

WORLD POLICY REPORTS

Sexual Orientation and Human Rights in the Americas

Andrew Reding

Project for Global Democracy and Human Rights

WORLD POLICY INSTITUTE

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Andrew Reding

Senior Fellow, World Policy Institute

Director, Project for Global Democracy and Human Rights

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World Policy Institute at New School University (www.worldpolicy.org)

66 Fifth Ave 9th floor, New York NY 10011

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Definitions

Bisexual	Men or women who are sexually attracted to both men and women.
Gay	Men who are sexually attracted to other men.
Lesbian	Women who are sexually attracted to other women.
LGBT	Acronym for lesbian, gay, bisexual, and transgender.
Heterosexual	Any form of sexual attraction between men and women.
Homosexual	Any form of sexual attraction between members of the same sex.
Sex workers (<i>trabajadores sexuales</i>)	Persons of either sex who work as prostitutes, hustlers, rent-boys, or escorts and are in the business of providing sex for money, drugs, or housing.
Transgender (<i>transgénero</i>)	Persons whose gender identity or gender expression differs from their biological sex. Transgender persons usually live full or part time in the gender role opposite to the one in which they were born. "Transgender" thus encompasses both transsexuals and transvestites (cross-dressers).
Transsexual (<i>transsexual</i>)	Individual whose gender identity is that of the opposite sex. There are female-to-male and male-to-female transsexuals. A transsexual may or may not have had sex reassignment surgery.
Transvestite (<i>travesti</i>)	A cross-dresser – anyone who dresses in a manner conventionally associated with the opposite sex. Some individuals cross-dress as an expression of gender identity. Others do so as a personal preference unrelated to sexual orientation or gender identity. By far the most common form of cross-dressing in Latin America is by gay sex workers who do so to suit clients who are trying to avoid being stigmatized as "homosexual."

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A report submitted to the Inter-American Commission on Human Rights in 2002 summarizes the government's HIV/AIDS policy as follows:

...the present authorities still do not perceive AIDS as a priority. The State has no permanent program for the prevention of AIDS, nor does it prepare educational materials. There are great deficiencies in the training of health personnel to offer correct care, and the government has no plan for access to antiviral medications by persons living with HIV. Persons infected with HIV presently do not receive any support from the State, not even for opportunistic ailments.⁸²

Bolivia is one of the poorest countries in the hemisphere, with a per capita GDP of \$2,424 in 2000, and a third of the population earning less than \$730 a year.⁸³ The vast majority of Bolivians who become infected with HIV are unable to afford the thousands of dollars a year required for the advanced antiretroviral medications that the government will not provide.

Adding to the burden of persons living with HIV/AIDS is a particularly high level of stigmatization. Upon discovery of their status, such persons have been fired by employers, abandoned by their families, denied medical attention, and even denied the right to be buried in cemeteries. All foreigners who desire to spend more than three months in the country must be tested for HIV, and foreigners who are discovered to be HIV-positive while in Bolivia are subject to expulsion.⁸⁴

Brazil

Rapid progress is being made in establishing the rights of sexual minorities, especially in the country's larger cities, and in the more modern and prosperous southern states. In the vast northern reaches of the country, however, prejudice and discrimination remain high, frequently resulting in violence toward homosexuals, and even murder.

Brazil is something of an enigma in its attitudes toward homosexuality. Consensual sexual behavior between members of the same sex has not been a crime since 1830, shortly after Brazil gained independence from Portugal.⁸⁵ As in Haiti, the substantial influence of African traditions has acted as a countercurrent to Iberian *machismo*. In Afro-Brazilian religious communities, some of the spirits, most of the priests, and many of the participants are homosexual. Some of that openness to alternative forms of sexual expression is manifest in the sexual exuberance and freedom of Carnival.⁸⁶

But the lingering influence of *machismo* is evident in a popular culture that often remains hostile to forms of sexual expression that depart from conventional norms, and that occur outside certain professions in which sexual nonconformity is tolerated. According to a team of Brazilian experts writing in the *International Encyclopedia of Sexuality*,

The social status of homosexuals is favorable only among those who have achieved fame in the arts, music, theater, movies, television, and haute couture. A homosexual orientation and lifestyle seem to facilitate self-promotion and professional success in these fields. In other areas of professional life, homosexuality is not a positive factor.⁸⁷

Soldiers and police officers, for instance, are frequently fired if their homosexual inclinations become known.⁸⁸

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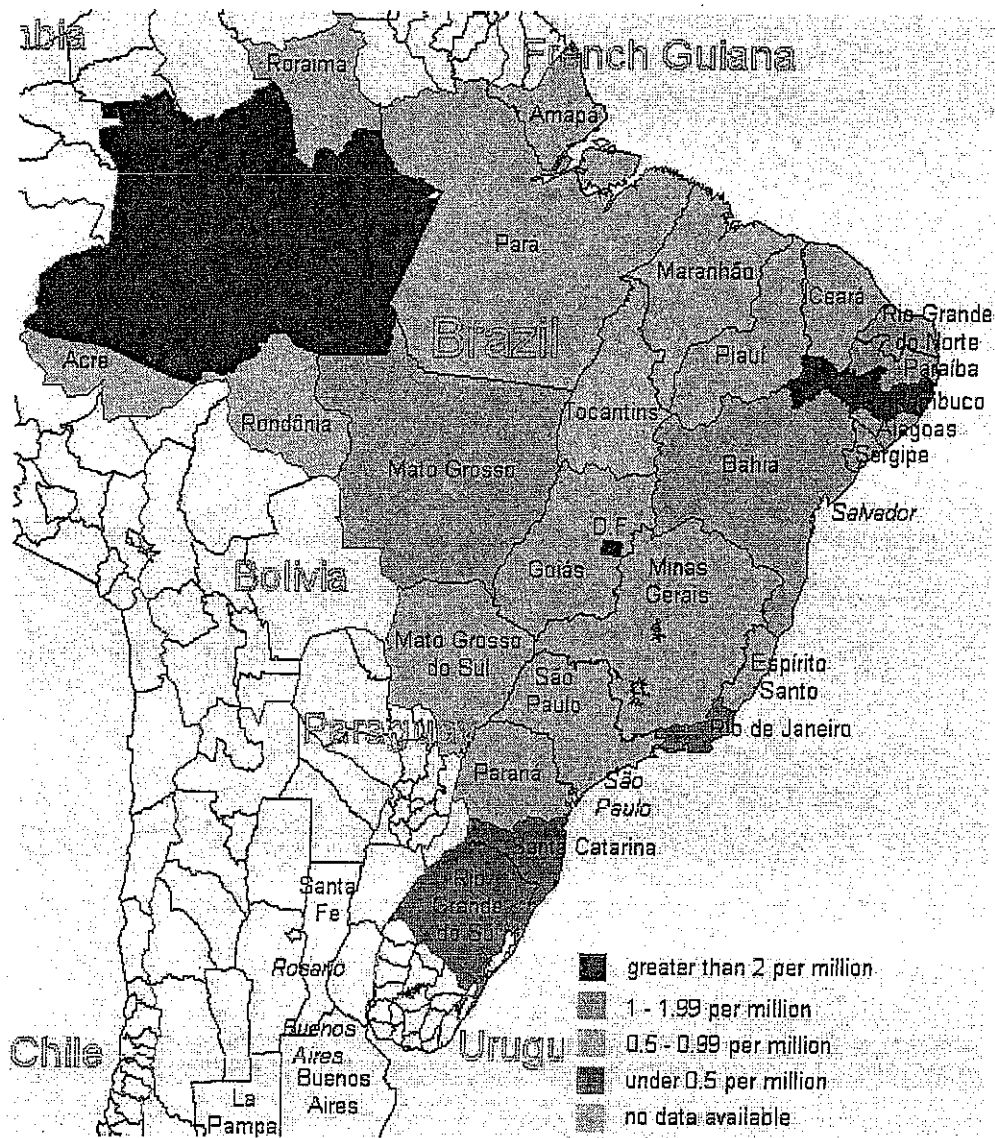
Attitudes toward sexual minorities show a wide degree of geographic variability, as reflected in murder rates of homosexuals. The Gay Group of Bahia (*Grupo Gay da Bahia*) has documented such murders. It reported 130 murders of homosexuals in 2000, and 132 in 2001. A disproportionate number of these homicides were concentrated in the northeast and the northwest, which are particularly homophobic parts of the country. Murder rates were substantially lower in the more prosperous, cosmopolitan south. As can be seen from the following table, reported murder rates in Bahia, Pernambuco, Amazonas, and the Federal District were, respectively, three, six, nine, and fifteen times the rate in Rio de Janeiro.⁸⁹

State	population 2000	gay	trans- vestite	lesbian	total murders	rate per million
São Paulo	37,032,403	13	11	-	24	0.65
Pernambuco	7,918,344	7	9	-	16	2.02
Bahia	13,070,250	11	3	-	14	1.07
Federal District	2,051,146	9	2	-	11	5.36
Amazonas	2,812,557	7	1	1	9	3.20
Minas Gerais	17,891,494	8	1	-	9	0.50
Paraná	9,563,458	4	3	-	7	0.73
Paraíba	3,443,825	4	-	1	5	1.45
Rio de Janeiro	14,391,282	3	2	-	5	0.35
Alagoas	2,822,621	1	3	-	4	1.42
Mato Grosso	2,504,353	3	1	-	4	1.60
Sergipe	1,784,475	2	1	-	3	1.68
Rio Grande do Norte	2,776,782	3	-	-	3	1.08
Rio Grande do Sul	10,187,798	3	-	-	3	0.29
Pará	6,192,307	3	-	-	3	0.48
Ceará	7,430,661	2	-	1	3	0.40
Espírito Santo	3,097,232	1	1	-	2	0.65
Goiás	5,003,228	2	-	-	2	0.40
Piauí	2,843,278	1	1	-	2	0.70
Santa Catarina	5,356,360	1	1	-	2	0.37
Mato Grosso do Sul	2,078,001	-	1	-	1	0.48
TOTAL	160,251,855	88	41	3	132	0.82

Homicide statistics also underscore the high degree of correlation seen throughout Latin America between sex work and cross-dressing, and the high risk of violence faced by transvestites. Over half (77) of those murdered in 2001 were listed as “sex workers” or as “without profession or unemployed” – a category which presumably includes sex workers not identified as such, since sex work is not a profession easily admitted to. Nearly a third (41) of the victims were transvestites. Transvestites are also subject to constant harassment from police officers, who steal their earnings and sometimes compel them to perform sexual favors.⁹⁰

Only three (2%) of the murder victims in 2001 were lesbians, in part reflecting their lower profile.⁹¹

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Map 2: Murders of homosexuals in Brazil

The statistics, however, do not tell the full story. As summarized by Luiz Mott,

...in the last decade more than a thousand gay men and at least thirty lesbians were murdered in Brazil – one every five days. The real number is surely much higher than the already hideously high number we learn about, because the families of many convince the press not to include scandalous details about the lives and deaths of those murdered for being homosexual. Most of the crimes include extreme violence: castration, burning of the body, hundreds of stab wounds. Only about one in ten of the killers is arrested. The few who are and who go to tribunal frequently claim that they killed the victim because he tried to violate their honor (that is, fuck them).⁹²

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Underlying such violence is the stigmatization of effeminate men, and to a lesser degree, masculine women, in the traditional culture, which continues to predominate in rural areas and in most of northern Brazil:

...the sexual universe is continually structured and restructured, in even the simplest and most common verbal exchanges, along the lines of a rigid hierarchy: a distinction between sexual *atividade* and *pasividade* that is translated into relations of power and domination between *machos* and *fêmeas*, between *homems* (men) and *mulheres* (women).

...The symbolic structure of male/female interactions seems to function in many ways as a kind of model for the organization of same-sex interactions in Brazilian culture. Within the terms of this model, what is centrally important is perhaps less the shared biological gender of the participants than the social roles that they play out – their *atividade* or *pasividade* as sexual partners and social persons. A *homem* who enters into a sexual relationship with another male does not necessarily sacrifice his *masculinidade*, so long as he performs the culturally perceived active, masculine role during sexual intercourse and conducts himself as a male within society. A *mulher* who conforms to her properly passive, feminine sexual and social role will not jeopardize her essential *feminidade* simply by virtue of occasional (or even ongoing) sexual interactions with other biological females.

The same cannot be said, however, of the errant partners in such sexual exchanges. On the contrary, the male who adopts a passive female posture – whether in social or sexual interaction – almost invariably undercuts his own *masculinidade*, just as a female, in adopting an active, dominating, masculine posture undercuts her *feminidade*. ...The failed *homem* comes to be known as a *viado* (from *veado*, deer) or *bicha* (...the feminine form of *bicho* or animal, and thus a female animal) due to his inappropriate femininity, while the inadequate *mulher* is known as *sapatão* (literally, big shoe) or even *coturno* (army boot), due to her unacceptable masculinity....Not surprisingly, both are thus subject to some of the most severe stigmatization found anywhere in Brazilian society.⁹³

Yet there are also significant alternative cultural traditions. One that is of special importance among the lower socioeconomic strata is shaped by Afro-Brazilian religious communities. Known as *Candomblé*, it shares some common African origins with Haitian *Vodou* and Cuban *Santería*. The communities are decentralized and autonomous. Each is led by a minister called *mãe de santo* or *pai de santo* (depending on gender), literally “mother” or “father of saint,” but best translated “mother” or “father of spirit,” since saints are thought of as spirits that temporarily take possession of the body in ritual settings. They are considered “mothers” and “fathers” in the sense that they initiate *filhos de santo* (literally “sons of saints”) into the community. Each *mãe* or *pai* maintains a *terreiro* (yard) where *filhos de santo* gather together for *festas* (“feasts,” ceremonies with drumming and dancing), in the course of which participants “receive” the *orixas*, or spirits. Because many of the spirits are female, the gatherings legitimize feminine behavior by men in the course of the *festas*. By imbuing such behavior with sacred meaning, these practices contribute to a greater degree of social acceptance.⁹⁴

In much of urban Brazil, Western European and North American influences have been reshaping cultural attitudes over the past few decades, particularly among the upper and middle classes. With the emergence of gay subcultures within the larger cities, sexual roles have become more fluid and the stigma against individuals who favor roles usually associated with the other sex has been diminishing. In cities like Rio de Janeiro and São

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Paulo, and to only a slightly lesser extent Porto Alegre, Salvador, and Recife, there is now a gay community (*comunidade gay*) and gay identity (*identidade gay*), just as in major cities in Western Europe, Canada, and the United States.⁹⁵

That cultural transformation, while not entirely displacing traditional concepts of sexuality, has led to greater public acceptance of alternative forms of sexual expression, and – not coincidentally – substantial progress in securing rights for gays and lesbians. Almost half a million Brazilians took part in the gay pride parade held in São Paulo in June 2002. Particularly significant was the participation of large numbers of heterosexuals, many of whom brought along their children to make the point that they had nothing to fear from those who adopt other forms of sexual expression. Mayor Marta Suplicy gave a speech expressing her pride in being the mayor of a city that is becoming a showcase for gay rights. In the northeastern city of Salvador, capital of the more conservative state of Bahia, thousands marched in the first parade held there, to the accompaniment of Afro-Brazilian music. In June 2003, over three quarters of a million persons took part in the gay pride parade in São Paulo, a spectacular increase from the two thousand who took part in the first parade just six years earlier in 1997. Mayor Suplicy, speaking from a parade float, announced a program of panels and films to encourage respect for sexual diversity in public schools.⁹⁶

In 1991, Salvador, Brazil's fourth most populous city, became the first city in Latin America to ban discrimination on the basis of sexual orientation. Dozens of cities – including São Paulo, Rio de Janeiro, and Niteroi (across the bay from Rio) – have since enacted similar bans on discrimination. So have five states – Bahia, Sergipe, Matto Grosso, Minas Gerais, and São Paulo.⁹⁷

In May 2001, the state of São Paulo created a Homosexual Defense unit within the Ministry of Justice, to assist victims of discrimination and violence. In October 2001, the state legislature of Minas Gerais passed Law 694/99, which not only penalizes discrimination based on sexual orientation, but establishes the right of same-sex couples to express affection in public. In December 2001, the city councils of Pelotas, in the southern state of Rio Grande do Sul, and Recife, in the northeastern state of Pernambuco, passed ordinances extending pension rights to same-sex partners of public employees. A similar measure passed by the Legislative Assembly of the state of Rio de Janeiro was vetoed by Governor Antony Garotinho.⁹⁸

In May 2002, President Fernando Henrique Cardoso expressed support for a bill being debated in Congress that would grant homosexuals the right to marry. The bill was drawn up by São Paulo mayor Marta Suplicy, of the opposition Socialist Workers Party.⁹⁹ Cardoso had previously appointed anthropologist and gay activist Luiz Mott to the National Council Against Discrimination.¹⁰⁰

Important gains are also being made in the courts. In 2001, following an historic verdict against hate-inspired crime, a São Paulo court sentenced two skinheads to 21 years in prison for the February 2000 murder of Edson Neris da Silva, a gay man. Two accomplices were sentenced to four years and seven months in jail, and another to three years and four months. Another skinhead was convicted on a lesser charge of attack, and a seventh suspect was freed for lack of evidence. On March 27, 2002, a São Paulo court convicted still another skinhead for participation in the murder, sentencing him to 19½ years in jail. In court testimony, the convicts said they had attacked Edson Neris da Silva and his partner Darío Pereira because

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they were holding hands in downtown São Paulo. Pereira was severely beaten but survived the attack.¹⁰¹

In August 2001, a state court in Recife, capital of Pernambuco, ruled that the survivor of a same-sex spouse has the right to the spouse's pension. That same month, Gilberto Biezek, a General Motors worker in Gravataí, in the southern state of Rio Grande do Sul, won a precedent-setting civil suit against the company, which had fired him in August 2000 upon discovering he was gay. In October, a judge in Santa Luzia, in the State of Minas Gerais, set another precedent by approving the adoption of a child (a 2 year old girl) to an openly gay couple (Jarbas Santarelli Porto y Jose Geraldo Dias). And in August 2001, the Public Ministry in Campinas, state of São Paulo, approved a sex change operation for a person identified only by the initials MK. It acknowledged there was a valid therapeutic reason for the surgery.¹⁰²

In January 2002, a juvenile court judge in Rio de Janeiro assigned custody of the eight-year-old son of deceased rock star Cassia Eller to her lesbian partner. Around the same time, a federal court in Porto Alegre in the southern state of Rio Grande do Sul ordered the social security system to pay a pension to the partner of a deceased man. Judge Simone Barbisan Fortes argued that stable same-sex partnerships "constitute family communities that deserve the protection of the state."¹⁰³

Another sign of change has been in the realm of artistic expression. Brazil's most critically acclaimed new film in 2002 was "Madame Satan," based on the true story of João Francisco Dos Santos. Dos Santos was a poor, black, illiterate homosexual who spent ten years in jail in the 1930s for shooting to death a man who had insulted him because of his sexual orientation. After his release from prison, Dos Santos became a celebrity in Rio de Janeiro's Carnival, adopting the pseudonym Madam Satan. He was a transvestite, who designed award-winning Carnival costumes. According to Mario Osava,

Karim Ainouz, a Brazilian filmmaker of Arab descent, chose this Rio underground figure (1900-1976) as the subject of his first feature-length work. But the central themes are social exclusion and how passion for life can overcome the limitations imposed by others, the director says. The film underscores one of the most important sources of Brazilian culture today, the encounter of blacks and the marginalized middle classes, which gave rise to the famed Brazilian Carnival and to other expressions of music and dances as popular spectacles in the early 20th century.¹⁰⁴

In October 2003, TV Globo – the country's largest television network – concluded its *Mujeres Apasionadas* (Passionate Women) series with an episode that featured the first lesbian kiss in the 40-year history of *telenovelas* (soap operas). An estimated 80 million viewers watched two teenage girls kiss on prime-time television. That signaled a sea change in public attitudes. An earlier 1998 effort by O Globo to introduce a lesbian couple in the *telenovela* "Tower of Babylon" prompted so many viewer complaints that the network decided to cut its losses by rewriting the script, having the lesbian characters die to get them out of the way.¹⁰⁵

After security officers at the Frei Caneca shopping mall in central Sao Paulo asked two men to refrain from kissing in public in July 2003, the local gay pride group Corsa organized an unusual demonstration: a kiss-in. On August 3, 2003, more than a hundred couples kissed in the crowded food court at the mall. Eager to dispel the notion that the shopping center was

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gay-unfriendly, mall staff welcomed the couples enthusiastically. In preparation for the event, the mall had affixed bright red lips on the front and inside of the building, set up disco lighting in the food court, and provided a disk jockey who played nothing but songs featuring the word "kiss."¹⁰⁶

In much of northern Brazil, however, conditions for homosexuals remain precarious, and nowhere more so than in the Federal District and the states of Amazonas and Pernambuco:

- In late December 2002, a Military Police officer with the surname Edras shot to death a transvestite known as "Ze Galinha" in the Amazon region state of Amazonas. Witnesses overpowered Edras and held him until the arrival of police several minutes later. The police, however, declined to arrest Edras. The local LGBT organization, the Amazonas Association of Gays, Lesbians, and Transvestites (*Associação Amazonense de Gays, Lésbicas e Travestis*, AAGLT) then took up the case, with demonstrations and appeals to the media and to state legislators. Mário Frota, Chair of the legislature's Human rights Commission, assigned a lawyer, Marcelo Cruz, to the case. A judge then ordered the arrest of the policeman, but the order was not carried out. Two days later an attempt was made to break into the home of AAGLT president Adamor Guedes, reportedly by police led by officer Edras. On January 19, 2003, an assailant shot Marcelo Cruz in the leg, telling him it was "just a warning." The following day, legislator Frota met with the Secretary for Security of Amazonas, to request protection for Cruz. The request was denied. On January 27, Cruz was found dead in his apartment. Friends who had accompanied him to a bar the night before reported that two armed men had forced him to drink from a glass. A preliminary report suggested poisoning as the most likely cause of death. Police protection was subsequently granted to Adamor Guedes.¹⁰⁷
- In the early morning of October 16, 2003, gunmen attacked the home of Nanci Tavares do Nascimento (48) and Maria da Conceição (34) in the working class neighborhood of Córrego do Curio in Recife, Pernambuco. They fired 17 rounds into Nanci and 14 into Maria. Dozens of bullets remain embedded in the walls. Nanci and Maria were lesbian lovers who earned a living selling beverages from their home. Both were estranged from their families because of their sexual orientation.¹⁰⁸

According to the UNDP, the prevalence rate of HIV/AIDS in 2001 was 0.65 percent of adults aged 15-49, roughly equal to the rate in the USA. As of the end of 2001, UNAIDS estimated there were 610,000 persons infected with HIV out of a population of 172.5 million. Of these, 105,150 who had actually been diagnosed as HIV-positive had initiated highly active antiretroviral therapy (HAART).¹⁰⁹

Brazil's HIV/AIDS prevention and treatment program is widely hailed as a world model. The government offers free antiretroviral treatment to all persons diagnosed with HIV/AIDS. The drugs are produced in generic form within the country at a cost of about \$1,000 per person per year, a fraction of the usual cost. The treatment halved the number of AIDS-related deaths between 1995 and 2000. By reducing AIDS-related hospitalizations in the public health system by 80 percent, the investment in antiretroviral therapy has led to overall savings in the AIDS-treatment budget. The steep decline in the death rate, however, has greatly increased the proportion of the population living with HIV, and thus increased the risk of unprotected sex. The government has therefore aggressively promoted the use of

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condoms, with some 600 million being used in 2001, and millions distributed for free. The results have been impressive. Though Brazil had an infection rate comparable to South Africa in the 1980s, its infection rate is now comparable to that in the United States.¹¹⁰

Chile

The Economist characterizes Chile as

South America's most successful economy -- and most conservative society. Divorce and abortion are still banned, some films still cannot be shown and few homosexuals dare to come out into the open. This prudishness is tribute to the enduring influence in Chile of the Roman Catholic church.¹¹¹

According to Alejandro Silva, Secretary of the Office of the National Human Rights Coordinator, Chilean society remains deeply prejudiced against homosexuals, and the country has yet to seriously confront the issue of discrimination based on sexual orientation.¹¹²

Until recently, sexual activity between members of the same sex was prohibited by law. Though the ban has been lifted, public attitudes make life very difficult for homosexuals throughout the country. Boys and men who are perceived to be effeminate are routinely subjected to ridicule, harassment, and beatings. As in much of Latin America, transvestites run the highest risk. Many have been murdered over the past two years, with little sign of official interest in solving the murders.

In a 29-nation survey of public opinion conducted in 1998-1999, Chileans stood out for their lack of tolerance for homosexual behavior. On a scale of 100, the highest level of tolerance was registered by the Netherlands, which came in at 77. The lowest levels were registered by Chile (the only Latin American country in the survey) and the Philippines (the only other country in the survey with a Spanish colonial past) at 9 and 8, respectively. Spain came in at a surprisingly high 59, slightly ahead of Sweden and Norway, underscoring the changes that have swept through its popular culture since the end of the Franco dictatorship. The United States registered at 31. Given the large sample size of 34,557 (1,452 for Chile), these figures appear to be statistically reliable.¹¹³

Other opinion polls point to a sharp generational change in attitude. A poll conducted by the Institute of Public Studies (*Instituto de Estudios Públicos*) and Andrés Bello University (*Universidad Andrés Bello*) found that less than 25 percent of persons 45 and older believed that homosexuals should be open about their sexual orientation. Among those aged 30 to 44, the proportion rose to 41 percent, and among 18 to 29 year-olds, to 52 percent. Another study, carried out by the University of Chile and the Ideas Foundation (*Fundación Ideas*), has shown how this generational divide is altering attitudes over time. In 1997, 45.2 percent of Chileans agreed that "homosexuality should be prohibited, because it goes against human nature." Four years later, in 2001, the proportion had fallen to 31.6 percent.¹¹⁴

Until 1998, sexual activity between consenting adult homosexuals was forbidden, and subject to penalties of up to five years in jail. On December 23, 1998, that provision of the penal code was repealed, after the conservative Chilean Senate finally approved a reform bill that had originally been passed by the lower house of congress in 1995.¹¹⁵ A few months earlier, on May 20, 1998, the Senate approved another reform bill that eliminated a provision that