2017

Mexico City's Rights Contradiction: A Study on Rights Based Approaches Amidst Exclusion of Trans Women Sex Workers (2017)

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A Study on Rights Based Approaches Amidst Exclusion of Trans Women Sex Workers

A Thesis Submitted to

The Faculty of the College of Arts and Sciences

In Candidacy for the Degree of

Departmental Honors in International Studies

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June 2017

This honors thesis by Amanda Chavez is approved

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Abstract

This thesis addresses the gaps in México City between legislation (state, national, and international) and daily trans experiences of social exclusion, economic exclusion, and violence. The focus of this project is on trans people in México City, with a focus on trans women sex workers. I use the word trans to refer to *travesti*, transgender, and transsexual people as well as all those whose gender identity is different than that which they were assigned at birth (this includes trans women, trans men, and trans nonbinary people). My focus on trans women sex workers includes people who were assigned male at birth and who identify as women, regardless of official documentation. The trans population as a whole in México City continues to face marginalization along social and economic lines, despite the fact that México City contains vanguard trans protections and legislation--anti-discrimination legislation, hate crime legislation, and gender documentation legislation. The most socially and economically marginalized sector of the México City trans population, trans women sex workers, and experience violence at high rates.

Introduction

This thesis begins by identifying the legislation available for trans protection and rights promotion. Next, I analyze the rights based framework that has dominated in México and introduce alternative approaches to trans liberation. What follows is a description of my methodology and framework which combines pedagogy of the oppressed and desire centered research.I then analyze the actual living conditions of trans people through trans-media sources. I analyze the gap between these actual living conditions and legislation using a case study of transfeminicides against trans sex workers Paola Ledesma and Alessa Flores. What follows is

analysis of community approaches to the continued issues of social and economic exclusion and violence toward trans populations. Finally, I summarize my findings and pose possible activist models to replace rights based frameworks. Throughout this thesis, I argue that rights based advocacy does not prevent violence towards the most marginalized within the trans community, nor has it effectively addressed day-to-day issues of social rejection and discrimination. In order for the most marginalized in México City to be protected, the current inclusive model must be radically altered.

Interrogating the Rights Contradiction

I claim that within México City, México there are many formal rights and protections on the state, federal, and international level; however, these rights and protections are inadequate in improving the life chances of the most marginalized trans people: trans women sex workers. Rather, backlashes against pro-LGBTIQ legislation have appeared in religious hate speech which has in turn increased levels of transphobic violence in recent years. In order to address the ways in which trans people lack protections and opportunity, it is important to first address the rights and protections legally prescribed for trans populations on the international, federal, and state level. On an international level Mexico has pioneered pro-LGBTIQ legislative reforms, allowing for federal-level marriage equality, federal-level anti-discrimination protections, hate crime protections, and gender identity legislation in Mexico City. Mexico City is the federal entity with the most pro LGBTIQ legislative reforms, including the Gender Identity Law[1] (which allows for name changes on birth certificates and legal identification), and has led the way in countrywide legislative reform and LGBTIQ activism and culture. Even amidst Mexico City's advancement

1

in trans rights and the creation of a profitable pink market[2] and culture, trans people in Mexico City continue to face high levels of violence and social rejection. By the end of 2016, Mexico City had become the federal entity where the most trans murders had occurred. As mentioned earlier, scholars and activists claim that violence toward LGBTIQ is increasing as a result of anti-LGBTIQ activism and religious hate speech, which embolden and further normalize transphobia.[3]

International rights

Mexico ratified the Universal Declaration of Human Rights (UDHR) in 1948 and is a party to the Inter-american Commission on Human Rights (IAHRC). However, according to a report by the IAHRC (2015), the Mexican authorities were not fulfilling their obligations to provide adequate investigations of transphobic violence that were free of discriminatory bias. Resolution 29/23 of the Human Rights Council of the United Nations (Resolution 29/23, 2015), defines *transphobic violence* as a "form of gender-based violence, driven by a desire to punish individuals whose appearance or behaviour appears to challenge stereotypes" (United Nations, 2015, p. 7). This violence can manifest itself both physically through "murder, beatings, kidnapping and sexual assault" and psychologically through "threats, coercion and the arbitrary deprivation of liberty…" (United Nations, 2015, p. 7).

Additionally, Mexican investigations of transphobic aggressions often result in the impunity of offenders. The IAHRC (2015) defines impunity as "an absence, on the whole, of investigation, prosecution, arrest, trial and conviction of those responsible for violating rights"

[2] Pink market refers to the economy and industry surrounding LGBTIQ culture, including tourism, bars, etc.

[3] The Family First Front is one of the strongest anti-LGBTIQ groups and have mass mobilized across the country in response to various reforms. Among these reforms include the federalization of marriage equality and President Peña Nieto's proposed pro-LGBTIQ reforms to the Mexican Constitution and the Federal Civil Code.

(p. 245). Not only have apparatus of the Mexican State been complicit in violence through their insufficient homicide investigations and trials, but agents of the State (police officers, members of the military, etc.) have often directly enacted violence towards trans women through harassment, arbitrary arrests, and even instances of kidnapping and murder (Letra S 2014; IAHRC 2015; Parrini & Brito, 2012; Boivin 2016). The findings of this report as well as reports by Letra S (2014) and international agencies/academic institutions, prove that the Mexican government has been failing to apply the benefits and protections of the aforementioned aspects of Article 1 of the Mexican Constitution (Letra S 2014; IAHRC 2015; Transgender Law Center & Cornell Law Clinic 2016; University of Arizona).

The failure of the State to prevent, investigate, punish, and repair human rights violations against trans people is emblematic of the deprioritization of the human rights of marginalized groups across Mexico. The relationship between the Mexican State and human rights protections for trans people allows for insight into the relationship between marginalized groups and the political priorities of Mexico.

Federal rights. Article 1 of the Mexican constitution includes various federal protections for LGBTIQ people. It provides (1) that all people enjoy the human rights laid out in the Constitution and the international treaties to which Mexico is a party; (2) that all authorities promote, respect, protect, and guarantee human rights; (3) that the Mexican State prevent, investigate, punish, and repair all human rights violations; and (4) that all discrimination based on gender and sexual preference be prohibited (Art. 1, Const. Mex.). Although, according to the Inter-American Human Rights Commission, it has been proven that the Mexican State has not fulfilled the obligations set forth in the Constitution concerning the human rights of trans people (IAHRC, 2015). Additionally, the Federal Law to Prevent and Eliminate Discrimination

stipulates non-discrimination based on sexual preference and created the Consejo Nacional para Prevenir la Discriminación (CONAPRED) or the National Council for Preventing Discrimination in order to implement the National Program to Prevent and Eliminate Discrimination and coordinate the actions of institutions within the Federal Power. Their duties include but are not excluded to: investigating discrimination cases; designing and disseminating studies; and designing and leading anti-discrimination programs/campaigns (CONAPRED, n.d.).

Mexico City rights. Within Mexico, Mexico City has led the way in LGBTIQ rights legislation and institutions. The Mexico City Civil Code has been amended twice with pro-LGBTIQ additions: (2004)—allows for sex and name changes on birth certificates for trans people; (2008)—recognition of gender changes on birth certificates and other official documents with a judicial decision and "medical evidence" of transsexuality (no requirement of sex-reassignment surgery); (2010)—allows for same-sex marriage and adoption. In 2011, an antidiscrimination legislation was passed which prohibits public and private sector discrimination on the basis of gender identity as well as sexual orientation. The Council for the Prevention and Elimination of Discrimination in Mexico City (COPRED) has the authority to receive and resolve complaints about public and private sector discrimination based on gender identity and sexual orientation (COPRED n.d.). Additionally, in 2012, Mexico City's Attorney General issued a directive with instructions on how to effectively process hate crimes toward LGBTIQ people. In 2014, the Law To Prevent and End Discrimination in the Federal District added to the Mexico City Criminal Code the classification of crimes committed based on gender identity and sexual orientation as hate crimes. In 2015, México City's chief of government Miguel Ángel Mancera Espinosa signed an accord declaring México City an "LGBTTTI Friendly City".

Violence: Hate Crimes, (trans)feminicides and historical context

Despite the remarkable amount of rights and protections for trans people articulated in the state, federal, and international levels through formal institutions, the Mexican Constitution, international treaties, and México City's Civil and Penal Codes, trans people in México face high levels of transphobic violence and inability to access these rights and protections. According to Transgender Europe's (2016) report "Trans Respect versus Transphobia", between 2008 to the end of 2015, México had reported the second highest absolute numbers of trans murders in the world behind Brazil and ahead of the United States. The top three countries with the highest absolute numbers of trans murders (Brazil, México, the United States) have strong trans movements and civil society organizations with mechanisms for professional monitoring of hate crimes. Though in relative numbers México does not appear among the top five countries with the most trans murders, such a high raw number is alarming, especially considering reports that (trans)feminicides are increasing (IAHRC, 2015, p. 83). Activists have mobilized against (trans)feminicides, especially in light of the murders of Paola Ledezma and Alessa Flores which reveal the government's inability to protect the most vulnerable members of the México City trans community: trans women sex workers.

Historical Context

It is important to recognize not only that transphobic violence[4] has increased in recent years, but also that this violence, especially coming from agents of the state, has existed for many decades within Mexico. Historically, trans organizers have played an important role in legislative advocacy in Mexico City for rights protections and they have also faced the most

[4] The use of the term *transphobic* in the context of transphobic violence, widens the concept of phobia from an individual fear to a societal level. Here we come up against the limitations of language. Violence against trans people is rooted in a negation of trans being and a rejection of bodies that transgress cisgender norms and can be traced further beyond the phobia of any given individual. A more comprehensive analysis of transphobia analyzes the reasoning behind trans exclusion that goes beyond the fear that emerges out of interpersonal or values-based

violence. Various trans women elders in interviews from the project *Periodismo Contra la Transfobia* remark that violence against trans people was more severe and normalized in the '70s and '80s (during the beginnings of the gay liberation movement in México City). In México City, in the '70s and '80s, Morality Laws targeted trans women through the criminalization of "men who wore dresses". Trans activist Denisse Valverde (54 years old) recounts that:

> We [trans women] wanted to protest because we were so terrified by the raids that they [the police] would conduct without any reason. They would take you away without any reason. There were a lot of attacks in those days in the 70s and 80s. (Davenport, 2016, Aug 8)

Activist Emmayesica Duvalí also recalls the criminalization of trans women by the police in the 70s. As an adolescent, she was detained, her head was shaved and she was raped by the police for "dressing as a woman" (Davenport, 2016, Dec 12). Despite general improvements in safety since the 70s and 80s,, trans activists acknowledge that there is still a need for more protection against violence originating directly and indirectly from the police. The legacy of Morality Laws legally continues in Tecate[5] and in the continued morality-based rhetoric used by the religious right to demonize and otherize trans people.

Though no morality law in México City remains active, the legacy of police violence against trans women which is intensified by morality laws, remains. In an interview with Iberoamerican University students, Activist Alessa Flores stated that:

[5] An amendment to the Police and Good Governance Code of the city of Tecate criminalizes "men dressed as women in public spaces. Since the passage of this amendment in 2002, trans women have reported more police violence and harassment (Transgender Law Center & Cornell University Law School LGBT Clinic, 2016).

> "In that period [the 70s and 80s], the very police, the very justice that was meant to protect you, injured you. I think that nowadays [it doesn't happen] as much anymore...but [the police] still definitely continue [this violence]" (Flores, 2016, Feb 6).

At a march against the (trans)feminicides of Paola Ledezma and Alessa Flores, trans activist Kenya Cuevas stated that "we have been waiting generations [for violence to end] and we just can't wait any longer" (Soloff, 2016).

2. Rights Based Approaches & Alternatives

In the hopes of deterring and/or eliminating the transphobic violence discussed in earlier sections, scholars, legal analysts, and trans activists have mainly utilized rights based advocacy (i.e. hate crime and anti-discrimination legislation) in comparison to other models of social change, which I will discuss further in this section. However, in analyzing the rights contradiction and increasing trans feminicidal violence, it is questionable if this model of social change which emphasizes visibility and inclusion is beneficial to all trans people.

In *Pedagogy of the Oppressed*, Freire (1970) claims that the dominating elite manipulate the oppressed by inculcating the myth of the possibility for socio-economical ascension through the oppressor's model (p. 128). Anti-discrimination laws can unintentionally project a similar model of vertical ascension where trans women (the oppressed) can only gain safety, respect, and economic opportunity by entering the capitalistic workforce and individually ascend up the ranks to accumulate personal wealth. Anti discrimination legislation in itself does not encourage group/community liberation.

International literature suggests that hate crimes are violent manifestation of preexisting social and cultural forces, (Parrini & Brito, 2012, p. 11), leading some scholars to argue that hate crime legislation unnecessarily individualizes heterosexism, placing culpability on the murderer

rather than on the social actors and institutions which shape and condone their behavior (Boivin, 2016). Some scholars within México continue to advocate for hate crime legislation insofar as it departs from the United States perpetrator-perpetrated model and acknowledges the structures that permit and recreate violence against LGBTIQ as a vulnerable community (Parrini & Brito, 2012, p. 40-41).

Alternative models of trans liberation: beyond rights based approaches

Another critique of rights based advocacy highlights the relationship of rights based legislation with State power and violence towards trans communities. U.S. based lawyer Dean Spade (2011) critiques rights based advocacy due to its relationship with the United States' expanding criminal punishment system. Spade (2011) mainly points out that (in the context of the U.S.) hate crime legislation is flawed in two major ways: (1) Hate crime legislation does not prevent people from committing hate crimes and (2) increasing hate crime legislation allows for the expansion/empowerment of the very government institutions, agencies, and agents who commit violence towards LGBTIQ at high rates (Spade, 2011). This is especially relevant to trans women in México City who historically and presently experience State violence, harassment, and negligence. As an alternative to rights based advocacy, Spade (2011) argues that critical trans politics requires analysis of administrative law in order to understand the distribution of harm and vulnerability due to racism, transphobia, ableism, homophobia, and sexism (p. 137). These "population-level interventions" serve as an alternative to the individualized approach of hate crime and anti-discrimination legislation. This perspective also allows for an important critique of administrative categorization policies which various different State and non-State actors utilize to control populations both within the LGBTIQ community and other marginalized populations.

The root of Dean Spade's (2011) critical trans politics is changing the system. Spade's (2011) trans critical politics requires dreaming of new systems and models while engaging with the State to meet the tangible daily needs of the most marginalized within the trans community (like documentation, medical care, protection[6]). This differs from the early gay and lesbian rights movements in both the United States and México whose model was to integrate gay and lesbian people into the system of laws and institutions in the United States and México respectively at the expense of those whose gender expression transgressed binary, cisgender norms. Trans activist Emmayesica Duvalí participated actively in the early stages of the gay and lesbian rights movement in México City and recounts that "they called us *vestidas*, and...we were not treated as equals" (Davenport, 2016, Dec 12).

3. Methodology & Framework: Pedagogy of the Oppressed & Centering Desire

The framework for this thesis is informed by Freire's (1970) pedagogy of the oppressed, Tuck's (2009) model of desire centered research, and Spade's (2011) critical trans politics. The pedagogy of the oppressed is "the pedagogy of people engaged in the fight for their own liberation" (p. 35). The role of those outside the community who act in solidarity with the community, is to work with and not for the oppressed. True liberation, Freire (1970) claims, originates solely from the oppressed themselves and cannot originate from the models of the oppressors. I also utilize Eve Tuck's (2009) model of desire centered research centers the desires and liberatory dreams originating from the community itself. This also allows me to critically reflect on my standpoint as a United States-educated university student conducting remote research in the field of International Studies. Tuck criticizes what she calls "damage centered

[6] Although some movements have divested from "protection" and "justice" bodies like the police and the courts (for a discussion of the autonomous Zapatista *caracoles* in Chiapas and the community accountability model of INCITE! in Brooklyn, see "Conclusions")

research" which emphasizes visibilizing the damage done by oppression in order to solve social issues. This often has the unintended effect of pathologizing whole communities through a foreign gaze, which leads members of these communities to internalize narratives of being damaged, broken, or at risk.

In order to center the desires and liberatory dreams of the trans community in México City, I utilize as evidence the perspectives of trans women themselves in México City through *new media* (digital interviews, journalism and art). Unfortunately I was not able to conduct in person research/interviews, I gathered trans women's perspectives through trans created and centered media, including:

- interviews from *Periodismo Contra la Transfobia*;
- vlogs and interviews from Alessa Flores' channel *Memorias de una puta!!!*;
- Vlogs and interviews made by trans activist Ximena Do Santos
- the change.org petition published by Centro de Apoyo a las Identidades Trans (CAIT) to address impunity in Paola Ledezma's murder case;
- And video footage of anti-(trans)feminicide marches

Trans activist Gloria Davenport created *Periodismo Contra la Transfobia* in conjunction with the independent journalistic project Desde Abajo (From Below) to present trans people's stories from a non-victimizing perspective. The project features video interviews accompanied by written pieces featuring 15 trans people (12 trans women, 3 trans men) living across México City (Camargo 2017).[7] Subsequently, I analyze the (trans)feminicides of Paola Ledezma and Alessa Flores from the fall of 2016. I analyze these specific cases as (1) the circumstances of the

[7] Gloria Davenport uses magical realism and science fiction in her book to make the message more accessible to trans youth and their families. Her goal for the audience is to help someone out of the closet.

cases expose the shortcomings of anti-discrimination and hate crime legislation to prevent poverty and violence towards the most marginalized within the trans community (trans women sex workers); (2) they expose the failure of the Mexican government to follow through on constitutional promises of human rights promotion, protection, and criminal justice proceedings; (3) activist mobilizations demonstrate trans community resistance practices

In addition, the following secondary sources were utilized to understand the material conditions and legislations related to the trans population in México City:

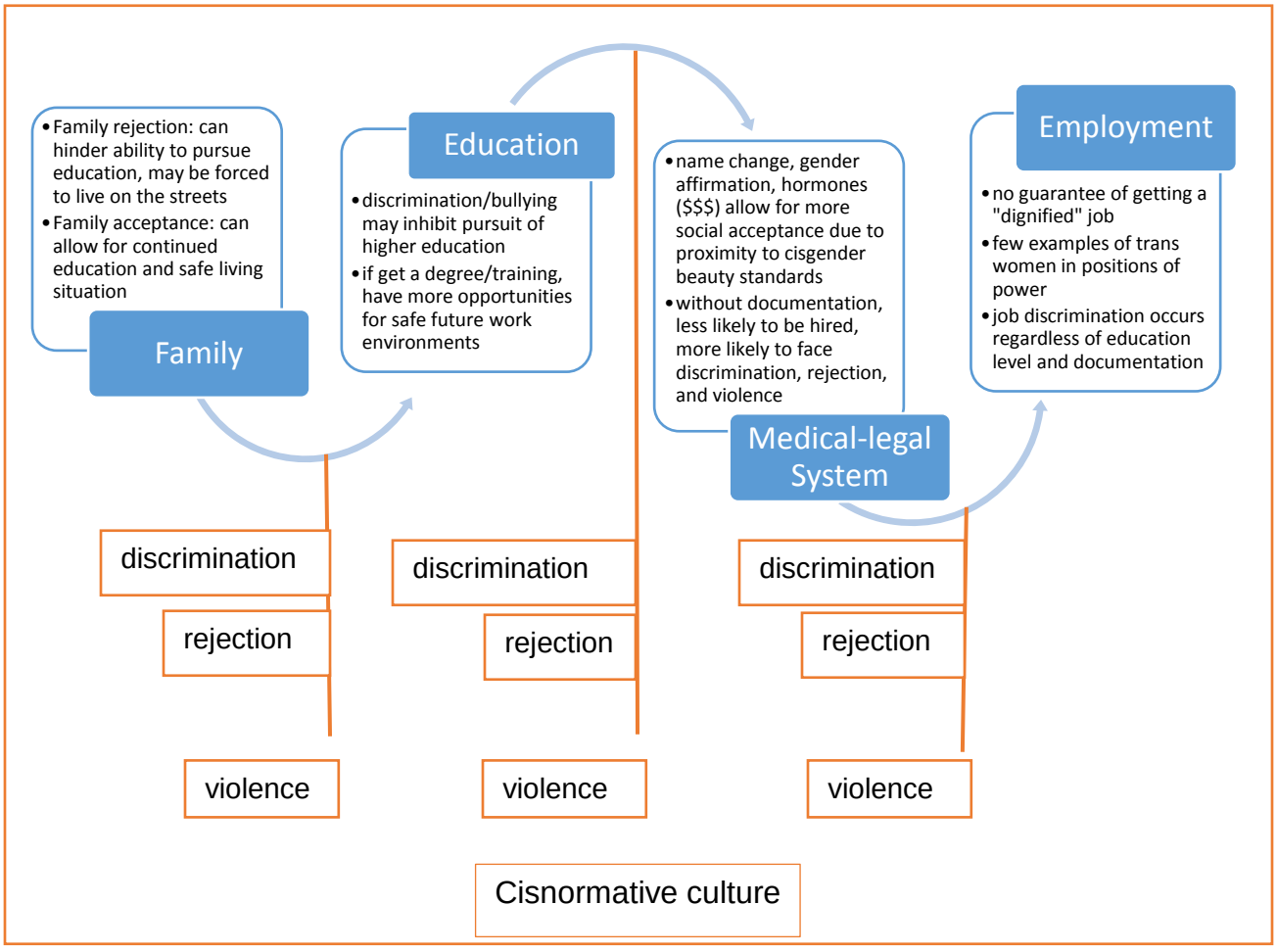
- An UNAM study on job discrimination and resource access amongst *travesti*, transgender, and transsexual inhabitants of México City (Suárez, 2009);
- A report on crimes against trans women in México conducted by CAIT (2013);
- A Shadow Report on "Human Rights Violations Against Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) People in México" prepared by Letra S et al. (2014);
- A "Report on human rights conditions of transgender women in México" by Transgender Law Center & Cornell University Law School LGBT Clinic (2016);
- A report on Characteristics and factors of violence against sexual minorities in México City from 1995-2013 (Boivin, 2016)

Unfortunately, few population-based data estimates are available to estimate the size of the trans population in México City. In addition, due to stigma and discrimination against LGBTIQ, such population estimates are difficult to attain and are likely under-estimated.

4. Community Perspectives

Within this section, I utilize trans-centered and created media to portray the real life experiences of inclusion and exclusion among different sectors of the trans community in Mexico City. A common pattern that I found across all interviews with trans women was that

most trans women across socio-economic contexts worked multiple jobs, mostly in the informal sphere and/or were self-employed/entrepreneurs. Trans women across various media sources express that they have experienced job discrimination. At times this job discrimination is also tied with other systematic discrimination. For example, trans woman Emmayesica Duvalí dropped out of high school after the director of her school told her that she was “a problem for the school” once she had began dressing more femininely. Her lack of secondary education paired with a lack of adequate identity documents restricted her from attaining and sustaining jobs (Davenport, 2016, Dec 12).



The above graphic represents the dominant narrative of inclusion that arose throughout my research. The graphic shows the path to inclusion, which can be interrupted at various points by discrimination, rejection, and violence that stem from cisnormative[8] culture and can jeapordize trans peoples' life chances and their ability to access resources and social acceptance. Even trans people who encounter support through the various systems colored in blue (family support, education, and medical-legal system) may still experience discrimination in public services and in employment due to the cisnormative culture that permeates life within Mexico City's society. In addition, it is important to note that, although all trans people experience oppression due to cisnormative culture, the amount of violence that trans people experience both on a day-to-day level and systemically differs depending on factors like education and employment. Trans women sex workers, due to their social and economic marginalization tend to experience more violence and harassment on a day-to-day level than do other trans people.

Activist Alessa Flores worked to destigmatize and humanize sex workers, considering that they are often stereotyped and invisibilized. Alessa celebrated sex workers, often stating "no nada más servimos para eso" we aren't just good for that [sex work]". However, Alessa often warned young women, especially young trans women, of the danger os sex work. In an interview with communications students and the Universidad Iberoamericana, Alessa states that:

> I don't want to give the example that all women should prostitute. My videos are about that [sex work], but I've always said "don't do it." If you can or if you have the possibility to find a job, study and all that, do it. (Flores, 2016, Feb 3).

[8] Cisnormative refers to the restricted set of norms and values related to bodies and gender expression that conforms to male

Alessa' s commentary on the capabilities of her fellow sex workers as well as her ambition for herself and her coworkers to attain other forms of employment that are less dangerous, echoes the testimonies of other trans women activists who similarly experience the constant devaluing of trans women's' capabilities across all educational and economic backgrounds. Trans activists Ximena Do Santos and Denisse Valverde discuss their experiences with job discrimination in a video interview following the 2015 declaration of México City as an "LGBTI Friendly City". Do Santos states that:

> Even if you get your name legally changed, if you get hormone therapy and your gender affirmed, that doesn't guarantee you a job, especially in this society where there is so much misogyny and machismo in which the female gender is attacked. (Generación Trans, 2015)

Do Santos' statement highlights the difficulty which trans women face discrimination to integrate into society. Not all trans people can access name changes, hormone therapy, and gender affirmation due to financial restrictions and/or lack of understanding of how to navigate these processes/systems. In a study done by the National Autonomous University of México (UNAM) of 53 *travesti*, transgender and transsexual people from various economic/educational backgrounds, the majority of participants did not know/understand modifications to the México City Civil Code which allow for gender changes on legal documents. Among those who did understand the Civil Code alterations, only a small portion pursued these changes due to financial limitations (Suarez, 2009).[9]

In addition, the majority of participants had experienced job discrimination, yet again the majority were not familiar with what institution or legislations could protect them and defend

[9] Since this study was conducted, fees for gender change on documents has decreased.

them from discrimination. Ximena Do Santos recalls being denied various jobs, for which she was completely qualified, once her future employers saw her documents and realized that she was “a man”. Unlike many of the participants in the UNAM (2009) study, Ximena Do Santos knew her rights and went to the Procuraduria to file a complaint; however, she was denied legal counsel and was suggested to “dress like a man” as a solution to her case of employment discrimination (Generación Trans, 2015). Even those who attain medical-legal affirmation of their identities as women and reach a certain level of cisnormativity and continue to face discrimination. Moreover, legal solutions to discrimination are by and large unknown or inaccessible to trans people who face discrimination and government officials’ lack of cultural competency risks replicating cycles of rejection and violence, like in the case of Ximena Do Santos..

Transfeminicides and impunity

In this section, I analyze transfeminicides in order to understand the systematic nature of violence towards trans women which persists despite protective legislation. Tranfeminicides are the most extreme manifestations of misogyny and transphobia. Fregoso and Bejarano (2010) [cited by Chew Sanchez (2014)] claim that feminicides differ from femicides because they are murders of women “that [are] both public and private, implicating both the state (directly or indirectly) and individual perpetrators (private or State actors); it thus encompasses systematic, widespread, and everyday interpersonal violence (5)” (p. 266). Focusing on gender-based violence against women and femmes and the complicity of the State is important in order to understand the intersection of oppression and vulnerability to violence that trans women in Mexico face. Various international organizations like the UN (2015) and the IAHRC (2015) address that trans women and femmes encounter higher risk due to “gender inequality and power

relations within families and wider society" (UN, 2015, p. 8). The term transfeminicide not only denotes the gender-based aspect of these murders, but also indites the State's direct or indirect involvement in the act itself or in its perpetration and impunity. The magnitude of transfeminicides in México, particularly in México City signals the limitations of hate crime legislation and anti-discrimination legislation to prevent violence, especially against some of the most economically marginalized trans people--trans women sex workers. I argue that the increased levels of violence are directly correlated to the legislation passed, which has failed to prevent violent backlashes against pro-LGBTIQ measures.

Trans activists have highlighted the cycle of violence which begins in job discrimination—a problem faced by virtually all trans people regardless of educational and socioeconomic background—and leads to sex work, where many sex workers experience harassment and aggravations, even death. Activist Alessa Flores, who herself became a victim of transfeminicide. Utilized social media as a platform to discuss the complex realities of being a sex worker. In her documentary, *Ponte en mis tacones* (Put yourself in my heels), Alessa discusses police negligence with other cisgender and trans female sex workers.

Alessa also addressed impunity of trans murderers in her piece called "Cuando una puta muere" or "When a *puta* dies", which she performed on the International Day of Trans Visibility in 2015:

> Yesterday, I was reading about 30 [(trans)feminicide] cases and not even one person was put behind bars...We're talking about how there is not nor has there ever been even one person detained to be accused for killing one of my *compañeras*. This simply remains a "We will see." (Flores, 2015)

Within the year 2016, violence toward trans people had increased since recent years and the queer/trans community mobilized around (trans)feminicides and impunity, particularly surrounding the deaths of trans women sex workers Paola Ledezma and Alessa Flores in Mexico City among others. In the period between January 1st, 2016 and December 31st, 2016 alone, 50 cases of transfeminicides were reported across México (Transgender Europe, 2017).

Case Study: Paola Ledezma and Alessa Flores

The impunity of the transfeminicides of sex workers Paola Ledezma and Alessa Flores are extreme manifestations of the violence that trans sex workers experience daily. Batafems describes feminicides utilize this extreme manifestation of violence as a strategy to subdue a person (or in this instance a community's) will and to maintain vigilance (Produtziones Aldabar, 2017). Analyzing the details of the cases of Paola and Alessa reveals (1) the ways in which the state, federal, and international rights fail to protect trans sex workers (the rights contradiction discussed in section 1); (2) the specific ways that impunity functions in México City; and (3) the integrative approach of trans activism in México City.

Paola Ledezma

In the case of Paola Ledezma, various aspects within the common trans narrative of successful inclusion (familial/social acceptance, education, medical-legal conformity, and employment) were absent. Paola was a 25 year old migrant from Campeche, México in the Yucatán peninsula. Due to rejection from her family and violent conditions within her state, Paola had migrated out of Campeche and began sex work as a means of survival, similar to many trans women who lack economic opportunities due to familial rejection and job discrimination. In recent years she had moved to Mexico City and had integrated into the LGBTIQ community

of Mexico City where she resumed sex work and was saving up for gender conformity operations (Gilet, 2016 Dec 17).

On the evening of September 30th, 2016 Paola Ledezma was murdered by ex-military member Arturo Delgadillo who had solicited sex from her. Upon hearing Paola scream for help, followed by two gunshots originating from within his car, witnesses rushed to the scene. Witness Kenya Cuevas recorded the scene. Police patrolmen arrived and arrested Delgadillo, then brought him to the Ministerio Publico where he was presumed guilty as per Mexican trial procedures.[10] In the Ministerio Publico, witnesses and Delgadillo gave their testimony. According to media outlets, Delgadillo claimed that Paola and he got into a physical altercation when Delgadillo realized that Paola was trans and that Paola ended up shooting herself ("Asesinato De Transexual," 2016; "Caso Paola," 2016; Cienfuegos, 2016; Muñoz; 2016;). Given the angles of the fatal wounds to Paola's chest and jaw, it is improbable that Paola shot herself (Gilet, 2016 Dec 17). Delgadillo admitted his guilt, submitted the murder weapon to evidence and admitted that the gun was his property (Cienfuegos, 2016). Although the Ministerio Publico found sufficient evidence for conviction, Judge Gilberto Cervantes Hernández of the Tribunal Superior de la Justicia de la Ciudad de México ultimately determined that necessary elements to prove guilt were not present ("Caso Paola," 2016). Delgadillo was set free of all charges, including manslaughter (Tuckman 2016).

Although authorities appear to have executed the necessary steps in the investigation of Paola's murder, activists claim that discriminatory bias was present in the prosecution's presentation of the case and in the judge's ruling. The defendant, Arturo Delgadillo, was a former army serviceman and was working in private security at the time of the murder. Boivin

[10] Mexican courts presume guilt

(2016) claims that the involvement of ex-service members within the military or public security correlates to higher levels of brutality in violent crimes and less thorough police investigations (p. 46). In this case, the Mexican State did not prevent or punish human rights violations fully, violating Article 1 of the Constitution as well as its duty as an OAS Member State to "prevent and combat impunity" (Art. 1, Const. Mex.).

Alessa

Less than two weeks after Paola's death, Alessa Flores was found dead on the afternoon of October 13th, 2016 in Cuauhtemoc in a room at the Hotel Caleta[11] ("Alessa Flores, la joven transexual," 2016). The proximity of the two cases to each other both in time frame as well as in location combined with the fact that Alessa was a vocal activist in the trans community pushed the two cases further into the limelight. Investigation of Alessa's case followed the usual protocol: agents of the police arrived immediately after the body was found; her body was taken to the coroner, (the cause of death ruled as asphyxiation); and her body was given to her mother. Though the murderer was witnessed by hotel workers at the Hotel Caleta and he was caught on cameras inside and outside the hotel, the authorities failed to identify a suspect. Authorities claim that video does not reveal the murderer's face (Gilet, 2016, Nov 14). The Ministerio Publico requested Alessa's mother sign a document which would officially declare Alessa's death a suicide, to which she refused (Gilet, 2016, Nov 14). No further updates on the case have been released to the public.

[11] The Hotel Caleta does not discriminate against sex worker use of their hotel. The Hotel facilitates services so that the sex workers do not have to solicit clients from the street and provides more security (Gilet, 2016, Nov 14)

Table Comparison of the cases of Paola Ledezma and Alessa Flores

	Paola Ledezma	Alessa Flores
Date murdered	September 30, 2016	October 12, 2016
Gender identity	Trans woman	Trans woman
Age	25	28
Occupation	Sex worker	Sex worker
Trial outcome	Arturo Delgadillo was detained the night of September 30th, was set free on October 2, 2016, and an issue for apprehension was given in April 2017	No main suspect identified or apprehended

In the cases of Paola and Alessa, vigilance of femmes described by Batafems (2017) was furthered through the impunity of the defendant, Arturo Delgadillo. Impunity not only normalizes and further encourages crimes against trans folk, but it also breeds a culture of fear amongst the community. Exactly a year before the November 20th march which would remember Alessa Flores and Paola Ledezma among other trans murder victims, Alessa Flores spoke out about impunity and fear:

> The majority of us are in the streets and we're afraid because they keep killing us and the murderers are outside of jail. They are outside of judgement. They deserve judgement. But I, a *puta* continue to be judged day after day. (Flores, 2015, Nov 20)

Impunity in Paola's case has both psychological effects and economic costs for

community members. Kenya Cuevas, one of the lead witnesses in Paola Ledezma's murder trial, for a time stopped doing sex work because of her fear of retaliation from the freed defendant, given (1) his military background, his current job in private security and (2) the toleration of transphobic violence by the México City criminal justice system. Cuevas' main source of income, was endangered. Due to job discrimination based on gender identity, many trans women sex workers have few other options for gaining money beyond sex work.

Analyzing the details of the cases of Paola and Alessa reveals the specific ways that impunity functions in México City. Unlike the treatment of transfeminicide cases by other States in the region, the cases of Paola and Alessa were investigated and the case of Paola was taken to trial and a decision was raised (albeit harmful to the community). This is not to say that investigations, trials, and decisions alone are the solution to transphobic violence, rather that México has more mechanisms for condemning transphobic violence than other countries in the region (IAHRC, 2015).

Analyzing these cases also reveals the ways in which the Mexican government has failed to promote the rights detailed on the state, federal, and international level in section one of this paper. Activists claim that there was discriminatory bias (a violation of México City's anti discrimination law) in the Paola Ledezma's murder case's process in the prosecution's presentation of the case and in the judge's decision. By failing to prevent and fully punish the human rights violations of Paola and Alessa, Article 1 of the Mexican Constitution is also violated (Art. 1, Const. Mex.). On the international level, as a member state of the Organization of American States (OAS), the Mexican government has the duty "to prevent and combat impunity."

The initial demands of the petition launched by the Centro de Apoyo a las Identidades (CAIT) focused heavily on the criminal justice system and enforcing the case process without bias. The preliminary demands of the petition are framed around the criminal justice system and aim at holding the government of México City accountable through a court's-centered approach. The petition originally called for (1) The Attorney General of Mexico City (PGJDF) to review Paola's case in a prompt and expeditious manner, free from stigma and discrimination and for the Ministerio Publico (MP) to redress its errors in the presentation of Paola's case as well as to strengthen their arguments, leaving no trace of doubt about the defendant's guilt; (2) The Superior Tribunal of Justice (TSJDF) to accept the MP's appeal in a prompt and expeditious manner to order reapprehension of the defendant; (3) agreement among authorities to review the case's process and determine if discriminatory bias was present; (4) necessary precautionary measures for the witnesses in Paola's case in order to secure their physical and emotional integrity considering that the defendant is a member of private security bodies. The original petition, upon reaching 15,000 signatures by November 13, was sent to the mayor of Mexico City; the President of the Superior Tribunal of Justice in Mexico City; and the Attorney General of Mexico City.

These demands, however, hold more than symbolic significance and have real implications for the safety and security of surviving members of Paola's community. The freed defendant Arturo Delgadillo currently works as a private security officer and has experience in the military. Delgadillo's military training, combined with his access to secure spaces as a security officer and the inherent bias towards current and former agents of the State within the court system could have allowed Delgadillo to enact retaliatory violence on members of the community who testified against him.

Later additions to the petition widened the demands which originated from Mexico City's trans community. They included: (1) An end to impunity; (2) legal recognition of gender identity across the country; (3) comprehensive policies for the trans population. CAIT's change.org petition calls not only for investigation of and sanctions for discriminatory bias, but also urges that these cases "do not repeat themselves and that such social exclusion and institutionalized discrimination is repaired somewhat". CAIT's petition focuses on improving the criminal justice system on a systemic level. This approach is framed around ensuring that the current criminal justice system is upheld by the State rather than around radically altering the criminal justice system (Spade, 2011).

The State has responded to the demands of trans activists in Mexico City in various ways: (1) the Ministerio Publico has pledged to access the case file and to keep track of the appeal before the TSJDF's decision; (2) precautionary measures have been made for witnesses in Paola's murder case; (3) witnesses were enrolled in the Unemployment Insurance Program of Mexico City; (4) the program "Safety against Violence" for trans women who experience intimate partner or familial violence was created; (5) the Government of Mexico City created the **"**Protocol of Comprehensive Support to the Trans Population"; (6) an order to apprehend the defendant Arturo Delgadillo was issued by the government of Mexico City in April of 2017. These responses seem to advance more into the economic and population level reform, though they are so new, it is unclear what the impact and accessibility of these new services and programs on the trans commmunity.

Community changemakers

In México City, civil society organizations have addressed the rights gap, by providing services and empowering community activism. One such organization is the Support Center for

Trans Identities (CAIT). CAIT's leadership and membership is composed of trans people. CAIT's utilizes a community based model through training members of the community to become change agents in order to avoid dependency, a widespread issue facing LGBTIQ non-profits internationally. CAIT's vision is to achieve dignity, to eliminate discrimination and violence; to allow trans people to fully exercise their human rights; and foster respect for trans gender identity (CAIT, n.d.). Their strategies fall in three main areas: political impact, visibility, and community participation.

Political impact	Visibility	Community participation
● Political advocacy	● Social media ● Education for wider community	● Outreach ● community mobilization ● peer education

CAIT also is connected with other local, national, and international organizations and visibility projects. CAIT addresses day-to-day gaps in government protection and provisions for trans populations through their services. They provide as services:

- Free online counseling
- Counseling and guidance for obtaining gender recognition on birth certificates for trans people through the Civil Register of Mexico City
- Accompaniment and guidance for trans women migrants to obtain Guest cards and migratory regularization (in conjunction with other ally organizations)
- In person guidance and counseling for defense and promotion of human rights through
- Sexual health programs: condom distribution, voluntary HIV tests, accompaniment and guidance with medical institutions

- Alerts for disappeared LGBTIQ people in Mexico and connection to search organizations
- Workshops for trans folks and the public (about prevention, human rights, gender identity, etc.)
- Informative talks and interviews (with students, media, etc.)
- Community service and volunteering.

CAIT's target population includes the most marginalized members of the population of México City: *travesti*; transgender; transsexual; people living with HIV; sex workers; youth; women; imprisoned people, etc.

Conclusion

I conclude that the legal procedures for filing hate crime and anti-discrimination cases does not currently prevent violence nor does it protect trans people from violence, least of all trans sex workers. However, this is not to say that actual trans people do not experience any benefits from these legislations. Through my research, I observed that many participants, interviewees, vloggers, etc. saw legislation in México City as an important starting point or symbol for greater social change and government protections. They also emphasized visibility and inclusion as principal solutions for transfeminicidal violence.

Various testimonies and interviews of trans women highlighted the historic maltreatment of trans women by the police as well as the continued lack of police attentiveness to trans safety, trans lives, and trans bodies. Despite this climate of what is at best police negligence and at worst State sanctioned violence, trans activist demands in México City tend to focus on institutional justice processes, suggesting some level of trust in the Mexican criminal justice system's ability to deliver justice. However, the Mexican criminal justice system has never functioned to protect or provide justice for trans people. In fact, the criminal justice system is often a site of violence

toward many incarcerated trans women who are sent to male prisons where they tend to encounter higher levels of physical and sexual abuse.

As I mentioned earlier, México City activism surrounding trans liberation focuses on a model of inclusion through social and/or economic means and cisnormativity. However, this economic and social inclusion has proved unattainable for many trans folks, due in part to societal prejudices and lack of knowledge about gender variance, which permeate México City despite the label of "LGBTI Friendly City."

This integrative model differs from Spade's (2011) model of critical trans politics, which seeks to dismantle existing hegemonic systems of control, like the United States "criminal punishment system". Alternate models of resistance to social and economic marginalization and State condoned and/or sanctioned violence exist both in the United States and in México. For example, State power is decentralized through the community accountability model pioneered by INCITE! in urban queer communities of color in the United States or in the autonomous caracoles of the Zapatistas in rural Chiapas. Though the context and demographic of México City's trans community may not fit perfectly into INCITE!'s United States based model or in the Zapatista's rural model, is community accountability a viable or desirable alternative to the unsuccessful police/prison based strategies of community protection establish and regulated by the State? INCITE!'s purpose resonates with the situation of police violence and negligence toward trans women in México City. Their website states that "if police and prisons facilitate or perpetrate violence against us rather than increase our safety, how do we create strategies within our communities...that don't rely on police or prisons?" (INCITE, n.d.). Or possibly, does the México City trans community contain too much geographic and demographic diversity to

support one unified community that could follow a variation of INCITE's community accountability or the Zapatistas caracol model?

Additionally, I do not discount the possibility that trans communities within México City already engage in some form of community responses to violence and/or community accountability practices. However, I recommend that future research be done on community based alternatives to State policing, especially considering the high levels of violence facing those outside of homonormative and cisnormative standards.

Glossary

Impunity- the IAHRC defines impunity as “an absence, on the whole, of investigation, prosecution, arrest, trial and conviction of those responsible for violating rights” (IAHRC, 2015, p. 245)

LGBTIQ- Lesbian, Gay, Bisexual, Trans, Intersex, Queer

Trans- an umbrella term used to refer to people who are transgender, transsexual, travesti, or gender non-conforming and whose sex assigned at birth does not agree with the gender identity of a person. There has been a debate on whether or not the word *trans* can be used to encapsulate transgender, travesti, and transsexual people which earlier had been defined separately in Mexican LGBTIQ activism (Durán, 2016;)

(trans)feminicide- murders of women that are both public and private, both originating (in)directly from the state and from individuals (Chew Sanchez p. 266)

transphobic violence- The United Nations (2015) defines *transphobic violence* as a “form of gender-based violence, driven by a desire to punish individuals whose appearance or behaviour appears to challenge stereotypes” (p. 7).

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