

# POWER OVER RIGHTS

*Understanding and countering the  
transnational anti-gender  
movement*

**Volume II: Case Studies**

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Power over Rights: Understanding and countering the transnational anti-gender movement  
Volume II: Case Studies

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# Introduction

Across the globe, actors working to restrict and undermine the rights of women and LGBTQI\* people are gaining new ground – in multilateral fora, national parliaments, on the streets, or in local municipalities. They attack reproductive rights and international conventions protecting women’s rights, and they push for national laws that limit the rights of LGBTQI\* people. It is no surprise that feminist civil society and progressive governments are increasingly raising awareness of countering these developments, and the importance of further advancing the rights of women, LGBTQI\* persons, and other politically marginalised groups.

This study, published in two volumes, aims to support these actors. Its purpose is to increase understanding of anti-gender campaigns and movements. It seeks to outline concrete policy recommendations for governments committed to human rights for all, and in cooperation with civil society, how to counter these attacks. For the past two decades, progressive actors have failed to seriously engage with the threat represented by anti-gender actors and movements, which means this work is not only important but imperative.

In Volume I, we provide a comparative analysis of the history, narratives, and strategies of anti-gender movements. Our findings highlight the interconnectedness and transnational nature of the actors working against the women’s and LGBTQI\* rights agenda and emphasise that the attacks we are witnessing are not merely a pushback against perceived achievements by human rights proponents. Instead, we argue that what we are witnessing is a highly organised (but not centralised), well-funded, transnational movement working on the domestic and international level to undermine women’s rights, LGBTQI\* rights, and civil society participation in policy discussions and decisions. Further, we argue that the resistance is not about ‘gender’, but it is about power operates and maintaining or promoting social and political hierarchies in the face of their (perceived) decline. Their efforts aim to advance an alternative understanding of the world order, one where the rights of certain groups take precedence over others. Understanding these features of the international anti-gender movements and positioning them within the wider context of increasing anti-democratic tendencies is critical to developing effective strategies to counter them.

To inform the study, the Centre for Feminist Foreign Policy commissioned five case studies, which analyse anti-gender efforts and activities in five specific contexts. Denise Hirao analyses the anti-gender movement in Brazil in the context of Jair Bolsonaro’s presidential campaign and rise to power. Katrine Thomassen and Adriana Lamačková from the Centre for Reproductive Rights analyse anti-gender campaigns’ impact on the legal and policy level in the European Union (EU). Lucille Griffon and Laura Clough from EuroMed Rights, together with Charlotte Pruth and Maria Johansson from the Kvinna till Kvinna Foundation, provide an analysis of the situation of gender equality in Egypt, Tunisia, and Turkey<sup>1</sup>, while Siobhan Guer-

<sup>1</sup> There is disagreement about whether the examples of these countries fit into the definitions of the transnational anti-gender movement. However, in this study, we classify their activities and narratives in the spheres of women’s and LGBTQI\* rights as anti-gender activities, and we believe that they provide additional context to the scope and diversity in the attack on the freedom and dignity of these populations.

rero McManus discusses how the rise of anti-gender actors, the diminishment of secularism and the COVID-19 pandemic have led to a sexual and reproductive rights emergency. Finally, Rebecca Sanders and Laura Jenkins outline how conservative and evangelical NGOs are shaping US policies on women and LGBTQI\* rights. These case studies provide readers with an opportunity to deep-dive into the contexts in question, and better understand the report's conclusions and the recommendations that emerge from Volume 1. We recommend approaching the two volumes as complementary. Each case study provides an overview of the history of the development of women's and LGBTQI\* rights and examines the domestic narratives and framing of these issues and the alliances formed among anti-gender actors. They continue with an analysis of the international engagement of the governments in each context under review, finally drawing out the interlinkages between the domestic and international level. The case studies, where appropriate, also reflect on the impact of the COVID-19 pandemic on the issues discussed. While the case studies all follow the same general structure, they vary in terms of focus and approach, reflecting the diversity of the authors, their work, and their backgrounds.

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*Moreover, these countries often join anti-gender voting blocs in the international arena, and Turkey is showing signs of a state-driven anti-gender movement in the classical sense.*

# *Pushback Against Sexual and Reproductive Health and Rights in the USA*

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## *Executive summary*

US pushback against international women's rights is led by conservative NGOs that have successfully captured the Republican Party's domestic and foreign policy. In addition to blocking US ratification of CEDAW, activists, politicians, and diplomats have sought to prevent and roll back international recognition of abortion rights and the broader concept of 'sexual and reproductive health and rights' (SRHR). They have also criticised 'comprehensive sexuality education' and challenged the concept of 'gender', particularly insofar as it recognises sexual orientation and gender identity rights (SOGI). These "norm spoilers" (Sanders, 2018) advance several types of narratives to undermine human rights norms: religious narratives that frame women's rights as unnatural and immoral, competing rights narratives that frame women's rights as hostile to other human rights, patriarchal populist narratives that suggest feminism is an elite or foreign imposition, and pseudo-scientific narratives that seek to delegitimise established understandings of women's health. Strategically, American spoilers have leveraged US power and influence by blocking foreign aid funds for women's health and attempted to strip women's rights language from international treaties, resolutions, and outcome documents. These patterns are likely to continue under Republican administrations but reversed by Democratic ones (Biden Harris, 2020). Actors seeking to defend international women's rights should aggressively support long-established women's rights norms and reject the radical extremist positions advanced by the Trump administration, increase funding for women's health and rights initiatives, and support participation of women's rights and feminist civil society organisations in international law and policy negotiations.

## Overview

Contemporary pushback against women's rights in the US can be traced back to conservative efforts to halt and reverse the gains of second-wave feminism in the 1970s. In particular, Senate passage of the Equal Rights Amendment (1972) sparked battles over state ratification, ongoing to this day, while the legalisation of abortion via *Roe v. Wade* (1973) animated the anti-abortion movement. The resultant 'culture wars' have deepened partisan political polarisation in the US, with abortion rights and, more recently, LGBTQI\* rights increasingly used as wedge issues. Today, with some minor exceptions, positions predictably fall along party lines with Republicans opposing and Democrats favouring core women's rights principles in domestic and foreign policy.

Early examples of successful pushback against women's rights include the congressional Hyde Amendment (1976), which blocked federal funding for abortion services, followed by the Reagan administration's Mexico City Policy (1984). Referred to as the 'global gag rule' by critics, the Mexico City Policy denies US foreign aid funds to NGOs that provide or discuss abortion care, even if they do so with their own money and in conformity with local laws. The gag rule has been overturned by all subsequent Democratic administrations and reintroduced by all subsequent Republican administrations in increasingly restrictive forms. Despite the Obama administration's efforts to proceed with ratification, the US remains one of only five countries to reject the 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Ratification of CEDAW constitutionally requires the consent of two-thirds of the US Senate, and Republican senators continue to cite opposition to abortion along with broader concerns about international law and sovereignty to reject CEDAW (Baldez, 2014).

In addition to advocating restrictions on foreign aid and opposing CEDAW ratification, US-based conservative NGOs and officials have cooperated with like-minded activists and states around the world in "norm spoiling", a "process through which actors directly challenge existing norms with the aim of weakening their influence" (Sanders, 2018: 272). In order to roll back and undermine international women's rights in international fora, spoilers have pushed US diplomats, as well as representatives of other countries, to resist references to abortion rights, including the broader concept of 'sexual and reproductive health and rights' (SRHR) in legal and policy documents. Moreover, they have sought to block the promotion of 'comprehensive sexuality education' in favour of abstinence-only education and challenged the concept of 'gender' insofar as it may expand international recognition of sexual orientation and gender identity (SOGI) rights. At the 1994 Cairo International Conference on Population and Development, 1995 Beijing Fourth World Conference on Women, UN Commission on the Status of Women (CSW), UN Human Rights Council, UN General Assembly, UN Security Council, and during various treaty and resolution drafting negotiations, these efforts have slowed the progressive development and diffusion of women's rights norms.

US government opposition to women's rights deepened during the Trump administration, going beyond rejection of specific policies such as abortion to encompass overt hostility to liberalism, feminism, and 'globalism', broadly defined. Whereas prior Republican administrations withheld funding for global sexual and reproductive health due to conservative ideological or religious commitments, Trump's patriarchal populism intensely targeted women's and LGBTQI\* rights more generally and disparaged international organisations, multilateralism, and global governance. This reflected both the administration's nationalist disinterest in ex-



erting US global leadership and its embrace of a politics of enmity, whereby women's and SOGI rights advocates are derided as illegitimate or even dangerous 'enemies of the people' (along with journalists, academics, and scientists) who must be purged from policymaking.

### ***Core actors***

The most influential actors driving US pushback against international women's rights are conservative NGOs, whose purported experts and lobbyists cycle in and out of government under Republican administrations. In addition to funnelling political donations, these NGOs provide ideological leadership and coordination, draft model legislation, vet judicial nominees, train activists, and engage in public advocacy. Likewise, pro-choice, feminist, and LGBTQI\* rights NGOs and movements have considerable influence within the Democratic Party. The reality is that US government support for international women's rights is highly contingent on which political party is shaping US policy. Republican opposition to international women's rights reflects both authentic ideological conviction as well as efforts to maintain evangelical Christian support. While this significant voting bloc is highly motivated by 'culture war' issues, it is important to note that the majority of Americans do not hold extremist conservative positions. Polls indicate that 79% of Americans favour access to abortion in some (ranging from most to few) or all circumstances, while only 20% oppose it in all circumstances (Saad 2020). Other studies suggest 70% oppose overturning *Roe v. Wade*, while 28% support doing so (Pew Research, 2019). Likewise, 67% of Americans favour same-sex marriage rights (McCarthy, 2020).

US-based organisations seeking to undermine women's, SOGI, and related health rights include:

The World Congress of Families, the Heritage Foundation, the Center for Family and Human Rights (C-Fam), Family Watch International, United Families International, the Family First Foundation, the Family Research Council, Heartbeat International, National Right to Life, International Right to Life Federation, the Population Research Institute, and Concerned Women for America, among others. In addition to lobbying domestic policymakers, many of these organisations engage in transnational advocacy; several have consultative status at the UN (UN Department of Economic and Social Affairs, 2019; AWID, 2017: 29; 31-49). At the 2017 UN Commission on the Status of Women, the Heritage Foundation and C-Fam joined the official US delegation to the conference. US diplomats at the UN have been instructed to deliver talking points drafted by C-Fam (Borger and Ford, 2019).

The Trump administration forged political alliances with patriarchal populist regimes in Europe and Latin America. Former Trump advisor Steve Bannon has been an important figure fostering these connections. The convergence of emergent right-wing populist and long-standing conservative religious opponents of women's rights has created new opportunity structures for and expanded the material power and resources of anti-gender movements around the world. According to an investigation by openDemocracy, at least \$280 million of American 'dark money' has funded global far-right advocacy since 2007, especially in Europe. This includes over \$96 million expended by the Billy Graham Evangelistic Association, and millions more channelled through organisations such as Fellowship Foundation (also known as 'The Family'), InterVarsity Christian Fellowship, Alliance Defending Freedom, Focus on the Family, and the American Center for Law and Justice, several of which have deep ties to the Trump administration (Provost and Archer, 2020).

## ***Pushback narratives***

Dominant US ‘norm spoiling’ narratives include religious narratives that frame women’s rights as unnatural and immoral, competing rights narratives that frame women’s and sexual and reproductive health rights as lesser than or even hostile to other human rights, patriarchal populist narratives that suggest feminism is an elite or foreign imposition, and pseudo-scientific narratives that seek to delegitimise established understandings of women’s health. When advanced by NGOs, these narratives seek to shape US policy, as well as the positions of other states. When utilised by Republican administrations, they aim to justify US positions and influence allies.

## ***Religious narratives***

Overtly religious narratives are primarily deployed by conservative NGOs and politicians. They claim that international women’s rights principles championed by feminist social movements and international law, such as the equality of men and women in all spheres of life, the distinction between biological sex and gender, and SRHR, are unnatural, radical, and immoral. Allegedly aberrant women’s rights are then juxtaposed with the ‘natural family’ (reinforcing gender binaries and hierarchies as well as cisgender- and hetero-normativity), ‘gender complementarity’ (frequently used to oppose women’s equality and SOGI rights), and the ‘right to life’ (countering the right to a legal and safe abortion). These narratives have long been advanced by leading religious denominations in the US such as the Roman Catholic Church and the Southern Baptist Convention. The Roman Catholic Church officially opposes abortion in all cases, while the Southern Baptist Convention, the Church of Jesus Christ of Latter-Day Saints (Mormons), and the Assemblies of God oppose abortion with minimal exceptions. In contrast, some members of these denominations, as well as many other Christian denominations and other religious groups, are more supportive of reproductive rights (Pew Research, 2016, Pew Research, 2018).

The World Congress of Families (WCF) has increasingly become a hub for coordinating and disseminating religious narratives. Started in 1997 by right-wing American Christians and headquartered in the US, but with global reach, the WCF has been designated an anti-LGBTQI\* hate group by the Southern Poverty Law Center (Southern Poverty Law Center, 2020c). The WCF unites global organisations opposing LGBT and reproductive rights. WCF founder Allan Carlson and Paul Mero, former WCF executive vice president, reject gender equality in favour of gender complementarity in *The Natural Family: A Manifesto*: “The complementary natures of men and women, both physically and psychologically, are evident throughout human history and in every society. Deviations from natural sexual behavior cannot truly satisfy the human spirit” (quoted in Southern Poverty Law Center, 2020c). The 2019 World Congress of Families meeting, held in Verona, Italy and addressed by Matteo Salvini of Italy’s far-right Lega Nord party, illustrates the union of national and international conservative activism. In addition to representatives of Catholic, Orthodox, and Church of Jesus Christ of Latter-Day Saints (LDS) churches, speakers included politicians and activists from Australia, Hungary, Moldova, Nigeria, Russia, Uganda, and the US.

In the US, the National Right to Life organisation and movement mobilises evangelical and conservative Catholic networks through national, state, and local affiliates. In 2020, Trump became the first president to address the annual March for Life rally in person, further energising this constituency. The National Right to Life organisation and movement are enthu-

siastic about the newest Supreme Court Justice, Amy Coney Barrett, due to her conservative positions on SRHR and other social issues. The conservative wing of the US Supreme Court will impact these rights for years to come (Human Rights Watch, 2020).

### ***Competing rights narratives***

While women's rights spoilers are hostile to women's rights discourse, some have sought to harness rights language to advance competing rights narratives. Most obviously, conservatives leverage the 'right to life' and children's rights (AWID, 2017: 63–64, 69–71), as well as disability rights (due to the role of genetic screening in some abortion decisions), to oppose abortion rights. More broadly, they have advanced 'religious rights' or 'religious freedom' and the concept of 'unalienable rights' to undercut women's rights.

Religious freedom has been championed by the Heritage Foundation, one of the most influential think tanks in the world (McGann, 2019). Headquartered in Washington DC and staffed by over 100 conservative experts, including specialists in religious freedom, women's rights, health policy, and the United Nations, it formulates and promotes conservative policies. With over 500,000 fee-paying members as well as larger donors, the Heritage Foundation is an extremely well-funded advocacy organisation, working through the media, public outreach, legal advocacy, and legislative lobbying (Heritage Foundation, 2018: 54). Heritage Foundation experts often move into government positions under Republican administrations, amplifying this impact.

The Heritage Foundation uses religious freedom arguments to undermine support for CEDAW. Heritage experts claim that the CEDAW Committee's work to expand access to "sexual and reproductive health" reflects a "radical social agenda" that has resulted in scrutiny and critiques of "religious people" and conservatives in America (Melton, 2009: 1, 3). In addition to criticising the UN and the CEDAW Committee as threats to US sovereignty, the Heritage Foundation works to impact US policymakers in both domestic and foreign policy arenas. For instance, it recommended that the Trump administration reverse Obama administration policies, characterised as hostile to religious freedom, stating: "Under the Obama Administration, U.S. policy on social issues at the United Nations was often antithetical to life, family, and religious freedom" (Melton, 2017). At the 2019 Nairobi Summit to commemorate and renew commitments made at the Cairo International Conference on Population and Development on its twenty-fifth anniversary, the Heritage Foundation and the US Ambassador to Kenya issued statements framed women's rights advocacy at the Summit as an attack on religious freedom. Together with other conservative governments, the US delegation pushed back against the goal of access to reproductive healthcare through side meetings and critical statements emphasising religion (Sanders and Jenkins, 2020).

In 2019, a new Commission on Unalienable Rights began its work within the US State Department under Secretary of State Michael Pompeo. Challenging contemporary conceptualisations of international human rights, the commission emphasised purportedly traditional, US-based articulations of rights, an agenda evoked by the word "unalienable" from the 1776 Declaration of Independence. The commission's charter charged it with providing "advice and recommendations on human rights to the Secretary of State, grounded in our nation's founding principles and the 1948 Universal Declaration of Human Rights. The Commission's charge is not to discover new principles" (US Department of State, 2019). Although recognising the 1948 Universal Declaration, the commission has characterised later normative and legal de-

velopments in human rights, including women's rights, SRHR, and SOGI rights as illegitimate.

The commission's final report does not use the word 'gender' or mention sexual or reproductive health, except when the authors note that in controversies over "abortion, affirmative action, [and] same-sex marriage" both sides rely on rights claims (US Department of State, 2020: 24). It then decries the "temptation to cloak a contestable political preference in the mantle of human rights" (US Department of State, 2020: 25). The commission claims to support the indivisibility of human rights but picks and chooses, prioritising civil and political rights, especially religious freedom and property rights, and puts social and economic rights, including health, in a second-tier: "[F]or many reasons — ranging from our own constitutional traditions to the language of the Universal Declaration itself to prudential concerns about the abuse of rights — it is reasonable for the United States to treat economic and social rights differently from civil and political rights" (US Department of State, 2020: 35). Underpinning these views, many of the appointed commissioners are longstanding public critics of marriage equality, reproductive rights, and/or the rights of transgender people (Fitzsimons 2019). The chair, Mary Ann Glendon, is not only a human rights scholar but also a former US Ambassador to the Holy See who adheres to a conservative Catholic view of SRHR. Although deliberately US-centric in its conceptualisation of rights, the commission's report matters globally because it was meant to guide and justify US foreign policy, including development aid, from which reproductive health funding has been limited or cut. It tried to freeze international human rights in the middle of the last century, and it could continue to influence Republican lawmakers, future Republican administrations, and lawmakers outside the US seeking justifications for a two-tiered rather than inclusive and indivisible approach to human rights.

### *Patriarchal populist narratives*

Patriarchal populist narratives have become increasingly significant. Trump along with leaders such as Jair Bolsonaro of Brazil, Rodrigo Duterte of the Philippines, Victor Orbán of Hungary, and Matteo Salvini of Italy embrace authoritarian, nationalist, and traditionalist politics which celebrate masculine domination and misogyny (Sanders and Jenkins, 2020). While the US religious right predates this populist surge, Trump's advocacy of traditional families and gender roles was part of his appeal to his evangelical and other conservative supporters: "whatever their differences when it comes to the proper behavior of men, Trump and his evangelical backers are united by a common desire to constrain the behavior of women" (Beinart, 2019).

Scholars of populism describe it as a "thin ideology" that can be combined with a variety of other ideologies. In other words, most populists espouse a narrative pitting a "corrupt elite" versus a "pure people," but various populists then frame these opposing forces in different ways (Mudde and Kaltwasser, 2018: 1669). The leaders we call "patriarchal populists" characterise feminists and UN advocates of SRHR as corrupt global elites and opponents as the pure people restoring the values of the nation (Sanders and Jenkins, 2020). Such narratives are often accompanied by conspiracy theories that allege an amorphous 'globalist' plot by liberal philanthropists such as George Soros or Bill Gates. Although Trump and other patriarchal populists try to paint feminism and SOGI rights as a radical threat, their attack on human rights and goal of going backwards (to 'make American great again', to the founding fathers' 'unalienable rights', and to a pre-feminist era) is itself a radical agenda that has contributed to rising extremism, both in political discourse and violent actions. For example, thirteen men were arrested in October 2020 for plotting the kidnap and potential murder of the Governor of Michigan, Gretchen Whitmer, after Trump repeatedly criticised her and her COVID-19 health



policy responses, both before and after the plot was exposed (Krook, 2020; Pengelly, 2020).

Trump has energised far-right, regressive gender politics by advocating a backwards-looking vision of the US. Scholars have referred to this view as “retrotopian” because it would revive “more ‘traditional’—that is, pre-feminist, androcentric, patriarchic, or heteronormative—forms of social organization” (Schleusener, 2020:194). Increasingly aggressive activism and even violence by right-wing extremists in pursuit of this cause are on the rise in the US. Some extremist organisations targeting women’s and SOGI rights—many predating Trump but gaining new energy during his administration—have been classified as hate groups by the Southern Poverty Law Center’s extremist database, including many anti-LGBTQI\* ideologies (Southern Poverty Law Center, 2020a). The SPLC recorded a 43% increase in anti-LGBTQI\* hate groups in 2019 (Southern Poverty Law Center, 2020b).

### *Pseudo-scientific narratives*

Pseudo-scientific narratives spread misinformation under the guise of science, citing bogus, fringe, or misleading studies or conclusions. They invoke the authority of science to advance unsound policy prescriptions that are not backed by rigorous scientific research and are not supported by the mainstream scientific community. Accordingly, women’s rights spoilers have touted abstinence-only policies as an alternative to comprehensive sexuality education and SRHR, including access to contraception, and try to couch this approach as scientifically legitimate. In doing so, they make a “discursive shift to more technical and scientific analysis” rather than just religious or traditionalist appeals (Marcus-Delgado, 2019: 134). For example, C-Fam published a misleading interpretation of data on teens to argue that “Abstinence Education Works, Condoms Don’t” (Oas, 2016).

Appeals to science appear in recent efforts to reinforce a biological and binary conception of sex in place of recognition of the socially constructed and potentially fluid nature of gender. For instance, a draft memo prepared by the US Department of Health and Human Services under the Trump administration sought to revise definitions under Title IX, the domestic statute prohibiting sex discrimination, so that gender would be understood “on a biological basis that is clear, grounded in science, objective and administrable” and “Sex means a person’s status as male or female based on immutable biological traits identifiable by or before birth” (Green, Benner, and Pear, 2018).

Competing social science articles or expert witnesses, primarily drawn from psychology and sociology, provide ammunition for or against same-sex marriage, adoption of children by same-sex couples, or access to assisted reproduction technologies by same-sex couples (Stambolis-Ruhstorfer, 2018). The alleged mental health toll of abortion is a common refrain of the US anti-choice movement, which has increasingly attempted to layer science onto religious messaging (AWID, 2017: 68). The American Psychological Association has debunked this argument and advocates for access to reproductive health services, including abortion (American Psychological Association 2018). The March for Life 2019 embraced the theme: “Unique from Day One: Pro-Life is Pro-Science” (Marchforlife.org, 2019). Many scientists pushed back, pointing to state legislators’ ignorance of the most basic science of reproduction when discussing and passing ‘heartbeat’ and ‘abortion reversal’ laws and other restrictions that have minimised access to abortions in many states. These restrictions have been opposed by the American Medical Association and the American College of Obstetricians and Gynecologists (Baran, Goldman and Zelikova, 2019). Medically inaccurate information about abortion is of-

ten disseminated at ‘crisis pregnancy centres’, including centres funded by US anti-abortion NGOs abroad (Fitzgerald and Provost, 2019).

New technologies have spread these narratives even farther, as junk science undermining SRHR is rapidly disseminated via social media and new apps. For example, Fertility Education and Medical Management (FEMM) promotes an app to track fertility and avoid pregnancy by avoiding “genital contact during your fertile window”, or the rhythm method, an ineffective approach marketed by FEMM as both affordable and scientific (Femmhealth.org 2019). FEMM reported its app had been downloaded 400,000 times in the US, Latin America, the EU, and Africa. The website features research published by the bogus and defunct “Reproductive Health Research Institute” touting the dangers of contraception. Its medical advisors are unlicensed in the US, but its major funding is from the US-based anti-choice, anti-contraception Chiaroscuro Foundation, chaired by Catholic political donor Sean Fieler, also a supporter of former Vice President Mike Pence (Glenza, 2019). In addition to the global reach of its app and marketing, FEMM held an event in collaboration with the Vatican on “holistic” women’s healthcare, which pitched “natural” approaches, such tracking ovulation, as an alternative to reliable contraception at the UN Commission on the Status of Women (Marcus-Delgado, 2019: 134). Such pseudo-scientific narratives may reach audiences who eschew religious or populist appeals.

### ***Pushback strategies***

Women’s rights spoilers have pushed the US to defund women’s rights initiatives, most significantly via the Mexico City Policy, and aggressively attempted to remove foundational words, such as ‘gender’ and ‘sexual and reproductive health and rights’ from international agreements (Sanders and Jenkins, 2020).

### ***The ‘global gag rule’ and defunding***

The Mexico City Policy has been called the ‘global gag rule’ because it prohibits healthcare providers that receive US funds from informing women about the availability, safety, or appropriateness of abortion care, even if asked by patients. These restrictions are rooted in politics rather than professional medical protocols. The American College of Obstetricians and Gynecologists “supports the availability of high-quality reproductive health services for all women and is committed to improving access to abortion” (2014).

The Trump administration implemented an extreme version of the gag rule, extending restrictions beyond family planning programs to the entire \$9 billion American global health assistance budget. While the new Biden administration will repeal this policy, its harmful impact will take longer to reverse (Batha, 2021). Renamed “Protecting Life in Global Health Assistance”, Trump’s order applied to all US granting agencies and cut off all funding, rather than just family planning funding, to NGOs that did not comply. In addition to eliminating funding for critical sexual and reproductive healthcare such as contraception, prenatal monitoring, and HIV/AIDS prevention, this undercut support for tuberculosis and malaria care, tropical disease initiatives, and sanitation and hygiene programs provided by NGOs in the Global South (Filipovic, 2017). Large organisations such as International Planned Parenthood Federation (IPPF) and Marie Stopes International were the primary targets of the rule. However, lack of clear implementation guidelines also hurt smaller country partners that may have believed “it applies to NGOs providing abortion only, and were not aware that it restricts client-level interaction and the provision of information, referrals and counseling, which is more relevant

to their work” (Planned Parenthood Global, 2019: 15).

The ‘global gag rule’ has stifled safe and legal abortion care (not to be confused with abortion rates, with the prevalence of unsafe abortions rising where safe and legal care is unavailable) and has had a chilling effect on the discussion of SRHR. The harmful consequences for women’s health are evident. For instance, healthcare providers and experts in Kenya report “seeing a spike in unqualified practitioners performing abortions with tools such as knitting needles, as well as women ingesting traditional herbs, crushed glass, or bleach to terminate pregnancies” (Wadekar 2020).

In addition to defunding NGOs, the Trump administration also withdrew from international agencies and bodies. It suspended funding for the United Nations Population Fund (UNFPA) in 2017, resulting in deep cuts to family planning, maternal healthcare, and sexual and reproductive healthcare around the world (Marcus-Delgado, 2019: 129–30). While not directly linked at the time to women’s rights issues, the Trump administration’s withdrawal from the UN Human Rights Council and World Health Organization (WHO) was cheered by spoilers because these organisations are part of the global women’s rights and health infrastructure. The new Biden administration has since re-joined the WHO.

### *Controlling legal language*

Women’s rights critics have contested language in UN treaties and outcome documents. In doing so, they claim that there is no international consensus on abortion or other contentious aspects of the international women’s rights agenda and that efforts to consolidate such understandings are illegitimate attempts to ‘hijack’ international law. This strategy often accompanies narratives that reject feminist articulations of women’s rights as radical and aberrant. These attacks are unfounded. Women’s rights are well established in core international legal instruments including the 1948 Universal Declaration of Human Rights, the two 1966 International Covenants on Civil and Political Rights and Economic, Social, and Cultural Rights, and the 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Women’s rights are further recognised by the 1993 Declaration on the Elimination of Violence against Women, the 1995 Beijing Declaration and Platform for Action, the 2000 UN Security Council Resolution 1325 on women, peace, and security, and the 2013 UN Security Council Resolution 2106 on sexual violence in conflict. The CEDAW Committee, the CSW, UN Women, and the Sustainable Development Goals seek to further advance these rights.

Abortion rights are not explicitly mentioned in CEDAW or other international treaties, a point often emphasised by spoilers. However, CEDAW (Article 16) grants women equal rights to decide “freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights.” CEDAW (Article 10) also specifies that women’s right to education includes “access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.” The CEDAW Committee’s General Recommendation No. 30 on women in conflict prevention, conflict and post-conflict situations recommends that states ensure “sexual and reproductive health care includes access to sexual and reproductive health and rights information...family planning services, including emergency contraception...safe abortion services; post-abortion care; prevention and treatment of HIV/AIDS and other sexually transmitted infections” (UN Committee on the Elimination of Discrimination against Women, 2013: 14). General Recommendation No. 35 on gender-based violence against women

further states:

*“Violations of women’s sexual and reproductive health and rights, such as forced sterilization, forced abortion, forced pregnancy, criminalization of abortion, denial or delay of safe abortion and/or post-abortion care, forced continuation of pregnancy, and abuse and mistreatment of women and girls seeking sexual and reproductive health information, goods and services, are forms of gender-based violence that, depending on the circumstances, may amount to torture or cruel, inhuman or degrading treatment.” (UN Committee on the Elimination of Discrimination against Women, 2017: 7)*

The Human Rights Committee’s General Comment No. 36 on the right to life states that: *“States parties must provide safe, legal and effective access to abortion where the life and health of the pregnant woman or girl is at risk, and where carrying a pregnancy to term would cause the pregnant woman or girl substantial pain or suffering, most notably where the pregnancy is the result of rape or incest or is not viable. In addition, States parties may not regulate pregnancy or abortion in all other cases in a manner that runs contrary to their duty to ensure that women and girls do not have to undertake unsafe abortions, and they should revise their abortion laws accordingly” (UN Human Rights Committee, 2018: 2).*

These expert interpretations suggest extant law does endorse women’s reproductive rights, including abortion rights.

Nonetheless, as far back as Cairo and Beijing, spoilers have successfully sought to block explicit references to abortion rights and other rights and concepts they reject in treaties and multilateral outcome documents. During negotiations over the International Criminal Court, they objected to references to ‘gender-based violence’ because ‘gender’ could be construed to acknowledge SOGI rights (Oosterveld, 2014: 565). Accordingly, Article 7, paragraph 3 of the Rome Statute (1998) states: “the term “gender” refers to the two sexes, male and female, within the context of society. The term “gender” does not indicate any meaning different from the above.” Moreover, conservatives managed to include a definition of ‘forced pregnancy’ that avoided acknowledging a concomitant right to abortion: “the unlawful confinement of a woman forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law. This definition shall not in any way be interpreted as affecting national laws relating to pregnancy” (Article 7, paragraph 2(f)).

Conservative NGOs articulate similar positions. The Heritage Foundation argues that “In U.N. documents going forward, the U.S. should reject the addition of “sexual and reproductive health” (SRH) or “sexual and reproductive health and rights” (SRHR) language, especially when either term is used without the caveat that reproductive health does not include abortion” (Melton, 2017). ‘Comprehensive sexuality education’, ‘various forms of the family’, and ‘gender identity’ are also singled out for critique. The latter is allegedly harmful because “Sex is a biological fact, not a feeling. Women and girls around the world face discrimination and harm as a result of historical and cultural factors related to biological sex” (Melton, 2019a). The NGO C-Fam has similarly criticised the International Law Association’s efforts to incorporate an inclusive definition of ‘gender’ into drafts of a new crimes against humanity treaty (Gennarini, 2019).

Under the Trump administration, the US-led efforts to strip UN documents of women’s rights language (Gramer and Lynch 2018). For example, in fall 2018, the US opposed references to ‘gender-based violence’ in UN Third Committee discussions, advocating instead that anti-traffick-



ing measures refer to ‘violence against women’, reflecting concerns by conservative advocates about non-biological conceptualisations of gender. In December 2018, the US initiated a vote that aimed to remove references to ‘sexual and reproductive health’ from a UN resolution about violence against women (Sherman, 2018). In discussions over the agreed conclusions of the 2019 CSW, “the United States joined Saudi Arabia, Bahrain, Malaysia, and the Russian Federation to demand removal of fairly standard provisions such as the use of the word “gender,” a reaffirmation of the Beijing Platform for Action, and references to sexual health and reproductive rights, to comprehensive adolescent sexuality education, and to portable social security benefits on migration” (Goetz, 2020: 168).

The US threatened to veto UN Security Council Resolution 2467 condemning sexual violence against women in armed conflict in spring 2019, allowing it to pass only after references to survivors’ rights to sexual and reproductive healthcare were excised (Ford, 2019; Powers, 2019). Later that year, US Ambassador Kelly Craft criticised a UN Security Council women, peace, and security resolution that referred “to previous documents that include references to “sexual and reproductive health”...we cannot accept references to “sexual and reproductive health” nor any references to “safe termination of pregnancy” or language that would promote abortion or suggest a right to abortion” (Craft, 2019). This is striking not only because it denies women raped during wartime the right to abortion care, but also because it seeks to remove references to all previous measures that include contested language, undermining the progressive development of international women’s rights law.

In September 2019, the US announced it would join a transnational coalition intent on stripping international law of words deemed objectionable (Cha, 2019). Speaking on behalf of Bahrain, Belarus, Brazil, the Democratic Republic of the Congo, Egypt, Guatemala, Haiti, Hungary, Iraq, Libya, Mali, Nigeria, Poland, Russia, Saudi Arabia, Sudan, United Arab Emirates, and Yemen, the US announced that “We do not support references to ambiguous terms and expressions, such as sexual and reproductive health and rights in U.N. documents, because they can undermine the critical role of the family and promote practices, like abortion, in circumstances that do not enjoy international consensus and which can be misinterpreted by U.N. agencies.” Moreover, it stated that “only documents that have been adopted by all Member States should be cited in U.N. resolutions” (Azar, 2019). In October 2020, a coalition of thirty-four countries led by the US, Brazil, Egypt, Hungary, Indonesia, and Uganda released the so-called “Geneva Consensus”, stating that “there is no international right to abortion, nor any international obligation on the part of States to finance or facilitate abortion, consistent with the long-standing international consensus that each nation has the sovereign right to implement programs and activities consistent with their laws and policies” (US Department of Health and Human Services, 2020).

These efforts have drawn together ‘strange bedfellows’, including democratic and authoritarian regimes and predominantly Christian and Muslim countries. While diplomatic cooperation among diverse states is a perennial feature of diplomacy, the US under Republican administrations stands out among liberal polities for its willingness to openly partner with abusive and repressive governments to oppose women’s rights. Such counterintuitive alliances, which date as far back as opposition to the Cairo and Beijing conferences, are possible because ‘norm spoiling’ requires only a common enemy and not necessarily a deeply shared substantive vision of politics (Sanders, 2018). Yet as actors work together, they become more alike in their quest to (re)create patriarchal, heteronormative societies in which women and sexual minorities are subordinate, excluded, and even persecuted.

## *Other tactical manoeuvres*

In addition to shaping US policy directly, conservative NGOs have increasingly participated in international policymaking by holding side events and even high-level meetings at UN conferences and training activists on UN procedure (e.g., Uniting Nations for a Family Friendly World, 2019). In some cases, spoilers have engaged in disruptive tactics such as praying over delegates at UN meetings. Other more sophisticated and worrying manoeuvres include “forum-shopping to set up antifeminist positions in policy debates underpopulated by feminist activists ... closing down access for civil society in multilateral forums, exploiting schisms in the feminist movement, parading “defectors” to demoralize opponents, and social media attacks” (Goetz, 2000: 167).

## *Pushback against the pushback*

US pro-human rights actors are also influential globally. Several civil society organisations promote SRHR in the US and worldwide. Prominent examples of organisations (with a summary of their strategies and links to more information) include:

- Amnesty International USA (global campaigns applying pressure to national governments including on issues of SRHR; grassroots pressure and lobbying in global fora; fact-finding and reports): <https://www.amnestyusa.org/issues/gender-sexuality-identity/>
- Center for Reproductive Rights (legal briefs and state, national, and UN advocacy focusing on abortion, contraception, assisted reproduction, maternal health, and reproductive health funding): <https://reproductiverights.org/our-issues>
- The Guttmacher Institute (research in support of reproductive health policy worldwide, plus legislation tracking): <https://www.guttmacher.org>
- Human Rights Watch (advocacy with governments and the UN; extensive research and reports with global reach; watchdog submitting official comments on government policies): <https://www.hrw.org/topic/womens-rights#>
- Human Rights Campaign (advocacy, lobbying, and training in support of equality for LGBTQ and multiply marginalised individuals, in the US government, industry, and globally): <https://www.hrc.org>
- International Women’s Health Coalition (advocacy and lobbying of US government, other governments, and at the UN; grants, and training to promote women’s and girls’ health worldwide, including comprehensive sexuality education and safe and legal abortion): <https://iwhc.org>
- Planned Parenthood Global (provides and protects SRHR, working with partners around the world): <https://www.plannedparenthood.org/about-us/planned-parenthood-global>

Human Rights Watch (HRW) is challenging the competing rights narrative discussed above. For instance, HRW testified before the Commission on Unalienable Rights and submitted a comment criticising USAID’s draft 2020 Gender Equality and Female Empowerment Policy for using the term ‘unalienable human rights’ (in other words, the human rights the Trump administration’s commission chose to recognise) and relegating women’s rights and health and SOGI rights to second-tier status. The Guttmacher Institute’s scientific research pushes back against the junk science narratives used to denigrate reproductive justice.

The religion narrative, which is prominent in US organisations fighting against reproductive and

SOGI rights, is receiving pushback from the UN Special Rapporteur on the freedom of religion or belief. Ahmed Shaheed has both documented and critiqued the use of ‘freedom of religion’ to undermine SRHR. The 2020 UN report on the freedom of religion and belief focuses on gender-based violence and discrimination in the name of religion or belief, drawing attention to problems in the US. These include the use of “conscience clauses” that allow conscientious objection by healthcare providers and institutions, making “legal abortion effectively unavailable to women in significant parts of the country” (UN Office of the High Commissioner for Human Rights 2020, 10). Conscience clauses have been used to deny LGBTQI\* persons in the US medical services, including family planning, prenatal care, and assisted reproduction. “Legal exemptions to anti-discrimination laws on the grounds of religious commitments” in the Americas have also been used to deny sexual and reproductive health services (UN Office of the High Commissioner for Human Rights 2020, 10). Pushback against misuse of religious freedom is especially compelling coming from the UN’s specialist on religious freedom and rights, and not only from women’s rights advocates.

The UN Special Rapporteur on freedom of religion or belief has also amplified religious perspectives that support SRHR:

*“Advocates within religions, across multiple traditions, have long sought to challenge norms and expectations that undermine the human rights of women, girls, and LGBT+ persons; many have expanded religious leadership and influencer roles for women and challenged interpretations of religious texts that are used to ‘justify’ discrimination and other harmful practices against women, girls and LGBT+ persons.” (UN Office of the High Commissioner for Human Rights, 2020: 9)*

The US-based Religious Coalition for Reproductive Choice is one example mentioned in this report. In 2019, the UN High Commissioner for Human Rights Michelle Bachelet introduced the UN’s Faith4Rights toolkit, which provides peer-to-peer learning modules, including one on “Women, girls and gender equality” that flips the use of religious traditions to oppress women and girls by drawing on religious traditions to support their rights (UN Office of the High Commissioner for Human Rights, 2019). This is a useful tool for domestic actors trying to counter the pushback against women’s rights.

### ***Future outlook***

The outcome of the 2020 presidential election has significant implications for US women’s rights policy, both at home and abroad. If President Trump had won a second term, his administration would have likely continued to stack the courts with conservative jurists and support legislation which reduces abortion access and protects the ‘religious freedom’ of employers and businesses to discriminate against women and LGBTQI\* people. It would have continued efforts to undo equity policies and ban equity training in government-funded institutions and programs. Internationally, it would have withdrawn from additional multilateral arrangements and opposed resolutions which reference SRHR terms or other documents that could be construed to recognise abortion rights, and it would have further empowered both religious conservatives and patriarchal populists around the world.

In contrast, the new Biden administration has pledged to reverse course on women’s rights by reasserting the separation of church and state in US policy formation, reviving American engagement with multilateral policymaking, and allowing feminist experts to participate in the policymaking process. The Biden administration’s policy platform makes numerous commit-

ments, including lifting the ‘global gag rule’ and pursuing CEDAW ratification (Biden Harris, 2020). However, US-based conservative NGOs will undoubtedly continue to seek to influence and mobilise ‘culture war’ touchpoints to undermine progressive developments. Any subsequent Republican administration is all but guaranteed to revert to the patterns outlined above. Looking forward, actors concerned with the trajectory of US policy can continue to pursue the following strategies to protect and advance women’s rights:

1. Provide ideological, material, and organisational leadership to defend the international women’s rights agenda at the UN and other international fora. These rights have been articulated for decades. They are not radical or aberrant. Specifically, states should actively reject efforts to remove terms such as ‘sexual and reproductive health and rights’ or ‘gender’ from international agreements. Furthermore, states should ensure that processes such as the Human Rights Council’s Universal Periodic Review and human rights treaty body commentaries and recommendations centre and reinforce the importance of women’s rights. Vote against countries that systematically abuse women’s rights when seeking to join or lead UN human rights bodies.
2. Vocally criticise the US for endorsing extremist positions. For instance, opposition to sexual and reproductive healthcare for sexual assault survivors is draconian. Highlight that such positions undermine US influence on all human rights issues.
3. Provide funding for international women’s rights NGOs hurt by the ‘global gag rule’ and need support due to the worsening gender equity situation during the global COVID-19 pandemic.
4. Demand robust and inclusive civil society participation in international fora. Despite religious and populist narratives, women’s rights critics do not represent the will of the majority of the US population or that of other countries affected by US policy. Women and women’s rights advocates must have a seat at the table.

The US has an uneven and often troubling track record when it comes to SRHR. However, sustained women’s rights advocacy domestically and internationally can help steer US policy in a more progressive direction.

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# *Pushback Against Sexual and Reproductive Health Rights in Mexico*

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## *Executive summary*

This paper presents an overview of the progress made promoting and protecting the sexual and reproductive rights of women and sexual minorities in Mexico. This progress is placed within political changes characterised by a democratic alternation that has not been up to its expectations. On the contrary, the last few years have witnessed a diminishment of the culture of laicism/secularism and other agents that promote human rights. This issue, entwined with a rise in anti-rights movements and the COVID-19 pandemic, has made a sexual and reproductive rights emergency not only plausible but imminent.

## *Introduction*

This paper presents a concise description of the current situation of sexual and reproductive rights, both for women and sexual minorities in Mexico. To do this, a summary of the legal and political arenas is offered showing the legal advances and the multiple challenges and obstacles still present. In what follows, we need to keep in mind that historically the Mexican state has been inattentive towards this topic (Raphael, 2016). This has led to a radical disconnection between the legal frameworks and the advances reflected within them. Mexico's capacity – or willingness to – curb the most severe surge in violence against women and sexual minorities the country has ever had – turning Mexico into a sad reference in terms of hate crimes. This situation has not changed even though the country has experienced a major democratic transition in recent years.<sup>1</sup>

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<sup>1</sup> Some figures for reference: there have been fifty-three thousand violent deaths in the first 18 months of the current Mexican government. There was a total of 156 thousand homicides in the last administration, helmed by Enrique Peña Nieto. 2019 had ca. 2,800 cases of femicide. The number of hate crimes targeted at LGBTQI\* people are not encouraging in the least, as ca. 470 members of the community have been murdered due to their sexual orientation or gender identity from 2012 to 2018. Further information can be accessed here: <http://mapafemicidios.blogspot.com/p/inicio.html>, for femicides, and at: <https://www.letraese.org.mx/proyectos/proyecto-1-2/>, for hate crimes against the LGBTQI\* community. For general homicides, the official data provided by the INEGI can be consulted here: <https://www.inegi.org.mx/sistemas/olap/proyectos/bd/continuas/mortalidad/defuncioneshom.asp?s=est>

Indeed, the democratic opening in the year 2000 that brought seven decades of PRI (*Partido Revolucionario Institucional* / Institutional Revolutionary Party) governments to an end also gave room to the approval of progressive legislation driven by parties with a social-democratic agenda—at least within Mexico City— but, in recent years, this same democratic opening has resulted in the weakening of a culture of laicism/secularism<sup>2</sup>, a distinguishing trait of the Mexican government during the twentieth century. This is so because, paradoxically, some of the newly created political parties are publicly religious and endorse a religion-based politics. The present political arena showcases a shift in paradigms and the existence of openly religious discourse in public platforms, whether Catholic or evangelical, these discourses are explicit in their rejection of women's and sexual minorities' rights. It is perhaps a direct result of the current situation that there's been a five-year uptick in LGBTQI\* and feminist movements with an insurgent streak and a radical anarchist discourse far removed from the political spectrum associated with both right and left-wing parties, both of which are traversed with a conservative discourse centred on religion, family and traditional values<sup>3</sup>. This anarchist discourse not only implies taking distance from traditional politics organised around political parties and formal democracy but it has led some of these groups to use violent forms of protest that even involved the destruction of a police station in the summer of 2019 (El Diario de México, 2019). In a sense, we seem to be in a moment where the radical discourses that characterised these movements in the 1970s are coming back to life.

This paper outlines legislative shifts over the last two decades. At the same time, it sets forth substantial facets of political circumstance forging the present-day developments and highlighting political actors turned protagonists in those conflicts. This allows for an overview of the current sexual and reproductive rights of women and sexual minorities. Finally, it is possible to identify the challenges faced by these communities and the processes that have simultaneously staved off both a loss of rights as well as a breakthrough against the aforementioned forms of violence.

### ***Mexican law regarding women and minorities' rights from 2000 to the present***

Over the past twenty years, Mexico has experienced significant changes in its legal framework in terms of human rights. Whilst these changes are not specific to sexual and reproductive liberties; they have implied a considerable advance in the legal protection for women and sexual and gender minorities. Particularly noteworthy is the bill proposed in 2003 the 'General Law to Prevent and Eradicate All Forms of Discrimination' (*Ley General para Prevenir y Erradicar todas las formas de Discriminación*) which gave way to the creation of an autonomous institution that has the sole mission of combating acts of discrimination.<sup>4</sup> Over the past few years, CONAPRED (National Council for the Prevention of Discrimination), as the institution is known, has been a critical agent in promoting the human rights of women and other political minorities.

In 2011 a significant constitutional reform in human rights in Mexican history took place. This

2 For those readers unfamiliar with Mexican history, it might be necessary to provide additional information to contextualise the relevance of this culture of laicism/secularism. After the Mexican Revolution all governments associated with the then ruling party PRI considered themselves heirs to the legacy of Benito Juárez. Juárez is one of the most respected historical figures in Mexico given the fact that in the 1850s he enacted a series of laws commonly known as "Las Leyes de Reforma" –the Reform Laws– in which the State became separated from the Church. Hence, after this event the clergymen could only operate in the private realm and faced the prohibition of intervening in public affairs. In the 21st century this legacy is under threat both by presidents from the right and from the left.

3 Two examples of this occurred this year. On September a group of LGBTQI\* activists took the streets demanding a more stringent policy against hate crimes (EFE, 2020). Also, in this month a group of feminists and families took the National Commission for Human Rights (CNDH) to denounce the lack of a coherent policy for the victims of violence in Mexico (Ferri, 2020).

4 The law in question is available here: [http://www.diputados.gob.mx/LeyesBiblio/pdf/262\\_210618.pdf](http://www.diputados.gob.mx/LeyesBiblio/pdf/262_210618.pdf).

reform entailed the acknowledgement of human rights recognised in international treaties as rights with constitutional rank (which makes them mandatory even if the constitution would eliminate any reference to these rights) as well as the incorporation of the *pro homine* principle as a guide in the interpretation of Mexican mandates.<sup>5</sup> This translates into the mandatory choosing of whichever interpretation grants the most extensive range of rights. Lastly, the 2011 reform has also rendered the human rights culture compulsory, which ultimately means that all authorities are obligated to promote, respect, protect and guarantee the humans rights of all Mexicans.<sup>6</sup> In practice, of course, this culture is seldom respected as many human rights reports have shown (HRW, 2020).

At the state level and during the same period, an essential push in legislature has been made as well. For example, legislation vying for equal marriage, gender identity recognition for trans people, and decriminalisation of abortion (Mexico City and Oaxaca). Breakthroughs in equal marriage have slowly accrued since the 2006 Bill for Cohabitation Societies in Mexico City (*Ley de Sociedades de Convivencia en la Ciudad de México*). Whilst this law failed to grant the same legal protections to same-sex couples, it was the foundation for said couples to attain full legal recognition in several states over the following years (Alterio & Ortega, 2017; Hernandez, 2017). Once more, Mexico City<sup>7</sup> pioneered in the matter with the reform its Civil Code underwent in 2009.<sup>8</sup>

The recognition of gender identity has been less conclusive, even though Mexico City allowed for changes in a birth certificate via trial since 2008 and through a mere administrative procedure since 2014. The process is backed by the Nation's Supreme Court of Justice (SCJN)<sup>9</sup>, and the Interamerican Court for Human Rights (CIDH)<sup>10</sup>, which consider that the right to identity and free development of a personality must be guaranteed unconditionally by each state (Gómez 2016). Currently, the states of Michoacán and Nayarit (2017), Coahuila (2018), Hidalgo, Colima, San Luis Potosí, Oaxaca and Tlaxcala (2019) allow for documents to be reissued in response to changes in gender identity.

Unfortunately, abortion decriminalisation progresses at quite a different pace (Lamas, 2015)<sup>11</sup>; not only are the states of Mexico City (2007) and Oaxaca (2019) the only ones who have allowed for this reform in their laws, but this decriminalisation also motivated other states to harshen their laws in defining life as starting from conception<sup>12</sup>. As it has been termed, the crisis in repro-

5 For those readers unfamiliar with Mexican Law or that lack a legal background additional information might be necessary to contextualise the importance of this reform. The *pro homine* principle entails, as has been stated in text, that when two laws conflict or there are two interpretations of the law that are conflicting, we should choose the interpretation or prioritisation of laws that grants the largest range of rights. In the state of Oaxaca, for example, there are laws that protect life since conception but there is also a law that allows women to voluntarily interrupt their pregnancy. Thanks to the *pro homine* principle the rights of women should always triumph the protection of the zygote.

6 The reform in question can be consulted here: [http://dof.gob.mx/nota\\_detalle.php?codigo=5194486&fecha=10/06/2011](http://dof.gob.mx/nota_detalle.php?codigo=5194486&fecha=10/06/2011)

7 This reform was subsequently followed by similar law-making efforts in other states as follows: Quintana Roo (2012), Coahuila (2014), Chihuahua and Nayarit (2015), Jalisco, Campeche, Michoacán, Morelos, Colima and Tlaxcala (2016), Chiapas, Puebla and Baja California (2017), Nuevo León, Aguascalientes, San Luis Potosí, Hidalgo, Baja California Sur and Oaxaca (2019).

8 Even at the very beginning of the COVID-19 pandemic LGBTIQ\* activists were pushing the states that have not yet recognised equal marriage to do so (Xantomila, 2020).

9 The ruling can be consulted here: <https://www.scjn.gob.mx/derechos-humanos/sites/default/files/sentencias-emblematicas/resumen/2020-02/Resumen%20AR1317-2017%20DGDH.pdf>

10 The Consultive Opinion aforementioned is available here: [https://www.corteidh.or.cr/docs/opiniones/seriea\\_24\\_esp.pdf](https://www.corteidh.or.cr/docs/opiniones/seriea_24_esp.pdf)

11 The NGO Grupo de Información en Reproducción Elegida (GIRE) presents an updated summary of the legislations on this topic in the entire country. This information can accessed here: <https://gire.org.mx/consultations/constituciones-que-protogen-la-vida-desde-la-concepcion/>

12 We refer to these states: Baja California, Colima, Chiapas, Chihuahua, Durango, Guanajuato, Jalisco, Morelos, Nayarit, Puebla, Querétaro, Quintana Roo, San Luis Potosí, Sonora, Tamaulipas, Veracruz and Yucatán.

ductive justice occurs even with a background of historical highs<sup>13</sup> in teenage pregnancy rates, which, in turn, results in the interruption of many teenage girls' life plans (UNO, 2020).

A significant development in legislation includes the Mexico City ban (2020) of the so-called conversion therapies set to modify an individual's sexual orientation or gender identity, as well as a similar bill awaiting approval by the federal congress (Congreso Ciudad de México, 2020). The Mexico City Congress is currently debating a bill that, if ratified, would imply a historical change in Mexico, as it would allow for minors to have their gender identity recognised by way of an administrative formality.<sup>14</sup> 'Trans childhood', as it is known in lay terms, was excluded from the previously mentioned law and so minors may only modify their documents through a trial, which not only infringes on their human rights but is expensive and alienating as well.

Not every bill discussed over the last years has had a progressive spirit, as showcased by attempts to ban sex education in national schooling systems unless it is imparted with the parents' explicit approval. The trend, known as the "parental pin", takes after policies leveraged by the Spanish right-wing political party VOX. Although it has failed so far in being passed by any legislative body, these laws are a real threat to the sexual and reproductive rights of minors. It is worth noting that the Mexican state of Aguascalientes passed a similar bill. However, the Mexican Supreme Court of Justice has accepted several appeals to the law which renders its future uncertain (Murillo, 2020).

The connections between the Mexican right and the Spanish right go beyond this. They have jointly employed so-called 'freedom busses' that have circulated in both countries with "pro-family" messages in which the LGBTQI\* rights are attacked as an instance of gender ideology. The bus in question was initially designed by the Spanish group 'HazteOír' and then brought to Mexico by the 'Frente Nacional por la Familia'. According to some reporters, there is a deeper connection that points to the catholic and extremist group 'El Yunque' that has a presence both in Mexico and Spain (Rivera, 2017).

### ***The political context***

This push and pull in law-making must be framed within the political backdrop of a nation amid a democratic transition occurring at the same time as Catholicism receded. It is, to this day, the majority religion in Mexico. Still, it has lost significant influence due to the rise of evangelical and Pentecostal churches imported from the United States and Brazil (Delgado-Molina, 2019). Both processes happened simultaneously with the escalation in violence that started in 2006 during the so-called War on Drugs pushed by then-president Felipe Calderon. This combination of elements is key to understanding the current struggle since the inability of multiple governments to eliminate this wave of violence has been, undoubtedly, one of the reasons, which explains how Andres Manuel López Obrador (AMLO) rose to power in 2018.<sup>15</sup> In this regard, the president ap-

13 The NGO GIRE produced in the year 2018 an entire document on reproductive justice that encompassed five domains: 1. Teenage pregnancy. 2. The criminalisation of abortion. 3. Obstetric violence. 4. Maternal deaths. And 5. Lack of access to social security. The document can be accessed here: <https://justiciareproductiva.gire.org.mx/#/>

14 Sadly, the law in questions seems doomed after more than ten months waiting for a general discussion in congress. LGBT+ activists fear the law might never be sanctioned (Forbes Staff, 2020).

15 In 2018 the Mexican magazine *Letras Libres*, a local referent for the Mexican intelligentsia, published a dossier on the new right and the rise of religious political parties. According to some of the authors that wrote these pieces the rise of the evangelical churches can be explained, at least partially, by the following elements: (a) Pentecostal and evangelical churches have been quite successful in the elimination of incidents of domestic violence by promoting religious practices in which men quit drinking and, consequently, they stop hitting their wives and children, (b) these groups have systematically advanced the thesis that the current wave of violence is the direct consequence of a lack of values and the abandonment of the traditional family as the bedrock of society. They present themselves as a solution to this conundrum. The



pears to believe that violence is the direct consequence of poverty and fighting the latter is the best way of eradicating the former. Nevertheless, he also claims that Mexico is facing a moral crisis. He shares the view of the religious right, which advances as a diagnostic of attending the poor and strengthening traditional values as the only way to solve this wave of violence.

This explains why AMLO rose to power allied with historically left-wing parties (PT, *Partido del Trabajo* / Labour Party), but also with the help of the evangelical vote (PES, *Partido Encuentro Social* / Social Encounter Party). This is reflected in his continued support of social causes while supporting traditional family values as a strategy to contain violence. To accomplish this, he has launched a national ‘remoralisation’ project for which he has recruited some evangelical segments.<sup>16</sup> This has led to criticism that his actions are endangering Mexico’s historical *laicism*.

This political context is further complicated by the strong pro-family, anti-sexual and reproductive rights movement, which has been consolidated over the last few years. For example, in 2016, mass rallies were organised by the then-recently created National Front for the Family (*Frente Nacional por la Familia*). This front was formed by traditional sectors, both Catholic and evangelical, and shared a common aim with the Social Encounter Party (PES). Although neither the party nor the front ever formalised this coincidence, both promote, through public policy, a traditional concept of family and sexual roles in education, health, and social security. The intention to ‘take the state’ is consecrated in the ‘Santa Fe Declaration’, in which representatives of several anti-rights groups from all over the Americas and Spain participated in, explicitly stating that it was necessary to create new political parties or to increase their presence in pre-existing parties in the interest of their pro-family agenda (Congreso Iberoamericano por la vida y la familia, 2017).

However, these facts only partly reflect the local and global context. Just as Mexico has seen the rise of reactionary political movements, it has simultaneously witnessed the creation of centres and clinics that promote conversion therapies, rendering the subject paramount to a segment of the LGBTQI\* movement. Specifically, in Mexico, these spaces have been supported by groups close to the Vatican, the North American group *Exodus* and similar Brazil-based groups (Guerrero Mc Manus, 2016). Most of the time, this support translates to a mere justificatory attempt to show how conversion therapies are ethical and not a form of torture.<sup>17</sup> Still, on some other occasions, it involves opposing bills, which might prohibit such therapies (Lozano, 2018).

In 2020 the political scenario became even more complicated with the creation of the *Frente Nacional Anti-AMLO* (FRENAAA), a national front directly opposing the president and with an anti-LGBTQI\* and anti-feminist rhetoric. They argue that AMLO promotes communism and gender ideology, and they employ this rhetoric to create moral panics. After what we have said this might seem perplexing, but we should have in mind that MORENA<sup>18</sup> (*Movimiento de Regeneración Nacional*), the president’s party, is highly heterogeneous. It is composed of both conservative and progressive groups. In some states, the progressive wing of MORENA has promoted women and minorities’ rights, and it is because of these actions that FRENAAA now labels AMLO as a communist and gender ideologist. So far, they seem to be a fringe group, but they have already received the support of former president Felipe Calderon who has expressed his sympathies to groups opposing the current government (Infobae, 2020).

dossier in question is available here: <https://www.letraslibres.com/mexico/revista/vientos-derecha-los-partidos-contras-las-libertades>

16 AMLO’s personal website contains additional information on his attempt to remoralise Mexico by creating a Moral Constitution. This can be accessed here: <https://lopezobrador.org.mx/temas/constitucion-moral/>

17 An example of this can be found in here: <http://es.catholic.net/op/articulos/11556/sobre-la-terapia-reparativa.html>

18 The name of the president’s political party also evokes de Virgin of Guadalupe who is known in Spanish as La Virgen Morena.

The advance of these groups has been limited by an important synergy of four different sectors in Mexican society. Firstly, the work led by NGOs has been essential to consolidate and defend sexual and reproductive rights. Organisations such as GIRE, X Justice, the Simone de Beauvoir Leadership Institute, and the Sun Collective, amongst others, stand out in this regard, and they have not only promoted a culture of rights, but they have also engaged in strategic litigation. Secondly, academic spaces dedicated to gender and sexuality research have been key with universities such as the National Autonomous University of Mexico (UNAM), the Metropolitan Autonomous University (UAM) and the Colegio de México (COLMEX) and public universities, in general, providing important spaces for promoting sexual and reproductive rights and sanctioning laws benefitting these populations. Thirdly, decentralised institutions belonging to the state itself, such as CONAPRED and its equivalents at the state level. These state institutions have enforced a culture of rights in the face of a society that deems it undesirable to veer away from traditional gender roles for men and women (as is shown in the National Surveys against Discrimination).<sup>19</sup> Lastly, feminist and LGBTQI\* activism has brought about critical movements, which have placed the new right as well as the last two decades of government under scrutiny. It can be asserted that systematic failures in public policies targeting these groups have led to the radicalisation of fringe members in those political movements –to the point where a resurgence of anti-systemic discourse (a trait of the Mexican left during the seventies) is not infrequent. This radicalisation has even led certain sectors of feminism to adopt anti-LGBTQI\* rhetoric. These gender critical feminists share several features with their peers in Spain or the UK. In very general terms they seem to reject the ideas developed by third-wave feminists such as Judith Butler while they champion a return to radical feminism inspired by second-wave authors such as Andrea Dworkin<sup>20</sup> and Kate Millet.<sup>21</sup> They also assert that the LGBTQI\* movement defends an agenda that erases women or legitimises their oppression by promoting surrogacy and the recognition of trans identities. In Mexico City, as in the countries aforementioned, they have opposed bills that are trans-inclusionary.

These four sectors face challenges that threaten their capacities as counterbalances to power as the new administration has opted for austerity policies that have left NGOs without funding (Páramo, 2019), at the same time cancelling state-run programs focused on women and minorities (Agencia Reforma, 2019). Key examples include the shutdown of day-cares for working mothers or budget cuts to several women-centred programs, specifically domestic violence shelters. These budget cuts threaten the feasibility of the NGOs, decentralised state institutions and even universities. Furthermore, the COVID-19 pandemic has caused a health and economic crisis that accentuates the struggles these minorities face. As a result, many individuals, including adults from twenty to forty years of age, are forced to go back to their family home and embrace different forms of economic and domestic violence (Musas de Metal, 2020).<sup>22</sup>

### ***Concluding remarks***

Finally, given the convergence of political, economic, and health crises, plus the wave of violence that has persisted in Mexico over the last fifteen years, the current outlook is disheartening for

19 The results of this survey is available here: <https://www.inegi.org.mx/programas/enadis/2017/>

20 Dworkin became famous for, among many reasons, advocating against porn and sex work. For Dworkin porn was partially responsible for the objectification and violence suffered by women.

21 Millet is a central figure in radical feminism. The idea that patriarchy can be read in terms of two sexual castes was developed and popularised by her. The notion of sexual castes was understood in biological terms and has led in modern times to a deep rejection of trans identities for not being 'biologically real'.

22 This data was obtained by the NGO Musas de Metal, an LGBT+ and feminist group, by a telephonic survey in the early weeks of the COVID-19 pandemic.

human rights workers as well as for women and sexual minorities. These vulnerable groups are troubled by the crises discussed in this article and by the steady rise of anti-rights movements that offer easy solutions to complex problems, all of which threaten to turn the legislative progress made so far into a dead letter.

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## Appendix

A timeline of changes in legislature concerning sexual and reproductive rights in Mexico (2000-2020).

Year	Date	Event
2003	The 11th of June	The General Law for the prevention and eradication of all forms of discrimination was enacted.
2006	The 10th of November	Same-sex unions. Mexico city's local congress approved same-sex unions under the legal figure of "sociedades de convivencia".
2007	The 26th of April	Abortion. The penal code of Mexico city decriminalised abortion. The health law of Mexico city recognised the right of women to have an abortion up to the 12th week of pregnancy.
2008	The 10th of October	Gender Identity recognition. The civil code and the civil procedure's code of Mexico city were modified to allow transgender persons to modify their birth certificates through a trial.
2009	The 21st of December	Equal Marriage. The civil code and the civil procedures' code of Mexico city was modified to recognise equal marriage. Adoption by same-sex couples was also granted.
2012	The 3rd of May	Equal Marriage. The state of Quintana Roo recognised same-sex marriages by accident after defining marriage as the union of two persons without mentioning any specific gender.
2014	The 1st of September	Equal Marriage. The state of Coahuila recognised same-sex marriages.
	The 13th of November	Gender Identity recognition. The civil code and the civil procedure's code of Mexico city were modified to allow transgender persons to modify their birth certificates through an administrative procedure.

Year	Date	Event
2015	The 11th of June	Equal Marriage. The state of Chihuahua recognised same-sex marriages by a governor's decree.
	The 17th of December	Equal Marriage. The State of Nayarit recognised same-sex marriages.
2016	The 26th of January	Equal Marriage. The state of Jalisco recognised same-sex marriages after a ruling of Mexico's supreme court.
	The 10th of May	Equal Marriage. The State of Campeche recognised same-sex marriages.
	The 18th of May	Equal Marriage. The state of Michoacán recognised same-sex marriages.
	The 18th of May	Equal Marriage. The state of Morelos recognised same-sex marriages.
	The 25th of May	Equal Marriage. The State of Colima recognised same-sex marriages.
	The 29th of December	Same-sex unions. The State of Tlaxcala's local congress approved same-sex unions under the legal figure of " <i>sociedades de convivencia</i> ".
2017	The 11th of July	Equal Marriage. The state of Chiapas recognised same-sex marriages after a ruling of Mexico's supreme court.
	The 13th of July	Gender Identity recognition. The civil code and the civil procedure's code of Michoacán were modified to allow transgender persons to modify their birth certificates through an administrative procedure.
	The 21st of July	Gender Identity recognition. The civil code and the civil procedure's code of Nayarit were modified to allow transgender persons to modify their birth certificates through an administrative procedure.
	The 1st of August	Equal Marriage. The state of Puebla recognised same-sex marriages.
	The 3rd of November	Equal Marriage. The state of Baja California recognised same-sex marriages by a governor's decree.
2018	The 13th of November	Gender Identity recognition. The civil code and the civil procedure's code of Coahuila were modified to allow transgender persons to modify their birth certificates through an administrative procedure.
2019	The 19th of February	Equal Marriage. The state of Nuevo León recognised same-sex marriages after a ruling of Mexico's supreme court.

Year	Date	Event
	The 2nd of April	Equal Marriage. The state of Aguascalientes recognised same-sex marriages after a ruling of Mexico's supreme court.
	The 25th of April	Gender Identity recognition. The civil code and the civil procedure's code of Hidalgo were modified to allow transgender persons to modify their birth certificates through an administrative procedure.
	The 17th of May	Equal Marriage. The state of San Luis Potosí recognised same-sex marriages.
	The 17th of May	Gender Identity Recognition. The state of San Luis Potosí began to allow the modification of birth certificates through an administrative procedure.
	The 18th of May	Gender Identity recognition. The civil code and the civil procedure's code of Colima were modified to allow transgender persons to modify their birth certificates through an administrative procedure.
	The 24th of May	Equal Marriage. The state of Hidalgo recognised same-sex marriages.
	The 6th of June	Gender Parity. On the 6th of June, it became official a constitutional amendment that made mandatory an equal proportion of men and women in the three powers of government and also at the federal, state and municipal levels.
	The 27th of June	Equal Marriage. The state of Baja California Sur recognised same-sex marriages.
	The 28th of August	Equal Marriage. The state of Oaxaca recognised same-sex marriages.
	The 30th of August	Gender Identity recognition. The civil code and the civil procedure's code of Oaxaca were modified to allow transgender persons to modify their birth certificates through an administrative procedure.
	The 25th of September	Abortion. The penal code of the state of Oaxaca decriminalised abortion. The health law of Oaxaca also recognised the right of women to have an abortion up to the 12th week of pregnancy.
	The 1st of October	Gender Identity recognition. The civil code and the civil procedure's code of Tlaxcala were modified to allow transgender persons to modify their birth certificates through an administrative procedure.

Year	Date	Event
		Gender Identity recognition. Mexico city's Parliament of women approved a resolution that would allow children to modify their birth certificates through an administrative procedure. It does not demand any form of diagnostics or intervention, and it requires only the consent of one parent. This project still awaits discussion in Mexico city's local congress.
2020	The 21st of May	Prohibition against Sex Education (PIN Parental). The state of Aguascalientes approves legislation that allows parents to control the access of their children to sex education.
	The 24th of July	Reparative Therapies. Mexico city's local congress prohibited reparative therapies and introduced new regulation in its penal code.
	The 30th of July	Gender Identity recognition. Mexico city's Parliament of women approved a resolution against obstetric violence that explicitly mentions "women and pregnant persons" as the holders of this right. This project still awaits discussion in Mexico city's local congress.
	The 29th of October	The state of Jalisco reformed the regulations regarding birth certificates allowing both adults and minors to change their names and genders through an administrative procedure that does not require any medical authorisation.

# *Pushback Against Sexual and Reproductive Health and Rights in Brazil*

Denise Hirao

## *Executive summary*

Since Brazil elected President Jair Bolsonaro, the country has often been in the spotlight due to his controversial speeches and practices, which have had a detrimental impact on sexual and reproductive health and rights (SRHR). This paper reviews the literature and mainstream media from 2016 to September 2020 to provide an overview of the country's political context, the implications to SRHR, especially regarding women, and discuss possible future outcomes.

## *The sexual and reproductive rights and health scenario*

After the end of the military dictatorship in 1985, Brazil gradually built up its democratic pillars and improved many social indicators.<sup>1</sup> The 1988 Federal Constitution established a free universal health system and recognised human rights. New laws and policies on gender equality and SRHR were developed, with strong participation from Brazil's vibrant civil society. For example, this included a national program on women's comprehensive health<sup>2</sup>, a law ensuring companionship for women at childbirth to reduce obstetric violence and few programs to provide legal abortion services at the local level.<sup>3</sup>

Despite significant improvements, these measures did not go far enough in addressing Brazil's serious needs and inequalities. For example, maternal mortality rates declined from one hundred and forty-three to sixty-one deaths per 100,000 born alive between 1990 and 2011 (Leal, M. C. et al., n.d., 6). However, they were still at 59.1 per 100,000 in 2018 (Secretaria de Vigilância em Saúde do Ministério da Saúde, 2020), far from reaching the goal of thirty established under the Sustainable Development Goals (IPEA, 2019a: 6). Abortion remains criminalised with few exceptions and is a significant cause of maternal mortality as numerous women risk their lives in unsafe procedures. Antenatal care, although nearly universal, was considered appropriate

<sup>1</sup> For example, there was a significant expansion of access to education (IPEA, 2019a, 9) and decrease in child mortality rates (IPEA, 2019b, p 10).

<sup>2</sup> Programa de Assistência Integral à Saúde da Mulher (PAISM), launched in 1983.

<sup>3</sup> Lei 11.108, de 7 de abril de 2005 (law 11.108 of April 7, 2005).

for only 21.6 percent of the post-partum women interviewed in a comprehensive 2011/2012 research project (Domingues et al., 2015), which also found that around thirty percent of them did not want that pregnancy (Leal, M. C. et al., n.d). As structural racism represents an important social determinant of health (Devakumar, D., 2020), figures are usually worse for black women at a higher risk of maternal mortality in Brazil (Martins, 2006).

In recent years, conservative Evangelical and Catholic Congresspersons joined forces around bills such as those granting rights to unborn fetuses, limiting access to abortion and forbidding teachers from talking about gender at schools. However, most of these bills were not approved – a result that can be largely credited to feminist activists who advocate at Congress. The outcomes, however, were less fortunate in the field of education. After pressure from religious groups, the Ministry of Education suspended the launch of an anti-homophobia program in 2011. Congress removed the words ‘gender equality’ from the National Education Plan in 2014.<sup>4</sup> Conservative civil society advocates were very active during these campaigns: the ‘School without Party Movement’ lobbied federal authorities while also operating at the grassroots level by encouraging parents to pressure teachers not to address gender equality at schools. On the other side, progressive civil society organisations responded to these threats by reporting undue pressure at schools, developing clarifying materials (Ação Educativa, 2018), and partnering with teacher unions. Although local legislators passed laws prohibiting teachers from talking about gender, judicial rulings declared them unconstitutional.

These recent events illustrate Brazil’s current SRHR challenges<sup>5</sup>, which have been magnified since the 2018 Presidential elections. The next section will analyse the gender narratives of Jair Bolsonaro’s campaign to contextualise the current pushback of SRHR in Brazil.

### ***Gender in the far-right narratives: “we” versus “they.”***

Jair Bolsonaro’s election in October 2018 represented a sharp turnaround from the previous 14 years of the centre-left Partido dos Trabalhadores (PT) in power. He was an unknown Congressman for decades and occasionally gained visibility due to his controversial remarks in support of torture, violence, and military dictatorship as well as sexist and homophobic comments. During the Presidential campaign, he stuck to these messages but adapted others: he adopted an ultra-liberal economic agenda that catered to the financial elite and reached out to Brazil’s large evangelical population by establishing strong ties with some of their religious leaders.

The 2018 elections were preceded by political polarisation of society, which was intensified due to controversial incidents that included President Dilma Rousseff’s impeachment, replaced by Vice-President Michel Temer of a right-wing party, as well as the arrest of former President Luis Inácio Lula da Silva of PT. Political turmoil played an important role in the 2018 elections, together with corruption scandals, economic instability, persisting socio-economic inequalities, high rates of violence, and national protests expressing an ever-growing anti-establishment sentiment.

This context provided productive ground for far-right forces to develop a campaign strategy

<sup>4</sup> When discussing the National Education Plan in 2016/2017, anti-gender equality advocates succeeded in removing the word “gender” from its text. Although no binding legal consequences were created by this edit, this fact inspired attacks to gender equality initiatives at the school level and legal changes at local and state levels.

<sup>5</sup> A detailed description and analysis of Brazil’s recent history and context affecting SRHR can be found in Corrêa & Kalil, 2020.



that would catapult Jair Bolsonaro to the Presidency. The main ingredient was an anti-establishment narrative against traditional politicians, the mainstream media and, in his words, “everything that is there” (Carneiro, 2019), which resembled USA President Donald Trump’s strategy in the 2016 elections in many ways. The core components of this narrative, which also portrayed him as a bastion of traditional family and religious values were evident in a speech given at a 2016 Congress session. This was the same session that voted for President Dilma Rousseff’s controversial impeachment<sup>6</sup>, a former political prisoner who had been tortured by the military regime in the 1970s. He preceded his vote by attacking communists and referring to God, the Army, families, and ‘the innocence of children in schools’. In the most outrageous part of his speech, he honoured a deceased colonel who was well-known as a brutal torturer, capable of appalling sexual cruelty against female political prisoners (Cavicchioli, 2016). Jair Bolsonaro described him as “the terror of Dilma Rousseff” (Falcão, 2016).

Many other controversial remarks would follow, cementing his image. However, this was only possible through his campaign’s unprecedented use of social media, especially private WhatsApp messages (Machado & Konopacki, 2018), rather than the traditional heavily regulated TV and print advertisements. Through social media, previously mapped fears and dissatisfactions – such as those identified during the controversies over gender equality at schools – were magnified to intensify society’s polarisation through messages that gradually framed the two sides of the political spectrum. Similar to Steve Bannon’s methods, social media networks were a platform to influence politics by fuelling emotional reactions (Cruz & Valente, 2018). For that purpose, gender-related topics were primarily used.

For example, Dilma Rousseff was often depicted in 2016 pro-impeachment social media posts as ugly, evil, and whore (Zdebskyi et al., 2005), attributes that Bolsonaro supporters later linked to his women critics during the 2018 Presidential campaign. His son, Congressman Eduardo Bolsonaro, once said that right-wing women were prettier and more hygienic than leftist women as they shaved their armpits and did not defecate on the streets to protest (Dantas, 2018). Remarks such as this one may sound silly but served the purpose of linking ideological positions to models of femininity that generated repulsive feelings against his female opponents. A model of masculinity that praises authoritarianism, intolerance, violence, and heterosexuality was also attached to his image through his campaign’s remarks, posts, and memes.<sup>7</sup>

In another example, Jair Bolsonaro repeatedly described a PT anti-homophobia education project, nicknamed “kit gay” by conservative groups, as an attempt to encourage early sexual initiation and “opening the door to paedophilia” (Maranhão Filho et al., 2019). In the meantime, his supporters spread disinformation through social media, including for example a widely shared video that showed a penis-shaped baby bottle that was falsely said to be distributed by the PT government (O Antagonista, 2018). A judicial ruling suspended the dissemination of this video on YouTube but was unable to prevent it from being further shared on WhatsApp.

Through mass and repeated dissemination of ‘fake news’ in a post-truth world, this type of messages stemmed from the polarisation of society and contributed to amplifying people’s fears towards Jair Bolsonaro’s opponent<sup>8</sup>, PT’s Fernando Haddad. Stories like the above were manipulated to influence public opinion on various sensitive topics, such as corruption and commu-

6 For a detailed analysis of this speech, see Corrêa & Kalil, 2020, 82.

7 See Silva (2019)’s study about hate speech, which includes the 2018 Presidential campaign.

8 A study conducted by IDEA Big Data for Avaaz showed that 98.21 percent of Bolsonaro’s voters were exposed to at least one fake news during the campaign period and that 89.77 percent of them believed that fake content was true (Pasquini, 2 November 2018).



nism.<sup>9</sup> Fact-checking initiatives by the mainstream media, clarifications by experts, and even judicial rulings were only partially effective in countering them perhaps because these rational approaches intended to counter disinformation rather than the emotional reactions produced by it.

Furthermore, many traditional politicians did not denounce fake news and undemocratic messages. On the contrary, many centre-right and right-wing politicians at first tried to surf the right-wing wave and attach their images to Jair Bolsonaro. He was also opportunistically endorsed by part of the economic elite that defended economic liberal policies.

A large number of women, however, did not remain silent. One of the strongest reactions to Jair Bolsonaro's far-right agenda came from self-convened women who mobilised online and on the streets against his candidacy. A few weeks before the election, hundreds of thousands of women took the streets in the #EleNão ("not him") protests in many Brazilian cities (Becker, 30 September 2018).

Nonetheless, Jair Bolsonaro was elected with 55.13 percent of the votes against 44.87 percent of Fernando Haddad (G1, 2018). The consequences to democracy, human rights, and SRHR are now at grave risk in Brazil.

### ***Authoritarianism on the rise, SRHR at stake***

Since Jair Bolsonaro took office in January 2019, Brazil's democracy has been quickly eroding. This is demonstrated by threats from top-rank army officials (Carvalho & Teixeira, 22 May 2020), repeated attacks on the Supreme Court and Congress (Gagnani, 2020), a high number of military personnel positioned in the government (Bragon & Mattoso, 2020), and illegal investigations and persecution of opponents (Amorim & Tajra, 2020), among other examples. Congressman Eduardo Bolsonaro, one of the President's sons, remarked that it was not a matter of *if* but *when* a democratic rupture will take place (Farias, 2020).

The country's civic space has also been quickly shrinking. Journalists and human rights advocates are often harassed by government officials and far-right trolls and hackers, with recent evidence revealing that this is partly coordinated by the government's "Cabinet of Hate" (Mello, 2020) and that the government has been funding fake news websites through advertisement (Rezende, 2020). In July 2020, civil society organisations reported fifty-four cases of harassment against women journalists to the UN Human Rights Council (Artigo 19, 2020).<sup>10</sup> In addition, critical SRHR advocates went into exile after multiple death threats against them and their families, including Congressperson Jean Willys and Professor Debora Diniz (Phillips, 2019).

This democratic erosion is taking place within a context of human rights violations (G1, 2019), increased gender inequality, heightened environmental concerns (Oliveira, 2020), and a global pandemic (G1 and GloboNews, 2020). In 2019 there was also an increase in state-perpetrated violence, which mainly kills black people. This is a clear example of the country's structural racism

<sup>9</sup> For example, the message "Brazil will become a Venezuela", which was widely spread during the Presidential campaign through WhatsApp memes (Chagas et al., 2019).

<sup>10</sup> Two examples that directly involve comments from the President against women journalists are described by Uribe (2020) and Santana (2020).

against its large black population<sup>11</sup>, which have been experiencing war-level rates of murders<sup>12</sup>: in 2018, there were 43.1 homicides per 100,000 inhabitants for black people, mostly young black men, against a rate of sixteen for non-black (Fórum Brasileiro de Segurança Pública, 2019b). Such a tragedy, described as a genocide by the black movement (Coalizão Negra por Direitos, 2020)<sup>13</sup>, also kills several women and places an intense burden on surviving women in the communities, apart from encompassing sexual and gender-based violence as well (Giannini & Hirao, 2020: 5).

In the field of SRHR, most recent data is unavailable and would require specific public health studies. However, the dismantling of SRHR and women's rights institutions and policies will certainly produce serious consequences, as exemplified below.

Under Jair Bolsonaro's government, the Ministry of Women, Family and Human Rights was assigned to Damares Alves, an evangelical pastor who is vocal against several aspects of gender equality. The federal government's new multi-year plan excluded a program to tackle violence against women and included one with the goal of protecting life starting at conception (Zigoni, 2020)<sup>14</sup>. In a process that began before Ms Alves' term, the federal government decreased the budget for policies for women from R\$ 119 million in 2015 to R\$ 5.3 million in 2019 (Agência Estado, 2020). This decrease has affected programs addressing gender-based violence, which is worrisome as the yearly number of femicides increased by 7.2 percent in 2019 (Bragon & Mattoso, 2020). This rise in femicides also brings concerns about the concrete consequences of the models of masculinity promoted in far-right speeches.

In a country where 66,041 cases of rape were reported in 2018, with 53.8 percent of the victims being under thirteen years old (Fórum Brasileiro de Segurança Pública, 2019a), the federal government extinguished bodies that addressed violence against children (Vila-Nova, 2020) and its most visible action in this field was a campaign promoting abstinence among adolescents, which was criticised by SRHR experts (Pinho, 2020).

With the overt or implied support of the government, conservative activists feel free to expand their activities beyond legal boundaries. An example was the intense pressure against a ten-year-old girl who became pregnant after being raped and sexually abused by her uncle from the age of six (Jiménez, 2020). She managed to have an abortion despite the harassment, which included the illegal disclosure of her name on social networks (Jiménez, 2020). Soon after, the Ministry of Health enacted a regulation with requirements to constrain rape victims from having an abortion. This was challenged judicially by several actors, including health providers associations, CSOs and political parties. At the time of writing (November 2020), these lawsuits had not yet been reviewed by the Supreme Court (Supremo Tribunal Federal, 2020).

The Minister of Health, an Army General with no public health background, also revoked a technical norm on emergency access to contraceptives and legal abortion services during the COVID-19 pandemic (Cancian & Carvalho, 4 June 2020) and sacked the public servants who wrote this norm (Mariz, 2020). Apart from federal measures, there have also been pushbacks at

11 The black population accounts for 54.9 percent of Brazil's overall population (Instituto Brasileiro de Geografia e Estatística, 24 November 2017).

12 The increase in homicides committed by state agents in 2019 was one of the reasons for the Conflict Barometer to include Brazil in the category of a full-scale war country in its 2020 edition (Heidelberg Institute for International Conflict Research, 2020).

13 This is illustrated by the initiative of "Coalizão Negra por Direitos" (Black Coalition for Rights), comprised of over 100 black movement organizations, which is running a campaign to convince media outlets to use the word genocide to describe the systematic killing of black people in Brazil (Coalizão Negra por Direitos, 2020).

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the local and state levels, such as lawmakers who have created anti-abortion coalitions in various states (Villaméa & Tarantino, 2020) and several hospitals that have stopped providing legal abortion services (Artigo 19, 2020).

This scenario reflects the radical stance of conservative groups against abortion under any circumstance. They maintain that embryos and fetuses are entitled to the right to life starting at conception, which should prevail over women's rights. In a distorted approach to the topic, they narrow the public discussion to who is 'for or against' abortion, rather than who is for its criminalisation or not. At Congress, they have unsuccessfully attempted to limit access to legal abortion services and criminalise the few exceptions where abortion is not punished.

In a context of the persecution of SRHR and human rights activists, many of them are currently operating with extra caution, often looking to the peaceful resistance methods that human rights defenders used during the Military Dictatorship. Members of the National Front against the Criminalisation of Women and for the Legalisation of Abortion consider that the number of attacks against SRHR activists and health providers has increased since the 2016 impeachment "when a fundamentalist coalition started to be assigned to decision-making positions at the federal government" (Frente Nacional pelo fim da Criminalização de Mulheres e pela Legalização do Aborto, 2020).

At the international level, Jair Bolsonaro's government has reversed the country's support to intergovernmental institutions and the defence of human rights. Both in narrative and economic and political collaboration, Brazil has been aligning with other far-right leaders, such as Donald Trump of the USA, Viktor Orban of Hungary, and Andrzej Duda of Poland, among others (Sant'Anna, 2020). American far-right leaders and groups are particularly relevant for their counterparts in Brazil. Jair Bolsonaro often voices his admiration for Donald Trump and takes a similar approach to being President, such as intimidating the press, denying the COVID-19 pandemic, and criticising anti-racism protesters. Recent diplomatic negotiations indicate that Brazil may have even made concessions to the USA to benefit Trump's electoral prospects despite its own interests (Sanches, 2020; Della Coletta, 2020).

Brazil's diplomacy is currently oriented to oppose any SRHR and gender equality language (Godoy, 2019), as exemplified by an anti-abortion declaration signed by the USA, Brazil, Egypt, Hungary, Indonesia, Uganda and others in October 2020 (Borger, 2020). The exact content and reach of Brazil's current diplomatic work against SRHR are not publicly known, in part because the Ministry of Foreign Relations classified documents related to abortion, gender equality, and sexual education (Chade, 2020). Another topic of concern is that, despite being a secular state, Brazil's foreign policy for Africa has been influenced by evangelical Congressmen interested in their churches' expansion in the continent and vocal against sexual and reproductive rights (Fellet, 2019).

### *Signs of hope*

In this scenario, some signs of hope must be highlighted. First of all, Brazil's political system is composed of independent federal, state, and municipal governments. Brazil's political power is not fully centralised in the Presidency. However, many city and state leaders, and a large part of states' police forces, are aligned with his approaches and views. Although the federal government has frequently threatened to undermine Congress and the Supreme Court, the separation of powers still prevails and the rule of law. This is illustrated by the Supreme Court's recent

decisions, which helped establish limits on the President's authoritarianism and the far-right advances against human rights. Similarly, despite continuous harassment, a large part of the media continues to deliver facts-based journalism, exposing the government's and the far-right group's dangerous narratives and illegal practices.

In the field of SRHR, the voices of women, black people, and LGBTQI\* people have been enhanced throughout society and cannot be easily silenced. The intense persecution against feminist activists has not stopped them from carrying out their work. Civil society organisations and social movements continue mobilising, drawing attention to women's human rights violations, and advocating for better laws and policies, among other activities, despite access to scarce resources. Many candidates with a feminist and anti-racism agenda were elected for local legislatures in November 2020 (Guzzo, 2020). Some of them replicated a successful strategy tested in previous elections: a pool of four to six candidates – who would not be able to gather enough votes to be elected separately – get together for a 'collective candidacy', where one of them is the formal candidate, but the group commits to make collective decisions during the term (Lopes, 2020).

Another reason for hope is that countless professionals within Brazil's democratic institutions are also resisting the pressure from the government and far-right groups. For example, the judges that barred local laws prohibiting teachers from talking about gender equality (Saldaña, 2020), prosecutors that filed a class action challenging the government's multiple misogynist remarks (Rossi, 2020), doctors and medical associations that issued prompt public notes criticising some government's SRHR backlashes<sup>15</sup>, and law enforcement professionals who keep conducting criminal investigations related to the ties of the President's family with armed militia and corruption schemes (Kotscho, 2020). SRHR issues are also present in public conversation among people who do not usually prioritise them, such as two highly popular YouTubers who defended the right to abortion in the case of a ten-year-old girl pregnant after rape (Tuchlinski, 2020).

Finally, the lack of popular support for Jair Bolsonaro and the far-right agenda may revert the current far-right advances in Brazil, especially if women are strongly engaged. The November 2020 municipal elections have already shown weak results for far right and anti-establishment candidates (Shalders, 2020). Although Jair Bolsonaro's approval rate, at a worrisome thirty-seven percent, was at its highest levels in August 2020, after the government's payments to the poorest during the pandemic (Datafolha, 14 August 2020), his unrestricted supporters accounted for only fifteen percent of the population (Prandi, 2020). The polls demonstrated that twenty-nine percent of the men and thirty-nine percent of the women rejected Bolsonaro's government (Datafolha, 2020). His rejection among women has been higher than men since before the election, which was evident in the #Elenão demonstrations in 2018. If young women had decided the election, he would have lost by a twenty percent difference (Fagundes, 2018).

### ***Countering fascism in Brazil***

According to Federico Finchelstein, an expert in fascism history, Jair Bolsonaro's government fulfils all the core characteristics of fascism, except for a dictatorship.<sup>16</sup> Fortunately, this is not a

<sup>15</sup> An example was an Op-Ed by Rosas et al. (2020).

<sup>16</sup> The other three characteristics are clearly present in the current government's narratives and practices: glorification of violence; racism and discrimination at the core of policies; and the use of lies at a much higher degree than other rulers. (Pinheiro-Machado, 2020). Similarly, Brazilian scholars Singer et al. (9 June 2020) identify several fascist features in the current federal government.



minor exception as democracy, and the rule of law still prevails in Brazil. However, this apparent ‘normal’ scenario should not stop one from acknowledging the government’s fascist inspiration, which has been expressed or implied by the President (Schwarcz, 2020) and his aides multiple times (Cowie, 2020). Such inspiration is highly relevant to assess his potential threat to Brazil and the world.<sup>17</sup>

Brazil’s case represents a global concern because other populists can easily – and quickly – replicate Jair Bolsonaro’s ‘anti-establishment’ approach. As this paper has explored, his visibility strategy relies on inducing emotional reactions that exacerbate existing political dissatisfaction and moral fears by using social networks to manipulate facts, disseminate fake news, and forge battles that catch the media’s attention and the general public. Gender representations and controversial SRHR issues are manipulated as part of this narrative.

Apart from democratic deterioration, the current government has already produced detrimental consequences to the environment, human rights, and racial and gender equality in Brazil. If Bolsonaro finishes his term and is re-elected, the scenario is likely to worsen. If he leaves, the reconstruction of institutions and policies will take time. However, many of his supporters will still be vocal, continuing to target women, LGBTQI\*, black people and indigenous peoples, among others.

To address these threats, Brazil needs to boost the power of those who can counter fascism. A free press is imperative as well as civil society organisations with the capacity to carry out sophisticated advocacy strategies in defence of democracy and human rights, including SRHR, at both the national and grassroots level. To widen popular support against far-right forces, Brazil needs to neutralise the current polarisation of society, and engaging women is fundamental. New generations of political leaders, especially among women, black people, and marginalised populations, are urgently needed to influence their power dynamics. In the long run, strategies that economically enhance these populations must also be considered to address structural inequalities effectively.

While this needs to be led by Brazilians, international players can contribute in various ways, including providing support to civil society organisations in the fields of SRHR, women’s rights, LGBTQI\* rights, racial equality and indigenous rights. These groups, which usually operate on small budgets, would greatly benefit from increased funding, knowledge sharing, and international visibility. Any funding, however, needs to rely on local knowledge and reflect their real needs.<sup>18</sup>

As local threats to human rights are increasingly becoming global threats, the need for multi-lateral institutions such as the United Nations, including the SRHR-focused UNFPA, increases while their funding decreases. In addition to strengthening these institutions, there is also a need to enhance an international civil society that defends SRHR. This will enable connections among SRHR advocates from different countries to counter a threat that is increasingly becoming global.

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<sup>17</sup> Regarding the importance of understanding the fascist roots of current populists’ politics and propaganda, see also Finchelstein (2018).

<sup>18</sup> In this regard, the role of social justice funds can be relevant for international donors. Social justice funds, which include women’s funds, are national autonomous entities that raise funds and make grants to civil society organizations and individuals based on a human rights-based approach. For more information, please see: <https://redefilantropia.org.br/>.



Brazil's example clearly shows how far-right forces rely on moral controversies – many of them related to gender equality – to build narratives that help them gain popularity and amass power. It also shows how they can quickly become a serious threat to democracy and human rights, including SRHR. Devising and enabling strategies to counter their misogynistic, homophobic, and racist approaches in Brazil and other countries should be a priority to all those that defend democracy and human rights globally.

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# *Anti-Equality and Anti-SRHR Backlash in the EU*

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## *Executive summary*

Significant progress has been made towards greater protection for sexual and reproductive health and rights (SRHR) and gender equality in the EU over many decades. However, a recent backlash against gender equality and SRHR is intensifying in several EU countries. Although this backlash has manifested differently in distinct European political and social contexts, common trends have emerged concerning its impact and the narratives and strategies used by anti-equality and anti-SRHR actors. Legislative, constitutional, and judicial processes have been utilised as a part of efforts to halt recognition for LGBTQI\* equality and rights, introduce regressive restrictions on access to abortion, undermine the provision of sexuality education, and prevent or rollback the ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention). Anti-equality and anti-SRHR actors have also targeted EU institutions and the Council of Europe mechanisms, such as the European Court of Human Rights. To stem the impact of this backlash, policymakers, governments, and institutions across the EU should condemn all attempts to restrict, rollback, or remove existing legal protections for gender equality or SRHR and take concerted action to pursue the adoption of laws and policies that protect SRHR and guarantee gender equality.

## ***Introduction***

In recent decades, significant progress has been made globally towards greater protection for sexual and reproductive health and rights (SRHR) and gender equality (Council of Europe Commissioner for Human Rights, 2017). In many European countries, respect, and protection for SRHR has significantly increased, discrimination has reduced, and gender equality has grown.

However, despite this overwhelming trend towards the advancement of SRHR and gender equality, in some European countries, including in EU member states, a disturbing backlash against gender equality and SRHR has emerged (Zacharenko 2016: 9; Juhász & Pap, 2018). Deliberate efforts have been made by a range of stakeholders to prevent, restrict, rollback or remove existing legal protections for gender equality or SRHR, and discredit or restrict the operations of human rights defenders and civil society organisations working to advance these rights. These diverse stakeholders include parliamentarians, political parties, government officials, judges, academics, think tanks, media, religious organisations, and civil society groups.

Although this backlash has manifested differently in distinct European political and social contexts, common trends can be identified regarding the impact it has had in different countries and the narratives and strategies used by diverse stakeholders (Kuhar & Paternotte, 2017). Organised resistance and opposition to the advancement of gender equality and SRHR is not a new phenomenon in European societies. However, the growing use of new unifying narratives of ‘gender ideology’ and the deployment of new strategies and tools have enabled increased coordination and networking across borders, especially in the last decade.

Several particular SRHR or equality issues have emerged as focal points for these retrogressive efforts as access to abortion, sexuality education, LGBTQI\* rights and ratification of the Istanbul Convention have been targeted in multiple countries (European Parliament Resolution, 2019, 2018/2684(RSP)).

This backlash has taken place in tandem with the rise of populist, far-right, nationalist, or xenophobic movements in some EU countries, including Austria, Hungary, Italy, and Poland. Anti-equality and anti-SRHR narratives have sought to co-opt and play on pre-existing fears present in society, such as the loss of national identity, ‘traditional’ values, and demographic developments. Simultaneously, so-called ‘gender ideology’ narratives are increasingly being used in multiple EU countries to combine and coalesce a range of diverse anti-equality and anti-SRHR claims (Kuhar & Paternotte, 2017; Korolczuk, 2015: 46).

At times stakeholders have pursued coordinated transnational strategies and narratives, which have also targeted supranational bodies such as the EU and the UN and the gender equality agendas of these institutions. These efforts are sometimes also connected with the agendas of religious organisations or organised religions (Kuhar & Paternotte, 2017: 259–260). Some anti-equality and anti-SRHR actors have articulated a plan for the reversal of what they term a ‘cultural revolution’ that they believe has taken place across Europe due to progress on gender equality and SRHR (Agenda Europe, 2018).

Anti-equality and anti-SRHR narratives often co-opt and misrepresent human rights standards and misuse human rights terminology. For example, attempts to justify new restrictions on access to abortion often put forward false claims that international human rights law pro-

protects a 'right to life' prior to birth.<sup>1</sup> Efforts to restrict sexuality education have often sought to invoke state obligations to protect children from sexual exploitation and abuse as justification.

### *The impact of anti-equality and anti-SRHR backlash at the national level in the EU*

The manner in which this backlash has manifested within EU countries has differed to some extent, depending on the social context and the political and legal system in place. However, in a range of jurisdictions, a similar mix of legislative, constitutional, and judicial processes has been utilised, to differing degrees of success and divergent impacts.

#### *LGBTQI\* rights*

Anti-equality efforts have sought to stymie growing social acceptance and recognition for LGBTQI\* equality and rights in several EU countries, in particular by seeking to secure the adoption of legal provisions that would prevent the future extension of civil marriage entitlements to same-sex couples. These efforts have been successful in some jurisdictions and have failed in others. They have often involved narratives claiming that protections for LGBTQI\* rights undermine and endanger the 'traditional' family form understood as a family-based on marriage between a man and a woman.

In **Croatia**, following the government's preparation of a draft law to allow same-sex couples to register as "life partners," a petition for a referendum against same-sex marriage was initiated. A successful referendum took place in 2013, following which a constitutional change was made defining marriage as a union "between a man and a woman" (Hodžić & Štulhofer, 2017: 63). Similarly, in **Slovenia**, the adoption into law of an inclusive definition of family and recognition of marriage and adoption rights of same-sex couples was rejected following two public referenda in 2012 and 2015 (Kuhar, 2017: 217, 223-224). In 2014, **Slovakia** amended its constitution to include a definition of marriage as a union between a woman and a man, under a legislative proposal by two political parties (Zeldin, 2014).<sup>2</sup> In 2018, following a petition for a referendum seeking a constitutional amendment to prevent same-sex couples from obtaining the right to marry, a referendum was also held in **Romania**. The petition was launched by the Coalition for Family, which received backing from the Orthodox Church and other religious organisations as well as from almost all parliamentary parties. However, the referendum failed due to insufficient turnout (Ilie, 2018). In **Hungary** in 2011, a definition of marriage as a union between a woman and a man was also introduced into the constitution as part of a legislative reform package presented by the then government and passed in parliament (European Commission for Democracy Through Law, 2011). Two years later, further amendments to the constitution were adopted to only recognise 'traditional families' (Posner, 2019).

More recently, in 2020, the **Hungarian** parliament adopted legislation banning the legal recognition of transgender and intersex persons by prohibiting them from legally changing their gender (Stewart, 2020). In **Poland**, since early 2019, several municipalities, counties, and regions have adopted resolutions declaring themselves free from 'LGBTQI\* ideology'. They have

<sup>1</sup> International human rights law and standards make it clear that human rights protections begin at birth.

<sup>2</sup> The draft amendment was proposed by the Christian Democratic Movement (KDH) and SMER-Social Democracy. A petition for a referendum was launched at the same time by the conservative group Alliance for Family seeking to ban same-sex marriage and adoption for same-sex couples as well as to allow parents to withdraw their children from school classes dealing with sexuality education or euthanasia. However, the referendum was deemed invalid due to low turnout.

committed to refrain from taking any action to encourage tolerance of LGBTQI\* people and funding civil society organisations working to promote equal rights.<sup>3</sup>

## *Abortion*

Access to abortion has also been a target of backlash in EU countries<sup>4</sup>, as anti-equality and anti-SRHR actors have pursued legislative and judicial initiatives seeking to remove grounds for legal abortion in European abortion laws, introduce new barriers to access to abortion into legislation and expand legal protections for medical professionals who refuse to provide abortion care with reference to their conscience or religion. Although these efforts have failed in some jurisdictions, they have been successful in others.<sup>5</sup> In some contexts, these efforts have relied on narratives misrepresenting human rights standards by falsely claiming abortion infringes on an alleged right to life for the foetus or amounts to discrimination based on disability, or that the restrictions are necessary to ‘protect’ women’s health.

Between 2009 and 2015 a series of legislative initiatives were passed in multiple European countries, including Slovakia, which led to the introduction into law of new retrogressive provisions requiring women to undergo mandatory waiting periods and/or mandatory biased counselling prior to abortion (Center for Reproductive Rights, 2015). These retrogressive attempts to roll back legal entitlements to abortion and introduce new regulatory constraints on access have continued in recent years. They are now recurrent and ongoing in some EU countries. Several legislative proposals to ban abortion or severely restrict **Poland’s** already highly restrictive abortion law have been repeatedly tabled in the Polish parliament, although none have been adopted. A 2011 draft bill to ban abortion entirely was narrowly rejected, and another legislative initiative in 2016 that sought to ban abortion and introduce new criminal sanctions was eventually withdrawn, following mass demonstrations known as the ‘Black Protest’.<sup>6</sup> In 2020 the Polish Constitutional Tribunal issued a decision purporting to invalidate provisions allowing abortion in situations of severe or fatal foetal impairment, which would result in a near-total ban on abortion. However, ongoing massive protests against the decision have led the government to delay it taking legal effect (The Constitutional Tribunal of Poland, case no. K 1/20 (22 Oct. 2020; Walker, 2020).<sup>7</sup> In 2015, the Constitutional Tribunal’s judgment also invalidated a pre-existing legal duty on doctors to refer patients seeking abortion to an alternative provider if they refuse to provide abortion care (The Constitutional Tribunal of Poland, case no. 12/14).<sup>8</sup>

3 In August 2020, the Polish government announced that the municipalities that have been denied EU funding because they declared themselves “LGBTI free zones” would receive funding from the state instead (European Parliament, 2019).

4 In the EU almost every country has legalised abortion on request or on broad social grounds. Poland and Malta are the only EU member states that maintain highly restrictive laws. However, a number of barriers persist in several countries (Center for Reproductive Rights, 2019).

5 For example, in 2014, after several years of online mobilisation and mass demonstrations that built political pressure, the government in Spain introduced a draft bill that would have criminalised abortion, with exceptions only in cases of rape and when a woman’s health or life is at risk. Following extensive mobilisation against the draft bill, it was withdrawn and shortly after the parliament passed a bill that expanded parental consent requirements for abortion for girls between 16 and 18. In 2013 and 2017, in Lithuania, draft legislation was presented that would have severely restricted legal grounds for abortion. The draft bills were rejected. In 2011, Hungary adopted a new Constitution that includes a provision explicitly granting protection of life from the moment of conception, which raised fears that restrictions on abortion and other reproductive health care might follow.

6 The draft bill “Stop abortion” was pushed for by an anti-equality and anti-SRHR legal institute, *Ordo Iuris*.

7 This decision should be seen against the backdrop of the erosion of the rule of law and the independence of the judiciary in Poland in recent years (European Commission, 2020: 3).

8 Anti-SRHR efforts have also encouraged 4,000 Polish doctors to sign a “Declaration of Faith of Catholic doctors and medical students regarding human sexuality and fertility,” expressing their commitment to following “divine law” in their professional work.



Similarly, in 2019 in **Slovakia**, eight regressive legislative bills seeking to restrict access to abortion were tabled in parliament but ultimately rejected. Again, in 2020 a new wave of restrictive bills were introduced seeking to ban abortion on request entirely, reduce the time limit for abortion or introduce new medically unnecessary requirements for access, but were also rejected (Center for Reproductive Rights, 2020).

### *Sexuality education*

Legislation seeking to ban or restrict the provision of comprehensive sexuality education has also been tabled in some EU countries. Accompanying narratives have sought to present sexuality education as “sexualising children at an early age, ‘propaganda in favour of homosexuality’, spreading ‘gender ideology’, and depriving parents of their right to educate their children in accordance with their values and beliefs” (Mijatović, 2020). In 2020, following the adoption of legislation introducing mandatory sexuality education in **Romanian** schools, the parliament adopted a law banning educational institutions from “propagating theories and opinion on gender identity according to which gender is a separate concept from biological sex.” This law, which has been found unconstitutional by the Romanian Constitutional Court (Asociata ACCEPT, 2020), would have prevented the discussion of sexual orientation and gender identity in schools and enabled harmful gender stereotypes and assumptions about gender roles in school curricula (Ilie, 2018). Additionally, in 2020, following a citizens initiative, **Polish** parliamentarians considered a draft law entitled “Stop Paedophilia” that seeks to criminalise the provision of sexuality education and evidence-based information on sexual and reproductive health and rights to adolescents. The bill was moved to a parliamentary commission for deliberation following an initial parliamentary debate and remains pending (Mijatović, 2020).<sup>9</sup>

In other countries, anti-equality efforts have focused on seeking to prevent the introduction of mandatory sexuality education.<sup>10</sup> For example, in **Italy**, plans to introduce national guidelines on sexuality education were stopped following misinformation campaigns about the curriculum’s content (Grevio, 2020). Children’s books on family diversity have been withdrawn from public primary schools, and hotlines have been set up by public authorities to allow worried parents to denounce the presence of “gender” in educational programmes (Garbagnoli, 2017: 165). In the region of Murcia in **Spain**, the regional government introduced new rules allowing parents to exempt their children from sexuality education. In a positive development, the Spanish government has since requested the region to withdraw these rules claiming it has exceeded its competence concerning education and in February 2020 the government filed a legal claim against the municipality seeking the suspension of the new rules (Forbes, 2020.).

### *Ratification of the Istanbul Convention*

Concerted and coordinated campaigns against the ratification of the Istanbul Convention have also been mounted in several EU countries as part of anti-equality and anti-SRHR action. These campaigns, which describe the Convention an instrument of so-called ‘gender ideology’ misrepresent the Convention’s definition of gender falsely claiming that it seeks to recognise LGBTQI\* rights and introduce a ‘third gender’ as well as the purpose of its provisions on educa-

<sup>9</sup> In 2015, mass demonstrations were held in Warsaw to stop changes to the sexuality education curriculum in Polish schools (Graff & Korolczuk, 2017:177).

<sup>10</sup> In France, large demonstrations have been held and parents encouraged to keep their children home from school in protest against sexuality education.

tion and awareness-raising on stereotyped gender roles.<sup>11</sup> In July 2020, the **Polish Government** announced that the state would begin the formal process to withdraw from the Convention, which it had ratified in 2015 (Grevio, 2020). In February 2020, the **Slovak Parliament** voted not to ratify the Convention (Associated Press, 2020). In 2018, the **Bulgarian Prime Minister** withdrew a motion for ratification of the Convention. Following a claim filed by 75 members of Parliament, Bulgaria's Constitutional Court also ruled that the Convention contradicted the Bulgarian Constitution, noting, "the lack of a common understanding of the concept of gender is illustrated by the active social and political discussion 'for' and 'against' the gender ideology that has been ongoing in dozens of countries around the world for two decades" (BIRN, 2018). In the spring of 2018, an unsuccessful citizens' initiative was launched in Croatia seeking a referendum to stop ratification of the Convention. However, the Croatian parliament approved ratifying the Convention later that year (Hina, 2018).

### ***The Impact of anti-equality and anti-SRHR backlash in EU institutions and Council of Europe fora***

Over the past decade, anti-equality and anti-SRHR backlash have also manifested in EU institutional processes and before Council of Europe human rights mechanisms (Zacharenko, 2016: 13).

#### ***European Union***

In EU fora these efforts have targeted processes concerning EU policies and funding on SRHR, the appointment of EU officials, and the work of SRHR advocates in Brussels<sup>12</sup>, with varying degrees of success (Zacharenko, 2016).

Although the Istanbul Convention was signed by the EU in 2017, with the intention that the EU would accede to the treaty, efforts towards EU accession have since been thwarted by opposition from those individual member state governments that have opposed ratification of the Convention at the national level or who have pledged to withdraw ratification (Femm, 2016).<sup>13</sup>

In 2013, a European Parliament (EP) report on SRHR drafted by MEP Edite Estrela was rejected in a plenary vote following intensive efforts by anti-equality and anti-SRHR actors to portray the issue outside EP competence. Several other EP reports on discrimination on the grounds of sexual orientation and gender identity, equality between women and men, and human rights in the world, also faced intense opposition in 2014–2015 (Bijelić, 2014; Kováts, Maari & Táneczós, 2015). A new EP report on SRHR is now pending (Femm, 2020).

The mechanism created in 2007, known as the European Citizens' Initiative, has also been used in anti-SRHR efforts to stop EU action from advancing the protection of SRHR. In 2012, anti-SRHR groups launched an initiative called 'One of Us' that sought to stop EU funding for activities involving "the destruction of human embryos", particularly in the areas of research, development aid and public health.<sup>14</sup> It was subsequently rejected by the European Commission (Zacharenko,

11 The Convention defines gender as "the socially constructed roles, behaviours, activities, and attributes that a given society considers appropriate for women and men".

12 For example, in 2015, the International Planned Parenthood Federation (IPPF) was targeted in a campaign that exploited false allegations against the organisation's US member, the Planned Parenthood Federation of America, of illegally using foetal remains and sought to mobilise MEPs and the Commission to defund IPPF. Zacharenko, 2016.

13 Bulgaria, Czech Republic, Hungary, Latvia, Lithuania, and Slovakia are yet to ratify the Convention.

14 In response to this effort, a cross party group of MEPs called "All of Us" was formed to champion SRHR within the European Parliament (Zacharenko, 2016: 63).

2016: 22–23) and the General Court.<sup>15</sup> A second citizens initiative, launched in 2015, called “Mum, Dad & Kids” failed to gather the required number of signatures. The initiative sought the introduction of binding EU law defining “marriage” as the union between a woman and a man and “family” based on marriage and/or descent (European Citizens’ Initiative, ECI(2015)000006, 11 December 2015).

## *Council of Europe*

At the Council of Europe<sup>16</sup>, anti-equality and anti-SRHR backlash has primarily targeted the jurisprudence of the European Court of Human Rights (ECHR) and the European Committee of Social Rights (Committee).<sup>17</sup>

For example, in several cases, anti-SRHR stakeholders argued that the ECHR and Committee should recognise an entitlement for medical professionals to refuse to provide SRHR services based on conscience or religion and expand protections ascribed to freedom of religion. However, these claims have been unsuccessful. For example, in a recent case against Sweden concerning a midwife who refused to assist in abortion care due to her religious beliefs, the ECHR found the complaint manifestly ill-founded. It held that Sweden’s refusal to employ the midwife in its health care services was justified due to its “aim of protecting the health of women seeking an abortion (Grimmark v. Sweden 2020; Steen v. Sweden 2020).” It noted that Sweden has a “positive obligation to organise its health system in a way as to ensure that the effective exercise of freedom of conscience of health professionals in the professional context does not prevent the provision of such services.” In a collective complaint under the European Social Charter, which also challenged Sweden’s abortion law, the Committee rejected claims that Sweden’s law was discriminatory (Federation of Catholic Families in Europe (FAFCE) v. Sweden (2013); Complaint No. 99/2013, European Committee of Social Rights).

The backlash has also sought to influence some of the Council of Europe’s Parliamentary Assembly’s non-binding resolutions and reports on SRHR and freedom of religion.<sup>18</sup>

## *Conclusions*

Gender equality and SRHR are enshrined in and derive from international human rights treaties ratified by EU member states. As such member states have international human rights obligations to respect, protect and fulfil the range of human rights relevant to SRHR and gender equality. International human rights law also requires member states to abide by the principle of non-retrogression, which prohibits member states from taking steps that undermine, restrict or remove existing rights or entitlements in the area of gender equality and SRHR.<sup>19</sup> Member states

15 The General Court held that the exercise of the right to the European citizens’ initiative could not require the Commission to submit proposed legislation, that its decision was sufficiently reasoned and did not involve a manifest error of assessment. General Court (2018).

16 The Council of Europe is Europe’s leading human rights organisation with 47 member states, 27 of which are the EU member states.

17 Interestingly, anti-SRHR groups have noted that pursuing strategic litigation at the ECHR to advance their agenda is unlikely to be successful and should be confined to cases where “on the basis of prior case law” they have “a solid expectation of making our point of view prevail (Agenda Europe, 2018).

18 For example, in 2010, anti-SRHR groups and PACE members successfully mobilised against a report on the issue of increasing and unregulated use of conscience-based refusals of medical care and pushed through amendments that contradict human rights standards. However, recent efforts to undermine SRHR have mostly failed.

19 The principle of non-retrogression prohibits steps that undermine, restrict or remove existing rights or entitlements. As a result, member states’ introduction of retrogressive measures – deliberately backward steps in law or policy that directly or indirectly impede or restrict enjoyment of a right or entitlement – will almost never be permitted under international human rights law. Attempts to weaken gender equality protections and safeguards for SRHR violate this principle and can rarely be justified (Council of Europe Commissioner for Human

must also abide by the EU values of “respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights (Consolidated version of the Treaty of the European Union, Art. 2).”

To uphold these obligations and safeguard these values, EU member states, policymakers and EU institutions must take concerted action to strongly support SRHR and gender equality.

EU governments and institutions should condemn in the strongest terms all retrogressive attempts to rollback, restrict or remove existing protections for SRHR and gender equality as well as all forms of threats, intimidation and harassment of human rights defenders and civil society organisations working to advance these rights. These run counter to EU values and commitments and the provisions and object and purpose of international human rights treaties ratified by all EU member states. EU institutions should also ensure that retrogressive measures are addressed in the context of their monitoring of respect for the rule of law and human rights by member states.

Parliaments and other government actors should reject regressive legislative and policy proposals that seek to rollback rights in the area of gender equality and SRHR. They should also take action to advance legal protections for SRHR and gender equality, by improving laws and policies in this field, and removing any remaining discriminatory provisions or requirements that do not align with international and comparative best practice and guidelines. The most effective response to and bulwark against anti-equality and anti-SRHR backlash is to continue to make sustained and steady progress towards improving guarantees and protections for SRHR. To this end, EU member states should be guided by the Council of Europe Commissioner’s recommendations for Human Rights (Council of Europe Commissioner for Human Rights, 2017). Policymakers should foster and support cross-party collaborations to advance law and policy on SRHR and gender equality and ensure that these laws and policies are developed in consultation with affected communities and civil society. EU institutions should support member states who are reforming their laws to enhance protections for SRHR and gender equality, publicly champion SRHR, and support and protect civil society organisations and human rights defenders who are working to advance these rights and to prevent backlash, including within the EU.

Policymakers and other stakeholders should seek to learn from processes that have enabled the adoption of law reform to advance gender equality and SRHR as well as those that have successfully garnered public support for such reforms. In particular, lessons learned should be drawn regarding the framings and arguments that will resonate with the public and policymakers and the use and impact of evidence, experts, and lived experiences in law reform processes.

EU governments, policymakers, and institutions should be alert to the strategies and arguments used by anti-SRHR and anti-equality stakeholders, in particular when they instrumentalise human rights claims and should refrain from inadvertently lending credence or support to these regressive efforts.

In international and regional multilateral fora EU delegations and member states should guard against and oppose the rollback of recognition for and prioritisation of SRHR in multilateral initiatives. EU governments should take concerted action to advance the standards and not let the lowest common denominator set a low bar. They should take a principled stand and speak out for SRHR and gender equality based on human rights standards.

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*Rights*, 2017: 50).



The EU and its member states should also defend the expertise and independence of international and regional human rights mechanisms and institutions and support the appointment of independent expert mandate holders who can demonstrate a clear commitment to and expertise on gender equality and SRHR. They should ensure representation of women of diverse backgrounds and with expertise in gender equality and SRHR in nominations to these bodies. The EU and its member states should also guarantee the effective functioning of these bodies through adequate funding.

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# *Contesting Gender Equality in the MENA Region: Case Studies of Tunisia, Egypt and Turkey*

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## *Executive summary*

Unlike other countries around the world, the term ‘backlashes’ does not fully apply in the MENA region when it comes to assessing gender equality and women’s rights. It is more accurate to say that women’s and LGBTQI\* rights are continually being contested by conservative players ranging from authoritarian rulers and institutions to Islamist parties and conservative NGOs. Interestingly, the discourse around such issues is very similar in the three countries (Egypt, Tunisia, and Turkey) focused on in this paper. At its core is the argument that gender equality goes against religious values, threatens the family entity, promotes ‘homosexuality’, and is a Western and elitist concept. The political and historical development in each country partly explains what motivates anti-feminist and anti-gender actors. Moreover, a form of top-down feminism, the repression of religious freedom, the conservative movements of political Islam, and the use of women’s rights as a token for ‘progressiveness’ on the international scene shed further light on the current contestations of gender equality taking place in Egypt, Tunisia, and Turkey.

## Introduction

It would not be possible nor recommendable to attempt to give an overview of gender equality and women's rights in a region as diverse as the Middle East and North Africa (henceforth MENA) within the parameters of this report. Instead, this report will focus on three case studies to provide a snapshot of the evolution and current devolution in women and LGBTQI\* persons' rights in three countries in the region<sup>1</sup>: Egypt, Tunisia, and Turkey. While this report acknowledges that significant progress has been made towards gender equality on a regional level, it also argues that various political movements, such as authoritarian state-feminism, Islamist-conservative, and a form of illiberalism, contest, on multiple grounds, the idea of gender equality, preventing the advancement of women's and LGBTQI\* persons' rights.

## Egypt

As a country with a long history of feminist movements, Egypt is an ideal context to observe how gender issues have been central to political competition for power (Al-Ali, 2013).

Informal women's resistance and protest movements have existed in Egypt since as early as the 1920s, culminating in creating the first Egyptian Feminist Union in 1923 (Tadros, 2014). This organisation and others like it were co-opted by successive governments, losing independence and coming to enshrine a problematic form of 'state feminism'.<sup>2</sup> Under President Mubarak's thirty-year regime (1981–2011), the women's rights agenda was the National Council for Women, various non-governmental organisations, and the Islamist movements. At this time, Egypt's system was a form of government-imposed gender equality, which involved "top-down enforcement of women's rights in a way that is underpinned by oppressive governance practice" (Kandiyoti, 2014). Most of the reforms were driven by one influential actor, the First Lady, Suzanne Mubarak. She presided over two national entities dedicated to women's rights, including the National Council on Women which was created in 2000. Mubarak's era saw some substantive legislative improvements for women's rights, such as a reform of the family law facilitating divorce (khula'), quotas for women in parliament, raising the legal age for marriage to eighteen, criminalisation of FGM, etc. Once the revolution came, 'Suzanne laws' were seen by conservative demographics (and in particular opponents to the amended Egyptian personal status law) as a relic and an embodiment of autocratic times, leading gender equality policies to be further demonised and revoked (Gómez-Rivas, 2011).

Following the Arab Spring in 2011, during which President Mubarak was deposed, the Muslim Brotherhood's political branch<sup>3</sup> gained leverage in the Egyptian parliament through the election of its representative candidate, Mohammed Morsi.<sup>4</sup> During the short period in which President Mohammed Morsi was in power (2012–2013), the Muslim Brotherhood limited women's rights in the constitution: all mentions of bodily integrity were removed, as well as any recognition of violence against women, and the minimum age established for marriage was revoked. The Muslim Sisters, the Brotherhood's counterpart, were very active in parliament, challenging the CEDAW Convention on eliminating discrimination against women, promoting men's superiority at the

1 We adopt a broad definition of the MENA Region which includes Turkey (also known as MENAT).

2 State feminism refers to the body of government-enacted policies which promote and protect women's rights, such as facilitating access to education and employment, the expansion of gender-appropriate healthcare etc.

3 The Muslim Brotherhood was founded in Egypt in the 1920's and, to date, is one of the most influential Islamist organisations worldwide, espousing political, religious, educational and social agendas. For a very brief overview, see the Encyclopedia Britannica's overview of the Muslim Brotherhood. Accessible here: <https://www.britannica.com/topic/Muslim-Brotherhood>.

4 For information, see Laub (2019)'s CFP backgrounder on the Muslim Brotherhood.



UN level<sup>5</sup>, and making alliances at the international level with conservative right-wing Christian groups. Since the 1990s, a conservative alliance comprising Muslim fundamentalists, the US right-wing, Christian-right coalitions (a wide range of religious groups primarily from North America)<sup>6</sup>, and occasionally other states and coalitions (OIC) have united on several instances to participate in UN body discussions on issues of gender equality and women's SRHR (Chappell, 2006). In 1994, for example, at the UN International Conference on Population and Development in Cairo, and again in 1995 at the World Conference on Women in Beijing, one alliance was able to influence discussions on demography and family planning to the detriment of women's SRHR (Vik, 2017). Another such move was made more recently, in 2014, "when a group of states assembled under the label Group of Friends of the Family (GoFF). GoFF was launched at the UN in 2015 during an event organized by Belarus, Egypt and Qatar. It currently has twenty-five members and operates as a block to promote family-friendly policies at the UN", above those which promote gender equality or women's rights (Vik, 2017).

After President Abdel Fattah al-Sisi took power in 2013, a new constitution was adopted, enhancing women's rights. For the first time, the state committed to protecting women from all forms of violence, and all reforms made in Mubarak's time were restored. After attention in the international media related to sexual violence towards activists and women demonstrators, al-Sisi presented himself as the 'protector' against the 'Islamists'. These pro-women policies were nothing but political strategies that had little to do with women's rights and more to do with Egypt's international image, which al-Sisi wanted to paint to distract from violations of the rule of law fundamental freedoms, and human rights. Recently, this positioning was exemplified during al-Sisi's speech at the 75th session of the UN General Assembly where he declared that Egypt had worked on "strengthening and achieving gender equality and equal opportunities", adding that the government seeks to "empower women and combat all forms of violence against women".<sup>7</sup>

This lack of genuine interest in advancing gender equality for its own sake is exemplified by the government labelling women's rights and feminist organisations in Egypt as "traitors to the nation", whilst threatening them and subjecting them to everyday pressure in the overarching context of the crackdown on civil society (EuroMed Rights, 2019). The authoritarian regime promotes women's rights when it favours their interests, mostly in the international sphere and as a diplomatic tool, yet simultaneously represses, bans, and ties the hands of women's rights organisations simultaneously. Governmental surveillance of the online activity of feminist activists, women human rights defenders (WHRDs), and potential whistle-blowers of regime malpractice has been common practice for years. Attacks on social media are exacerbated for WHRDs, seen as the weakest link in the human rights movement, and smear campaigns against WHRDs often use their personal photos and information to vilify them (EuroMed Rights, 2020). In a society where women's bodies are policed and face unattainable expectations of decency, sharing private images and undermining their 'morals' for being indecent or too 'Western' elicit criticism from the general population against both them as individuals and their cause (EuroMed Rights, 2020). Behind the smokescreen of policies purported to promote women's rights, a recent spate of arrests of remarkably young women for 'immorality' and violation of 'family values' because of

5 In 2013, at the 57th session of the CSW, the Brotherhood issued a statement condemning the agreed conclusions because they were considered incompatible with the specificity of Muslim women's needs. Arguments of "cultural specificity".

6 Such as the Catholic Family and Rights Institute (C-FAM), Focus on the Family, the Family Research Council, National Right to Life, Concerned Women of America, REAL Women and the World Movement of Mothers.

7 These are direct quotes taken from a recording of President al-Sisi's speech at the UN, sourced from: United Nations, 2020. Egypt - President Addresses General Debate, 75th Session, [YouTube]. Available at: <[https://www.youtube.com/watch?v=NwoEalZCYGU&ab\\_channel=UnitedNations](https://www.youtube.com/watch?v=NwoEalZCYGU&ab_channel=UnitedNations)>. [Accessed 8 January 2021].

content posted to the platform TikTok reveals an alarming expansion of the policing of women's freedom of expression and bodily autonomy (Human Rights Watch, HRW, 2020). It also illustrates a growing anti-feminist narrative, which conflates women standing for their rights with 'Western agents' spreading immorality (Mada Masr, 2020). This type of narrative, between anti-Westernism and anti-feminism, elicits fears of 'imposition' and 'foreign influence', and echoes certain patriarchal and sexist norms of 'decency'.<sup>8</sup> The government plays upon such discourses and shared public frames, alighting them to bolster public hostility toward WHRDs, civil society, and any other women actors representing a threat to Egypt's international image and the rule of al-Sisi himself. Likewise, LGBTQI\* people are severely repressed through charges of 'debauchery', and transgender and intersex people's identities are pathologised, resulting in institutional violence, torture, discrimination, and arbitrary detentions (Arab Network for Knowledge about Human rights, ANKH, 2020). The recent suicide of Sarah Hegazi, an LGBTQI\* Egyptian activist, who was imprisoned and tortured in Egypt and later sought asylum in Canada, has exposed the direct impact of Egyptian LGBTI-phobic policies, state violence, and torture of LGBTI individuals (ANKH, 2020).

## *Tunisia*

Since its independence from the French colonial rule in 1956, Tunisia has been portrayed and portrayed itself as a progressive, 'modern' nation. Habib Bourguiba, leader of Tunisia's revolutionary party and president until 1987, promoted women and men's equal rights. Bourguiba instigated significant legislative gains for women's rights, such as adopting a progressive Personal Status Law.<sup>9</sup> This state-feminism was pursued by Ben Ali, the authoritarian president of Tunisia until 2011, and led to further legislative improvements of women's rights. Like the Egyptian case, Ben Ali used women's rights to portray Tunisia as embracing 'modernity', while simultaneously shrinking the space for civil society, violating fundamental freedoms and the rule of law.

Since the 2011 revolution, and following the democratic transition, the tensions between 'tradition' and 'modernity', 'East' and 'West', feminism and Islamism have crystallised around gender issues. The 'woman question' has become a "symbolic terrain for political and ideological struggles in periods of instability" and is gaining momentum with Islamist parties' post-transition rise (Grami, 2018: 32). The use of the term 'gender' alone is triggering hostility in the country. It is debated at length in the parliament each time it is mentioned. For instance, during the Comprehensive Law's debates against violence against women, the potential use of the term 'gender' was negotiated for weeks (Chérif in EuroMed Rights and Kvinna till Kvinna, 2019).<sup>10</sup> Many conservative parties allow the use of the term 'gender' in public policies amounts to recognising homosexuality (Chérif in EuroMed Rights and Kvinna till Kvinna, 2019). This is not specific to Tunisia. As a concept, 'gender' is contested in many parts of the world. In the Arab-speaking world, gender has roughly ten different translations, which does not facilitate understanding the concept in public discourse (Grami in EuroMed Rights and Kvinna till Kvinna, 2019).

Amel Grami, director of the Gender Studies program at the University of La Manouba, explains that "[t]he term gender creates outrage ... Before, anti-feminist attacks were mostly directed

<sup>8</sup> Which can entail: policing women's bodies, confining women to the private sphere, focusing on women's role as caretakers.

<sup>9</sup> The Personal Status Law is a legal framework consisting of a series of progressive Tunisian laws establishing equality between men and women in different areas. For instance, it abolished polygamy, created a legal procedure for divorce and allowed marriage only under the condition of mutual consent from both spouses.

<sup>10</sup> For the report *The Fierce and the Furious; Insights into the Anti-Gender Narratives and Movement*, EuroMed Rights and Kvinna till Kvinna conducted interviews with feminist activists and WHRDs from a number of countries. Citations from the interviews with Amel Grami and Khadija Chérif have been included in the present research and are referenced accordingly.

against activists. Now, they target gender studies' professors. Gender studies are seen as something that both normalises and promotes homosexuality" (Grami in: EuroMed Rights and Kvinna till Kvinna, 2019: 15).

Khadija Chérif, Tunisian sociologist and feminist activist, further asserts that anti-feminist and anti-gender actors – essentially embodied in the traditionalist counterweight of conservative, Islamist movements – invoke 'moral', religious, familialist<sup>11</sup>, and anti-Western arguments to criticise feminists or prevent the advancement of contested issues of women's rights (in particular those pertaining economic equality and reform of the Personal Status Law)(Chérif in: EuroMed Rights and Kvinna till Kvinna, 2019). Conservative movements with an anti-feminist agenda claim that giving in to this 'Western modernity' will lead to the destruction of what they believe is Tunisian indigenous society (Grami in: EuroMed Rights and Kvinna till Kvinna, 2019). Homophobia and sexism are intertwined in the anti-feminist and anti-gender discourse of conservative actors (EuroMed Rights and Kvinna till Kvinna, 2019).

The contestation that feminists in Tunisia face is framed around the women's rights movement being influenced by the 'West', introducing concepts that go against its identity, nation, and culture. Islamist movements are powerful and pay hackers to harass and troll feminist researchers online. They are organised and ever-present on social media, which gives them channels to directly attack activists and professors via emails, raids, cyber-attacks, and so on.

Amel Grami was herself harassed on social media, and a raid was launched against her after she spoke on the topic of homosexuality and religion in the media.

*"I think this has to be seen in the context of fear of what the future will look like, the economic crisis, and of terrorism. It is seen as a "natural" thing to go back to traditional values such as family. Gender is seen as a threat to these "secure" values. It is an invasion of the "other" which, in an uncertain context, can feel alien and dangerous. But it is also a classic attempt from conservative forces to preserve patriarchy and privileges"* (Grami in EuroMed Rights and Kvinna till Kvinna, 2020).

Tunisia has been highly praised internationally over the past few years for the country's progress on promoting and protecting women's rights. In 2019, the capital, Tunis, hosted the UN Women's Forum on Gender Equality and in May 2020, the Council of Europe invited Tunisia to accede to the Istanbul Convention.<sup>12</sup> While these developments are positive, there are growing concerns that they may only run surface deep.

In 2019, Tunisians elected Kais Saied, a conservative jurist, overtly critical of international human rights treaties. As a candidate, Saied opposed gender equality in inheritance, citing Sharia law. He also favoured the criminalisation of homosexuality, referring to gay people as "deviants" (Human Rights Watch, 2020). Recently, on the occasion of the National Celebration of Women's Rights, he reiterated his position on inheritance, opposing 'liberal' values of equality to Islamic values of justice and equity.

## Turkey

Turkey has a long history of strong feminist movements (Müftüler-Baç, 2012). However, the

<sup>11</sup> Familialism is an ideology that puts family first. The term relates to governments or parties whose discourse and politics focus extensively on families, and on protecting family values. The family rhetoric is often used to demonise other parts of society which are deemed to have tarnished or threatened heterosexual, patriarchal, nuclear families.

<sup>12</sup> The Council of Europe Convention on preventing and combating violence against women and domestic violence is referred to in the short form as the Istanbul Convention.

terms ‘anti-gender’ and ‘gender ideology’ did not exist in the vocabulary of gender politics in the country until very recently. Anti-gender politics date back to 2011 when the ruling, authoritarian Islamic-nationalist party, President Erdogan’s AKP (the Justice and Development Party), started to bypass gender equality laws favouring pro-natalist policies promoting motherhood (Özkazanç in an interview with EuroMed Rights, 2020). In 2012, for example, the AKP lobbied to ban abortion in Turkey, which reflected many of President Erdogan’s comments on the importance of motherhood and the ‘attack on the nation’ which family-planning represents (Ahmadi for the BBC, 2012). Women vehemently contested this legal reform as an attack on their freedom of choice and right to appropriate healthcare. Although the reform was not formally passed, in practice, abortion has been de facto restricted as many public hospitals now categorically refuse women this procedure (Kiliç, 2017).

In Turkey, the principal actor against gender equality is the ruling party which acts with growing support from popular movements and according to narratives promulgated by radical Islamist writers, conservative journalists, academics and non-governmental organisations to express both fervent nationalism and overt rejection of ‘Western impositions’ (Özkazanç, 2019). Other important actors include the government-organised women’s rights organisation, KADEM (the Woman and Democracy Association, which represents the AKP’s attempt to hijack the independent and powerful feminist movement in Turkey), and the Council of Higher Education (Ayhan, 2019).

On 8 March 2019, anti-gender politics leapt forward in Turkey (Özkazanç, 2019). A new network, ILKHA (the Turkish Family Assembly)<sup>13</sup>, put out a call on social media to “stop the global war on the family”. This is the exact same slogan which is used by anti-gender movements in Europe and elsewhere.<sup>14</sup> According to this movement, “the terrorism of gender equality and homosexuality is a crime against humanity” (Özkazanç, 2019). The Turkish Family Assembly wants to restore the importance of the family status and lift the ban on underage marriages.

In keeping with this discourse, the state has repeatedly attacked gender studies and excluded queer and feminist researchers from universities and other institutions. In recent years several women’s rights NGO’s and civil society organisations have been shut down within the context of a broader crackdown on civil society organisations facilitated by the introduction of the ‘State of Emergency’ in 2016. According to Amnesty, “[i]n October 2016”, for example, “the Women’s News Agency (JINHA), run exclusively by women and established to try to get women’s voices heard, was closed by a state of emergency decree. Its editor Zehra Doğan was sentenced to more than two-and-a-half years in jail for “making propaganda for a terrorist organization [sic]” (Buyum for Amnesty International, 2018). In 2017, “Şûjin, a new women-only news agency set up in its place, was also closed down by emergency decree” (Buyum for Amnesty International, 2018). Similarly, in late 2019, a women’s rights organisation called Antakya Purple Solidarity Women’s Association (*Antakya Mor Dayanışma Kadın Derneği*)<sup>15</sup>, which advocates against gender-based violence through community awareness-raising events was subjected to a large fine for having organised illicit training sessions. Their premises were subsequently shut down without warning, halting their activities (World Organisation Against Torture, 2019).

13 Exactly who the members of the Turkish Family Assembly are is unclear, but the group’s creation date (right before International Women’s Day) as well as the content of their statements and publications leave no doubt as to their convictions. For example, see: <https://ilkha.com/tag=t%C3%BCrkiye%20aile%20meclisi>

14 Including in the United States and Latin America, as explored in other chapters of this research.

15 *Mor Dayanışma*, 2021. Facebook Page. Available From: <<https://www.facebook.com/MorDayanisma/>>. [Accessed 30 January 2021].



LGBTQI\* activism is severely repressed as an “offence against public morality” (Özkazanç, 2019). Echoing a rising tide of homophobia and transphobia, Turkey’s President Erdogan lent support to the head cleric of the government’s Directorate of Religious Affairs who espouses that ‘homosexuality spreads disease’. Pride celebrations planned in major cities in 2020 were deemed by authorities to be a dangerous form of “LGBT propaganda” (Reuters, 2020) and forms of gender expression, which are seen as ‘unconventional’, are being rapidly criminalised (McKernan for The Guardian, 2020). As Levent Pişkin, a human rights attorney and LGBTQI\* activist, states: “[t]he discourse from those in power makes us scapegoats and targets in a society that was already prone to homophobia, (...) This is a period of darkness that we are trying to survive. I wouldn’t call this living” (Pişkin in an interview with Yackley for Politico, 2020).

Concerning women’s rights, Islamist elites and the government believe that secular ‘Western feminism’ contradicts Turkey’s Islamic roots. These ‘Western’ influences are described as having “degenerated Turkish women, destroyed the true Turkish family and brought immorality to Turkish society”, with Kurdish feminists criticised most severely (Çağatay, 2019). It is becoming increasingly apparent that the Turkish state aims to create a new paradigm: an alternative to globalised and decadent Europe (Özkazanç, 2019). At the international level, Turkey engaged in a normative contestation over the meaning of ‘gender equality’. Turkey attempts to subvert global norms of gender equality by promoting a local norm of ‘gender justice’ as an alternative (Bodur Ün, 2019)<sup>16</sup>. In the most recent blow to the respect for women’s rights and fundamental freedoms, in May 2020, Numan Kurtulmuş, vice-chair of the AKP party, suggested that Turkey’s ratification of the Istanbul Convention was a ‘huge mistake’ (Keskin in an interview with EuroMed Rights, 2020). This echoed the opinion of more radical AKP party members that the Convention represents a “Trojan horse (under the guise of fighting against gender-based violence) which aims to introduce tolerance for “gay perversity” (Özkazanç in an interview with EuroMed Rights, 2020) and that the government should envisage a full retraction from it (Hurriyet Daily News, 2020). It is hard to imagine what this withdrawal would mean for gender equality and women’s rights. Still, with the high levels of violence against women and femicide already recorded in the country – it is extremely unlikely to spell good news (McKernan, 2020).<sup>17</sup>

## Conclusion

As cases studies, Egypt, Tunisia, and Turkey share similar traits, such as the imposition of a state-feminism and a common discourse against gender equality. However, each country’s political history and current context render the local contestations in each country unique. To counteract the developments presented above, actors would need to understand the local context’s specificities while refraining from engaging in a dualistic approach to gender equality: either feminism or Islamism, tradition or progress etc. Moreover, one could start by challenging the essentialist idea of an ‘indigenous’ nation that ‘progressive’ ideas would tarnish.

Finally, the COVID-19 pandemic has magnified pre-existing discriminations in a social, political, and economic context where gender equality is threatened. In several MENA countries, the COVID-19 crisis has been used as a tool to enforce measures that further repress feminist and LGBTQI\* organisations and entrench crackdowns on women’s rights. In Egypt, Tunisia, and Turkey, as in most other countries across the globe, the lockdowns imposed by the COVID-19 crisis saw a marked increase in cases of violence against women, specifically domestic violence. In less than a year, the pandemic has become a phenomenon representing a significant threat for gender equality in the MENA region and worldwide.

<sup>16</sup> By “gender justice” it is meant that gender roles are God-given and that women and men are therefore naturally complementary.  
<sup>17</sup> For information, visit: <http://www.kadincinayetlerinidurduracagiz.net/for-english>



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