, be precarious and misguided.

In many countries across Latin America today, civil society organizations (CSOs) are stepping in to fill the gap left by state institutions, providing essential services such as data collection and analysis on discrimination and violence. Despite limited resources, we tirelessly advocate for the rights and dignity of LGTTTBIGNBA+ people, often fulfilling what is a state responsibility. One example is our work at the Monitor Marielle Franco, documenting violence and hate crimes with a transfeminist and intersectional view based on data feminism.

Finally, it is important to recognize that the experiences of the LGBTIQ+ community are often not documented due to the lack of reliable public information. This is partly because society often views sexual orientation, gender identity, and expression as private matters. However, there is also a deliberate effort to hide the lives of LGBTIQ+ individuals. It's crucial to understand that while having accurate data is important, it's not an end in itself but rather a contested means that is essential for achieving justice and comprehensive reparations.⁵

4. Instances and examples of failures to respect and protect the right to life of LGBTIQ+ persons during 2020-2024

Data from the Monitor Marielle Franco indicates that trans women face a heightened risk across the region, constituting the majority of crimes against LGBTIQ+ individuals in Latin America and the Caribbean. Of the 1,035 cases of hate crimes corresponding to 2018-2022, the victim's identity is unknown in 1.74% of the cases. Of the 1,017 cases where the identity of the victim is known, 75.8% were committed against trans women. This population is followed by cis gay men (16%) and lesbian women (3.83%). The ongoing violence that trans women experience throughout their lives, resulting from factors such as their exclusion from social and emotional spaces, directly impacts their daily survival strategies. As a result, they often find themselves isolated from their emotional and financial support networks. This political expulsion deliberately falls on the living conditions of trans women who are captive of the cis-hetero-patriarchal political, legal, and social system.

⁴ Missing data are those that are not given priority for collection and processing, despite their obvious relevance to the well-being of large groups of people. The "missing data", in fact, disproportionately affect minority groups: women, people of African descent, indigenous peoples, and the LGTTTBIGNBA+ community (D'Ignazio, 2020: 3).

⁵ Pedro Gutiérrez Guevara, "Reparación integral en muertes violentas de mujeres trans y personas LGBTIQ+ a partir del concepto de violencia por prejuicio desarrollada por la Corte IDH y su aplicación en Ecuador, periodo 2020-2023" (monografía especialización, Universidad Andina Simón Bolívar, 2024).

Regarding the occupation of the victim, our data shows that of the total hate crimes we measured, in 52.2% of the cases (540), the main occupation of the victim is unknown. However, when analyzing the cases with information (495), 35.77% correspond to sex workers, followed by 16.77% corresponding to work related to styling and hairdressing. The risk faced by trans women increases for trans-feminine sex workers. When we analyze the crimes against trans women, where the occupation or activity is known (374), 47.86% were sex workers.

States should enact and enforce anti-discrimination and hate crime laws that explicitly include protections for trans-feminine sex workers. States should also eliminate current laws against “vagrancy,” laws that seek to protect “public morals” or “appropriate conduct,” and laws that penalize conduct deemed “indecent,” “obscene,” “provocative,” or “affronts to public morals and good manners.” The IACHR reports that these provisions exacerbate police abuse, extortion, mistreatment, and acts of violence against LGBT people in several countries in the region. For example, anti-vagrancy laws grant security forces expansive and discretionary powers, which can be used to target and discriminate against transgender individuals and sex workers. These laws allow for arbitrary control of public spaces and the prosecution of individuals based solely on their physical appearance.

Comprehensive training programs for law enforcement officials on issues related to gender identity and sex work are essential to ensure respectful and non-discriminatory interactions. Additionally, establishing confidential and accessible reporting mechanisms for trans-feminine sex workers to report crimes without fear of retribution or further victimization is critical. Community-based support programs that provide legal, medical, and psychological assistance to trans-feminine sex workers should also be developed and funded.

As an example of the vulnerability and intersectionality faced by trans women, we highlight the case of the prison crisis in Ecuador since 2021 and the increased extortion in trans sex work due to the impact of COVID-19. One case occurred during the fourth prison massacre, where 68 people died on the night of November 12 and the early morning of November 13, 2021, at the Guayaquil Deprivation of Liberty Center No. 1. One of the victims was Hellen Brigitte Maldonado, whose death highlighted Ecuador’s cisnormative prison policy that forces trans women to live in male pavilions, violating Advisory Opinion 029 of the Inter-American Court of Human Rights. This opinion states that trans women face unique exposure to violence without public policies on self-identification, classification, and risk assessment.⁶ Regarding access to justice, Hellen’s family did not take responsibility for retrieving her body or seeking justice, leaving her friends from the Living Free Foundation to step in. The Ecuadorian State, through the Prosecutor’s Office, failed to comply with its duty to expand the concept of family and apply the Inter-American Court of Human Rights’ guidance, which asserts that the family must be understood in the broadest sense to recognize diverse emotional ties.⁷

4.1. Financial and Social Exclusion of LGBTQ people:

⁶ Corte IDH, “Opinión Consultiva de 30 de mayo de 2022”, par. 230.

⁷ IACHR, *Reconocimiento de Derechos de personas LGBT*, par. 70.

Of the total hate crimes registered by the Monitor Marielle Franco (1035 cases), in 6.38% (66 cases), the place of the crime is unknown. Of the cases where this information is known (969), 46.34% were committed in public spaces, and 25% were in the victim's home. It is important to note that 101 murders were committed in open fields or rural areas, where the victims were found in streams, ditches, farms, and along the sides of rivers and lakes. The high number of cases occurring in the open reveals the public nature and the impunity of these violent acts.

An issue related to these violent crimes and their locations is the housing crisis, which unfairly affects LGBTIQ+ individuals, worsening their vulnerability and social exclusion. Addressing this issue requires enforcing laws that prohibit discrimination based on sexual orientation and gender identity in housing. We recommend that states develop affordable housing programs to support LGBTIQ+ individuals, ensuring access to safe and secure living conditions. Emergency shelter services that are inclusive and sensitive to the needs of LGBTIQ+ people, particularly those fleeing violence or homelessness, are also essential.

Similarly, the housing crisis exacerbates the economic exclusion of LGBTQ individuals, significantly increasing their risk of becoming victims of hate crimes. Due to discrimination, many LGBTQ people face challenges in securing stable employment and housing, pushing them into precarious living situations or homelessness. Economic instability and lack of safe housing expose them to higher levels of violence and victimization. In unsafe environments, LGBTQ individuals are more visible and vulnerable, making them easier targets for hate crimes. For sex workers, this means being more exposed to multiple life-threatening risks and violence due to having to work in the streets. Thus, the intersection of housing instability and economic exclusion directly contributes to the heightened risk of hate crimes against the LGBTQ community.

In the Latin American region, historically, people with diverse sexual orientations and gender identities have been systematically excluded and unprotected by both the state and society. This has led to a cycle of poverty, limited opportunities, and threats to their lives, along with discrimination and violence. The IACHR (2020) has emphasized the importance of implementing a strategy to address both the causes and consequences of this exclusion, particularly regarding their access to economic, social, cultural, and environmental rights.

The penal system alone is not enough to address hate crimes and often leads to further harm for those who are already vulnerable and lack protection. In our region, there is a high level of impunity for hate crimes, either due to judicial negligence or the perpetuation of prejudice within the justice system. Therefore, states need to develop public policies and laws that take a comprehensive approach to preventing, punishing, and eradicating all forms of violence based on hate, prejudice, and negative stereotypes against LGBTTTIQNB+ people, going beyond just punitive measures.

4.2. Political violence:

Political violence against LGBTIQ+ individuals, including activists and politicians, remains a significant concern. To mitigate this, protection programs for LGBTIQ+ activists and political figures should be implemented, including personal security measures and safe spaces. Public awareness campaigns to combat political violence and promote the rights and contributions of LGBTIQ+ individuals in political spheres are also necessary. Encouraging political parties

to adopt inclusive policies and practices that support the participation and protection of LGBTIQ+ members will further strengthen these efforts.

In Mexico, at least three LGBT pre-candidates were murdered during the 2024 electoral process, including two trans women, Samantha Gomes Fonseca and Miriam Ríos, and a gay man, Miguel Ángel Zavala. In 2023, the murders included Ulises Nava Juárez, a gay activist from the state of Guerrero, Ociel Baena, the first non-binary magistrate of Aguascalientes, and Michel Castro, a gay and deaf activist from Puerto Vallarta. According to data from Letra S., at least 26 defenders of the rights of sexual diversity were murdered in Mexico in the last four years, but there were only arrests in six cases.

In Colombia, we remember the lives of Roxana Delgado, a trans woman known for her defense of the rights of trans people in Santander; Franklin Elías Pabón Camacho, social leader and defender of the LGBTI+ community in Malambo; and Alba Karina Velasco, a lesbian leader in Santander de Quilichao. There are also the cases of Taliana Gómez Oliveros, candidate for the Council of Santa Marta, and Patricia Galindo, candidate for the Council of Magüí Payán, who received death threats to make them withdraw their candidacies.

After analyzing the cases, it is evident that these crimes aim not only to silence social or political leaders but also to send a message of punishment against any gender or sexual orientation dissidence challenging the patriarchal norm. Similarly, the IACHR highlights that the murders of LGBT leaders aim to instill fear among rights defenders in the region, perpetuating these violations due to the usual lack of accountability in investigations. In all these cases, there is a pattern of attacks, discrimination, and threats that overlap between vulnerability, hate crimes, and political violence. These incidents underscore the urgent need for protection for those involved in public life, particularly in contexts of widespread political violence.