

# ***DO YOU SEE THE RAINBOW? STRUGGLE AND RESISTANCE TO THE RECOGNITION OF EQUAL MARRIAGE FOR SAME-SEX COUPLES IN PERU***

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All around South America, LGBT+ rights have been making significant policy gains over the last two decades. This has not happened in Peru. Building on scholarship that seeks to explain LGBT+ rights expansion and variance in Latin America, this article analyses the main key factors explaining the lack of progress in the recognition of same-sex couples in the understudied Peruvian case. It focuses on the reasons why the domestic environment has effectively constrained the regional trend, and on opportunities for change. It is argued that the influence of the Catholic and Evangelical churches on culture and politics, recently intensified with anti-“gender ideology” campaigns, is the main reason behind this obstruction. Nevertheless, as this article explains, opportunities for change have expanded. This is based on the equality and non-discrimination standards on sexual orientation and gender identity set by the Inter-American Court of Human Rights recently, the receptivity of the Peruvian judiciary to the doctrines of the regional human rights court, and the increasing legal mobilisation of LGBT+ activists. All factors which contribute to a potential scenario of judicial policy making.

***“Defending human rights has never been a consensus project. It has almost always been the product of struggle”  
-Alston, 2017:3.***

## Introduction

Moisés lived in a rural village in the Peruvian Amazonian Region of San Martín. He was 17 years old when he told his parents about his homosexual orientation. His father did not understand. He prayed. Shot him. And committed suicide (IACHR, 2019; De Belaunde, 2019; Peru21, 2019).

All human rights reports on Peru highlight the widespread official and societal discrimination and violence against LGBT+ people (Amnesty International, 2018:299; U.S. Department of State, 2018:19; IACHR, 2015: paras. 102,111, 122, 143-144, 273, 323, 478). In Lee and Ostergard’s LGBT+ discrimination index, Peru ranks as the ninth most homophobic and transphobic country of South America, only better than Paraguay (2017:57-60). The cross-national study measures the levels of discrimination LGBT+ people experience in their states among three dimensions: punishment, intolerance and rights denied.

On the latter, the relationship of same-sex couples lacks any legal recognition in Peru. While the 1993 Peruvian Constitution is silent on the matter, the 1984 Civil Code (a national level statute) defines marriage as a heterosexual union. Certainly, Peru has become a laggard in a region where some consider a “gay rights revolution” in policymaking has taken place (Encarnación, 2016). Argentina (2010) and Uruguay (2013) have achieved equal marriage through legislation, while Brazil (2013), Colombia (2016) and Ecuador (2019) have done it through judicial decisions. Even the neighbour Chile, historically among the most conservative countries of the continent, has passed legislation recognising same-sex couples through civil partnerships in 2015 (Encarnación, 2018:194-218; Zelada, 2018:158-164). Although Bolivia has not yet approved any norm on same-sex couples, it has already taken in 2016, a more daring step of passing legislation for gender identity recognition (De Belaunde, 2017:93-94,101-102).

What explains the lack of progress in Peru? Is there any hope for the recognition of same-sex couples? Building on scholarship that seeks to explain

LGBT+ rights expansion and variance in Latin America and, specifically the recognition of same-sex couples (Corrales & Pecheny, 2010; Piatti-Crocker, Pierceson & Schulenberg, 2010; Díez, 2015; Encarnación, 2016, 2018; Corrales, 2017), this article explores both questions by analysing the main key factors in play in the understudied Peruvian case. This article is divided into three sections. The first section details the latest attempts to pass legislation on same-sex couples’ recognition in the Peruvian Parliament. The second section analyses the discourses, resources and strategies of the Catholic and Evangelical churches. In particular, their deployment of the anti-“gender ideology” campaign. The third section discusses the legal mobilisation of the Peruvian LGBT+ movement to courts, under the equality and non-discrimination standards on sexual orientation and gender identity set by the Inter-American Court of Human Rights recently, as an opportunity for judicial policymaking and change.

## 1. Failed attempt to pass a bill in the Peruvian parliament that provides legal recognition to the same-couples

The Congress had the last debate on recognition of same-sex couples in 2015. A bill to introduce civil partnerships was rejected at the Justice Committee by seven votes to four. The debate evidenced the prejudices, ignorance and hostility entrenched in Peruvian society towards sexual orientation rights and the pervasive influence of the Catholic and Evangelical churches (El Comercio, 2015d). Some congresspeople even compared LGBT+ persons to drug addicts and paedophiles (Sin Etiquetas, 2015a, 2015b). The defeat of proposal was hailed as a triumph for family and “the natural order” (ACI Prensa, 2015).

“I am very happy and proud of that defeat”, declared the author of the bill congressperson Carlos Bruce. “Knowing that we were going to lose, we managed to extend the public debate for almost two years” (De Belaunde, 2017:227). He seems to be correct. The introduction of the bill generated an unparalleled discussion in the Peruvian society. And since then, it has featured in the public agenda, with good light press coverage, and has become an unavoidable topic for candidates to take a stance on (De Belaunde, 2017:233-234; Wilkinson, 2018). Furthermore, four major legal institutions publicly

supported the bill, issuing reports grounded on human rights arguments: Ombudsman (i.e. the national human rights institution or Defensoría del Pueblo), Ministry of Justice, National Prosecutor and Supreme Court (De Belaunde, 2014).

Nevertheless, the last general election did not deliver a more auspicious legislative environment towards advancing LGBT+ welfare in the period 2016-2021. In fact, it might have worsened the chances of achieving it. Fuerza Popular (“Popular Force”), the party led by Keiko Fujimori, daughter of Peru’s former dictator Alberto Fujimori, obtained the majority of the unicameral legislative (73 out of 130 seats). Due to its history, Fujimorismo has a strong stance against human rights. Alberto, the founder and major figure, is serving 25 years in prison for crimes against humanity. The party embraces a conservative ideology and has direct links with the most reactionary groups of the Catholic and Evangelical churches (El Comercio, 2017a, 2018). In the middle of the campaign for the presidency she ultimately lost, Fujimori signed a notorious “honour pact” with some fundamentalist Evangelical churches, committing herself to “defending the values and principles of God’s word as expressed in the Bible” and, concretely, to “defending the family formed by man and woman and rejecting civil partnership and homosexual marriage” (El Comercio, 2016a).

In control of the house, Fujimorismo carried out its part of the deal. It has forced secretaries of state for education to resign and passed votes of no confidence due to the introduction of “gender ideology” (explained below) in public schools (El Comercio, 2017b; Correo, 2017), repealed executive legislation on non-discrimination and hate crimes on sexual orientation and gender identity (La República, 2017a, 2017b), and filed bills to exclude “gender ideology” from public policies (El Comercio, 2019b). Currently, two new bills regarding the introduction of civil partnerships and equal marriage filed by minority parties are waiting for discussion for more than two years, but it is not likely that they will be put on the agenda soon (Wilkinson, 2018).

## **2. Why is Peru a difficult case for same-sex marriage?**

The parliamentary denial of the recognition of same-sex couples reflects the domestic environment.

Peruvians largely oppose the measure even in the milder form of civil partnership regimes. IPSOS’s seven public opinion measurements from October 2013 to April 2019 have invariably shown around 60 percent of the population against, without improvement (Piedra, 2017:2; IPSOS 2019c). As in other places, opposition is stronger outside the capital city and among older and poorer Peruvians (Maldonado & Meléndez, 2015; IEP, 2019). This is part of a broader picture of marginalisation.

According to civil society, more than a hundred murders on the basis of sexual orientation or gender identity occurred in the period 2008-2016 (Defensoría del Pueblo, 2016:185). A recent study documents 22 cases of homicide and 93 of physical violence in the last two years (Silva-Santisteban, 2019:51-52). But the exact numbers are unknown as Peru lacks an official registry for hate crimes against the LGBT+ community and most discrimination cases are not reported to authorities (No Tengo Miedo, 2016:87-88, 90). Recently, the first official national virtual survey for LGBT+ people was published, with 56 percent of the respondents reporting to be afraid to express their sexual orientation or gender identity, among which 72 percent are afraid to be discriminated against or assaulted. Tellingly, they recognised religious leaders (94 percent) and politicians (80 percent) as the most probable sources of offensive language (INEI, 2018a:9, 20, 31). It is worth noting that there are only three visibly “out” politicians occupying office (two congresspeople, one local councillor), in a country with a population of 31 million.

The Ombudsperson considers that behind this reality lies heteronormativity (2016:18). This concept refers to the system of norms and practices that organises society on heterosexuality and “traditional”, “normal” or “right” models of family, marriage and gender roles based on ideas of masculinity and femininity (Díez 2015: 28). As diversity challenges the system, its answer has been to compel compliance from nonconforming individuals through different levels of violence and exclusion (Corrales & Pecheny, 2010:3).

The organisation that has done most to keep the heteronormative system in place and rebut alternative possibilities is the Catholic Church, the religion of 76 percent of the population (INEI, 2018b:231). Nobel laureate Vargas Llosa has accurately described the Peruvian branch as

ignorant, aggressive, obscurantist and retrograde (2014). Former Archbishop of Lima (1999-2019), Juan Luis Cipriani, has claimed the leading role.

A cardinal-priest from Opus Dei, Cipriani has been an important actor in Peruvian politics in the last three decades. IPSOS's 2018 ranking of power sees him within the top ten, a place he has long held (*Semana Económica*, 2018). An ally of the military while working in Ayacucho in the late 1980s – the centre of the Peruvian armed conflict that opposed the security forces against two far left terrorist organisations and left an estimated death toll of 70,000 –, Cipriani naturally developed into a defender of the Fujimori dictatorship during the 1990s. Aggressive, outspoken and dedicated, he has used his faith ministry to combat human rights, NGOs, and progressive politics. His links with the economic and political establishment have provided him with unparalleled resources to disseminate his views into Peruvian society (Pásara et al, 2015; Truth and Reconciliation Commission, 2003:3.3.1). Apart from press coverage at will and access to politicians (*Correo*, 2016), he hosts a radio show every Saturday morning on a popular national radio station. Since the transition to democracy in 2000, he has focussed his attention on women's and LGBT+ rights.

At the altar or in front of microphones, Cipriani has considered LGBT+ rights as a foreign construct that endangers "God's natural plan" as recognised in the "majoritarian" "Peruvian traditions and values" of family and heterosexual marriage (*El Comercio*, 2015b, 2016c). He labelled the decision of the United States Supreme Court on same-sex marriage as "a tragedy" and compared it to Bacchanalia and the Holocaust (*El Comercio*, 2015c). A non-exhaustive analysis carried out for this article at the on-line archive of *El Comercio*, the oldest and most influential national newspaper in Peru, found 21 news pieces reporting on Cipriani's opinion on sexual orientation and identity rights between 2011 and now. The numbers surely fall short of the actual figures, as the archive is incomplete, and Cipriani's columns were deleted by the paper when it was found that he had engaged in plagiarism (2015a). A search of older dates would only be likely to unearth similar pieces with more overtly homophobic language, like his references to homosexuality as an illness or a degeneration (Reding, 2003; Rospigliosi, 2014).

While he is singular for the consistency and violence of his attacks, views similar to Cipriani's

are held by the Peruvian Catholic Church at large. For instance, the National Conference of Bishops issued statements against civil partnership bills (*El Comercio*, 2014b), the bishop of Chimbote called the congressperson who introduced the first bill a faggot (Peru21, 2015), the bishop of Arequipa said during the election campaign that it was a sin to vote for candidates with LGBT+ policies in their manifestos (*El Comercio*, 2016b), and the bishop of Cuzco defined civil partnerships as an attempt to legalise immorality (*El Comercio*, 2014a).

In recent public statements, particularly those combating the introduction of school policies of equality, "gender ideology" rhetoric has featured prominently. Corredor explains that this is an epistemological device used to gain control over the concept of gender by the transnational countermovement seeking to contain or reverse policy developments in favour of women and LGBT+ people. It works as a tool that delegitimises equality and presents the groups working for it as radicals, while at the same time reaffirming hetero-patriarchal conceptions of sex, gender and sexuality. It was created by the church as a reply to the feminist gains in human rights world conferences of the 1990s (Corredor, 2019:613-619).

Peru has had an early exposure to this harmful rhetoric. The author of the chapter "An Ideology of Gender: Dangers and Scope" in the 2003 Vatican Lexicon on "ambiguous and debatable terms" is the Peruvian Bishop Alzamora. The original publication was in 1998 in Peru based on Dale O'Leary's 1997 book "The Gender Agenda Redefining Equality". Alzamora portrays gender as a negation of nature and a risk for religion. In his words, "it masks an unacceptable agenda that includes tolerance to homosexual orientations and identities", and "that seeks to promote homosexuality, lesbianism and extra-marital sex", an "aberration" (Alzamora, 1998). Its use intensified when Spain legalized same-sex marriage in 2005 (Encarnación, 2016:44)

The panorama does not improve when one considers Evangelical churches, the religion of 14 percent of the population (INEI, 2018b:231). Fragmented, diverse and non-hierarchical, a large number of them have unified around the moral question: "pro-life" (or against abortion), "pro-family" (or against the recognition of same-sex couples), and against "gender ideology" (or against equality) (Pérez, 2017:216-219). In a recent public statement, the major churches have pledged to combat "gender

ideology” and, specifically, civil partnerships as they claim the institution “violates the natural order of family” (Fonseca, 2019). Within them, the charismatic churches of the Pentecostalism faction have gained relevance due to their economic surge and effective work in politics. Under the influence and auspices of the US neo-conservative groups, they express a very conservative, fundamentalist and integralist theology (Fonseca, 2017). In 2016, they put their resources (TV and radio stations among them) into supporting Fujimorismo and achieving the endorsement of their anti-rights agenda as represented by the “honour pact” (Fonseca, 2016; Wayka, 2017). Their pastors won 5 of the 130 seats of the parliament: 3 running for Fujimorismo, and 2 running with minor parties but with Fujimorista background. But the total number of seats for Evangelical followers could reach 15. Their political power has been used in service of the goals of their churches (Hidalgo, 2017; Tuesta 2017). Outside parliamentary representation, some radical pastors have gained notoriety due to their homophobic preaching, stating that “homosexuals must die” (Wayka, 2017), and comparing civil partnership to crime or the spread of a disease (RPP, 2016).

Both conservative Catholics and Evangelicals are acting together in an alliance and have taken their campaigns to the streets (Centurión, 2019). Since the 2010s, they have successfully mobilised thousands of Peruvians with their anti-“gender ideology” rhetoric in their “Marches for Life and Family” organised by the Bishop of Lima (ACI Prensa, 2018), and “Don’t Mess with My Kids” demonstrations, organised by Evangelicals’ organisations. The latter have the policies of equality in education as their main target, with the clever frame of the defence of parents’ right to decide the (heteronormative) education of their children and “the danger” if this right is taken away (ACI Prensa, 2016; Gallego & Romero:7,18-19, 25-26). The campaigns have used traditional ways to communicate, including advertisements, banners, flags, public speakers, as well as social media. Apart from the institutional channels, on Facebook there are at least five pages spreading their messages: Con Mis Hijos No Te Metas (“Do not mess with my kids”, 212,000+), Marcha Por La Vida (“March for Life”, 98,000+), Parejas Reales (“Real Couples”, 139,000+), Coordinadora Nacional Pro Familia (“National Pro Family Coordinator”, 26,000+), Marcha Por La Familia-Perú (“March for Family-Peru”, 68,000+).

This overview of the strong opposition posed by the Catholic and Evangelical churches highlights the difficulty of advancing LGBT+ rights in Peru. Religion is known as “the most important attitudinal and institutional obstacle” to the recognition and expansion of LGBT+ rights (Corrales, 2017:76). In fact, Dion and Díez have shown that religious observance reduces the possibility of supporting same-sex marriage, even among those who value highly democracy and democratic values and, more strikingly, that religious observance eliminates the positive effects associated with potential contact with LGBT+ people (2017:87,90, 92).

The religious countermovement has been effective in raising the political costs of advancing LGBT+ rights. De Belaunde (2018), one of the two openly gay congresspeople, considers that several of his colleagues are frightened of supporting equality for receiving a potential “punishment” vote in future elections.

Corrales has aptly defined the politics of LGBT+ rights as the state-church issue of our time (2015:54). Peru would hardly pass a secularity test and does not seem to be exempted from current trends towards conservatism. The Latinobarómetro (2018a:49; 2018b:22-23) has shown that, even after the cases of sex and child abuse scandals, churches are by large the most trusted institutions by Peruvians (60 percent). 44 percent of the population describes themselves as regular practitioners (45 percent in Catholic church, 63 percent in Evangelical ones), which is understood as attending church and following the church’s teachings. Although atheism has grown in the last ten years, it still only represents five percent of the population (INEI, 2018b:234).

### **3. What is being done to overcome the resistance?**

In comparison to other countries of the region, Peru lacks a strong unified and coordinated LGBT+ national movement. Nevertheless, there are organisations, collectives and actors that with limited resources are doing significant work to generate a cultural and legal change. Encarnación (2016:8, 12-13, 72, 188, 194-195) has highlighted that organisation capacities might matter less for the success of the LGBT+ struggle than the skill and strategy of activists.

The association Movimiento Homosexual de Lima-MHOL (“Homosexual Movement of Lima”) is a pioneer. It was created in 1982, when Peru came out of a military dictatorship, just to enter the armed conflict (1980-2000). The conflict first, and Fujimori’s dictatorship later (1990-2000), did not provide opportunities for LGBT+ mobilisation (Rosas, 2018:31-32, 57). Still, MHOL managed to do important work in taking LGBT+ refugees targeted by terrorist groups out of the country, or organising the first pride marches (Ugarteche, 2017:51-54). Since the democratic transition (2000), MHOL has been pushing for anti-discrimination legislation and challenging heteronormative society, sometimes even through disruptive actions like its yearly “kisses against homophobia” in front of Lima’s Cathedral (Rosas, 2018:34).

When the bill for civil partnerships was introduced in 2013, a group broke out of MHOL and formed the association Más Igualdad (“More Equality”) to mobilise and campaign (Rosas, 2018:35-36). “We realised very early that the bill was not going to be approved [...] but it was like an excuse to raise society’s awareness of LGBT+ people” declared one of the founders (Rosas, 2018:87). Using the opportunity that the bill created, they aimed to change homophobic views prevalent in society using messages that emphasised love, commitment and family to create empathy. In parallel, an equality and human rights legal framework was used to appeal to institutional and political actors (Rosas, 2018:98-99). They organised three marches for equality (2014, 2015, 2016), which were attended by thousands and engaged Peruvian celebrities to publicly support the bill. As was expected, the bill was ultimately defeated, but they succeeded in opening the debate in the Peruvian public opinion (Rosas, 2018: II, 1). As of now, they continue campaigning and have raised the bar by demanding equal marriage.

A third organisation of interest is the feminist NGO Centro de Promoción y Defensa de los Derechos Sexuales y Reproductivos-PROMSEX (“Centre for the Promotion and Defence of Sexual and Reproductive Rights”). Established in 2005, they work for LGBT+ and women’s rights with an emphasis on a legal approach. In their effort to have an impact, they have carried out several workshops with public officials (including judges), activists and journalists, and appear regularly in the media. PROMSEX engages frequently with

the human rights bodies, and it is common to find their shadow reports or *amicus curiae* briefs mentioned in international reports and decisions. They also carry out strategic litigation in domestic and international human rights bodies (PROMSEX, 2019; Poder Judicial, 2018).

With the legislative path blocked by Fujimorismo, the LGBT+ community has started turning to courts, invoking the constitutional rights to equality and non-discrimination and international human rights jurisprudence to assist progressive interpretations as has happened in other places (Miles, 2015:436). In his matrix of the role of courts in Latin America, Corrales places the Peruvian judiciary as an assertive but non-progressive system, where the courts produce unsympathetic LGBT+ rulings but are capable of being influenced by international pressure (2017: 66-69). This resonance is stronger among the judges of the constitutional specialisation, a sub-system of justice with judges fully dedicated to adjudicating on constitutional matters.

Hopes of the LGBT+ community are placed on standards set by the Inter-American Court of Human Rights (IACtHR) and the conventionality control that domestic courts must carry out. The conventionality control is an ambitious IACtHR doctrine that seeks to integrate domestic courts to the regional system. This places the judiciary under an obligation to apply national laws (or even consider them devoid of effects) in conformity with the American Convention on Human Rights (ACHR) and the interpretations of IACtHR’s case law, including cases where the particular state in question has not been involved and advisory opinions (Ferrer, 2015:93-99; IACtHR 2017: para. 26).

The conventionality control doctrine resonates well with the provisions of the 1993 Peruvian Constitution regarding human rights. The norm provides that all treaties ratified by the state are binding law (monist system), grants constitutional status to human rights treaties, gives all judges the power to disregard norms incompatible with the Constitution (diffuse judicial review or constitutionality control) and, moreover, mandates that rights should be interpreted considering the rulings of the international human rights courts that have jurisdiction over the state. The doctrine was recently explicitly endorsed and applied by the Peruvian Supreme Court in two landmark decisions:

the annulment of Fujimori's pardon (CEJIL, 2018) and the denial of an unconstitutionality claim against the implementation of a gender equality policy for public schools (El Comercio, 2019a). IACtHR has dealt with the recognition of the rights of same-sex couples over the last decade. The landmark case is *Atala Riffo and Daughters v. Chile* (2012). There, IACtHR recognised that the heterosexual model of the family was not the only one protected by the ACHR (paras. 172-178), that sexual orientation and gender identity were protected categories and, that "a right granted to all persons cannot be denied or restricted under any circumstances based on their sexual orientation" (paras. 91-93), which was held to be "an essential component of a person's identity" (para. 139). It therefore ruled that Chile had discriminated against the petitioner when adjudicating the custody of her daughters to the father based on her status as lesbian (paras. 109-149). As analysed by Miles, the ruling provided the LGBT+ movement "a weighty legal tool", opening "new possibilities for judicial and legislative advance" (2017:80-81). Since *Atala*, IACtHR has found states in breach of their obligations of equal treatment and non-discrimination on the basis of sexual orientation in cases regarding entitlement to survivor's pension (IACtHR, 2016a: paras. 124-125, 138), disciplinary dismissal from the armed forces (IACtHR, 2016b:126-140), and loss of custody and forced adoption (IACtHR, 2016c:300-303).

However, the most relevant decision is contained in the Advisory Opinion OC-24/17 (2017). Building on its sexual orientation case law, the IACtHR delivered an opinion that recognises the right to marriage for same-sex couples under ACHR obligations of equality and non-discrimination. To be precise, it recognised that state parties should guarantee non-discriminatory access for same-sex couples to all instruments available for heterosexual couples, including marriage (paras. 84, 191, 196-200, 220, 227-228). Among other arguments that led to that conclusion, IACtHR interpreted that when article 17.2 ACHR literally refers to the right of a man and woman to marriage and establish a family, it is not giving an exhaustive definition of those concepts, but only referring to one of the possible types of families and marriages (paras. 178-182, 189, 192, 217, 221-222). By reading the provision as an example instead of a restriction, IACtHR might have provided the LGBT+ movement at key argument to unlock same-sex marriage from heteronormative legal definitions in the region.

Recently, the Constitutional Court of Ecuador relied on the argument to legalize same-sex marriage in that country (2019a:25-31; 2019b:96, 99). In any case, as highlighted by Zelada, this interpretation means that the next individual petition that reaches the IACtHR will most certainly have a finding in favour of marriage equality (2018:187).

The Peruvian courts have not yet issued a final decision on the cases that are being litigated. This could change soon as an amparo (a type of constitutional claim to challenge the violation of rights) by one of the founders of MHOL has reached the Constitutional Court, one of the tribunals with power to set legally binding precedents in Peru. He claims that the Peruvian civil registry discriminated him by refusing to recognise his same-sex marriage performed in Mexico. He won the case at the entry level with a decision based on the rights to equality and non-discrimination and, among other considerations, the IACtHR caselaw. Nevertheless, the Court of Appeals reversed based on the statute of limitations (Monge, 2019).

Some literature cautions against using courts for advancing LGBT+ rights. The backlash thesis argues that unelected courts are ill-equipped to make policy and produce social change. It posits that courts' intervention is detrimental as they produce damaging reversals or changes of opinion (e.g. Hamilton, 2016:130-146). Adherents to the backlash thesis advocate instead for incremental development through the legislative at a slower pace. This thesis is being challenged by scholars who see courts playing a key leveraging role due to the power of legal discourse and norms (Pierceson, 2010: 163, 173). The point made by such scholars is that what is understood as backlash is just the reaction of an existing negative public opinion (opinion stability) and opposing groups that would have mobilised anyway if the change had occurred not by the courts, but by legislation (Piatti-Crocker & Pierceson, 2018:3-5, 24-25). A recent study concluded, after testing the thesis and finding no evidence of backlash, that the "cautionary lessons that those espousing opinion backlash claim – go slow or risk harming your cause – appear more politically than empirically motivated" (Bishin et al, 2016:633, 639). This seems to apply for Peru where, as seen above, homophobia is already part of the Catholic and Evangelical churches theology.

## Conclusion

This article analysed why there is a lack of progress in Peru on same-sex couples' recognition in a region where at least minor progress is almost generalised, and, in some cases, even significant. It has focused on culture (public opinion and the role of religion and its ministers) and institutions (parties, courts, LGBT+ organisations) as explanatory categories.

When the political opportunity to mobilise for same-sex civil partnerships came in 2013 with the first bill filed in Congress, LGBT+ activists found a stern opposition based on the homophobic theology of the Catholic and Evangelical churches embedded in Peruvian culture and with direct representation in Parliament. Nobody thought that it was going to be easy. Catholicism has had a more than a 400 years advantage spreading its heteronormative and patriarchal philosophy and accumulating power (Díez, 2015:29-38, 54). In particular, activists encountered a resourceful, committed and influential enemy in Opus Dei's cardinal Cipriani, a legacy from the Fujimori dictatorship.

Historically, Peruvian society has been particularly prone to hierarchical, discriminatory and unequal modes of organisation. The promise of equality is still a structural debt of the republic. It will take time and action to defeat racism, machismo, classism, xenophobia, as well as homophobia and transphobia. The struggle for the recognition of same-sex couples is part of the process (Díez 2015: 259).

Education, debates and mobilisation with frames that can resonate with society at large are key in the goal to transform culture (Díez, 2015: 6, 245; Encarnación, 2016:8-9), as is the role that the judiciary can play in developing human rights norms and discourses. In this regard, the legal opportunities created by the IACtHR case law might allow Peru to have a clearer view of the rainbow.



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