

Article [EN]

## The reasons and significance of same-sex marriage on the LGBT community in Latin America

*La causa y la significancia del matrimonio entre personas del mismo sexo en la comunidad LGBT de América Latina*

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**[EN] Abstract:** Over the past decade, Latin America has stood out for recognizing LGBT rights and made impressive progress on marriage equality. Since 2010, nine countries have approved laws prohibiting discrimination based upon sexual orientation. Argentina became the first country in the region to approve same-sex marriage in 2010. The rest are Uruguay in 2013, Brazil in 2013, Colombia in 2016, Ecuador in 2019, Costa Rica in 2020, Chile in 2021, Mexico in 2022, and Cuba in 2022. Why can same-sex marriage be legalized in Latin America? The essence of the legalization of same-sex marriage is an expansion of the LGBT groups' rights, primarily due to institutional factors in Latin America: party affiliation, federalism, and the role of the courts. The significance of legalizing same-sex marriage for LGBT groups is improving their mental health, preventing discrimination and violence against the LGBT community, strengthening gender equality, and avoiding lavender marriage. At the social level, legalization could enhance the development of society by removing the structural stigma of LGBT people and strengthening health systems. Argentina has the features to achieve success in this field.

**Keywords:** LGBT rights, LGBT movements, same-sex marriage, legalization of same-sex marriage

**[ES] Resumen:** En la última década, América Latina se ha distinguido por su reconocimiento de los derechos de las personas LGBT y ha logrado avances impresionantes en materia de la igualdad matrimonial. Desde 2010, nueve países han aprobado leyes que prohíben la discriminación basada en la orientación sexual. Argentina fue el primer país de la región en aprobar el matrimonio entre personas del mismo sexo en 2010. El resto son Uruguay en 2013, Brasil en 2013, Colombia en 2016, Ecuador en 2019, Costa Rica en 2020, Chile en 2021, México en 2022 y Cuba en 2022. ¿Por qué puede legalizarse el matrimonio homosexual en América Latina? La esencia de dicha legalización es una ampliación de los derechos de los grupos LGBT, en gran parte debido a factores institucionales en América Latina: la afiliación partidista, el federalismo y el papel de los tribunales. El significado de esta acción para estos grupos consiste en la mejora de su salud mental, la prevención de la discriminación y la violencia contra esta comunidad, el fortalecimiento de la igualdad de género, así como el hecho de evitar el matrimonio de lavander. A nivel social, esta legalización podría potenciar el desarrollo de la sociedad mediante la eliminación del estigma estructural de las personas LGBT y el refuerzo del sistema sanitario. Argentina tiene sus propias características para conseguir el éxito en este campo.

**Palabras clave:** derechos LGBT, movimientos LGBT, matrimonio homosexual, legalización del matrimonio homosexual

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## 1. Introduction

Latin America has been at the forefront of the world in expanding lesbian, gay, bisexual, and transgender (LGBT) rights, especially for same-sex couples and same-sex marriage laws. With the development of the world human rights movement, some Latin American governments proposed constitutional amendments to adopt some of the most progressive legislation on gender identity, prohibiting discrimination based on sexual orientation and allowing same-sex marriage to protect LGBT individuals (Encarnación, 2013). Since 2010, eight countries have approved laws to protect their rights and relations and guarantee equal rights in marriage (shown below in table 1). The expansion of these rights, and in particular the legalization of same-sex marriage, is not only the result of broad, strong, and well-organized LGBT movements, but also because LGBT activists can articulate their aspirations and demands in ways that resonate with social debate (Dion & Díez, 2018).

Country	Year of the court-passed legislation
Argentina	July 2010
Uruguay	April 2013
Brazil	May 2013
Colombia	April 2016
Ecuador	June 2019
Costa Rica	May 2020
Chile	December 2021
Cuba	September 2022
Mexico	October 2022 (the last state passed legislation)

**Table 1:** Legalization of same-sex marriage in eight countries

**Source:** Prepared by the authors

Concerning the use of the term LGBT, the official documents and statements of the United Nations and its affiliates use LGBTI, the acronym for lesbian, gay, bisexual, transgender, and intersex. It also states that “while the term LGBTI is used, it is important to include others who face violence and discrimination based on their actual or perceived sexual orientation, gender identity and expression, and sex characteristics, including those who identify with other terms” (ILO et al., 2015; UNESCO et al., 2018). Many human rights groups and state agencies in the United States are usually accustomed to using LGBTQ, the acronym for lesbian, gay, bisexual, transgender, queer, and questioning (Advocates for Youth et al., 2015). Then the Council of Europe (2014) uses LGBT in the leaflet of Sexual Orientation and Gender Identity (SOGI). In general, there is no mandatory provision for this term in the documents, so the use of it is flexible. Many queer communities use LGBTIQA+, an acronym for lesbian, gay, bisexual, transgender, intersex, queer/questioning, and asexual. As an evolving acronym, its essence is to encapsulate other gender, sexuality, and physiological sex characteristics that people have realized and experienced that are distinct from the traditional male and female genders. Therefore, this paper uses the acronym LGBT for unification and standardization of the overall context.

This article will discuss whether same-sex marriage laws impact the well-being of the LGBT community in Latin America. Firstly, it will conduct a literature review related to this research topic. Secondly, a detailed explanation of why same-sex marriage can be legalized in Latin America. It can also be interpreted as the advantages of legalizing same-sex marriage in Latin America. Then it explains why the LGBT community strongly demands marriage equality, that is, what is the importance and significance of same-sex marriage law for the LGBT community. This paper then takes Argentina as a case study to illustrate whether the living conditions of LGBT people have changed before and after the legalization of same-sex marriage. If there is a change in their daily life, is it an increase in happiness or embarrassment? The reason for choosing Argentina as the case is that Argentina is the first country in Latin America to legalize same-sex marriage and will be more mature in the implementation of same-sex marriage. The success of its same-sex marriage law will play a decisive role in other Latin American countries. Finally, by briefly summarizing the primary points of the whole article in the conclusion part, we will emerge with a much better understanding of the significance of same-sex marriage in the LGBT community.

## 2. Literature review

Many pieces of literature discuss the legislation of same-sex marriage, the expansion of LGBT rights, and other related issues from different perspectives. In response to entrenched homophobic and transphobic attitudes, successive U.N. human rights reports highlight the importance of equal human rights and call for a world free of racism, sexism, and all forms of violence and inequality. However, many studies have shown that this is not the case. Although Latin America has dramatically progressed in sexual and gender minority (SGM) rights, Malta and her colleagues (2019) expressed pessimism. By assessing the rights of SGM in several countries in the Latin American region, they argue that overall discriminatory legislation in the Caribbean and Middle America fuels violence against SGM in a social and cultural context of intense sexism, gender stereotypes, and widespread violence. They first searched and identified 88 legal and policy documents retrieved from governmental websites or provided by governments, including legal protections addressing same-sex couples and anti-discrimination laws. The Latin American region is then divided into three sub-regions: the Caribbean, Middle America, and South America, to analyze the temporal patterns of policy development in the countries of these regions, the interrelationships between the same national policies, and the possible temporal and political implications between countries and selected regions. They conclude that transgender people in the Caribbean and Middle America lack adequate legal protection and that overall discriminatory legislation fuels violence against SGM. South American legislation protecting SGM rights is Latin America's most inclusive and progressive legislation. Although legal inequality experienced by SGM in Latin America has declined in recent decades, the region still has some of the highest rates of violent and hate crimes against SGM in the world.

Additionally, there has also been much discussion of support for same-sex marriage. Lodola's (2010) argument is that levels of LGBT support are higher among wealthier people, individuals living in large cities, citizens with more years of completed education, and women at the individual level, while people with strong religious values and more conservative ideologies are negative about supporting the right of LGBT to marry. He has also found strong empirical evidence in studies at the national level that support economic and educational growth increases tolerance for LGBT rights, which helps to link policy formulation with concern for the welfare and education level of LGBT. From the perspective of the political judicialization of Latin America, Piatti-Crocker and Pierceson (2018) argue that despite the various voices against same-sex marriage in Latin America, the opposition cannot reverse marriage equality policy because legal and institutional factors consolidate marriage equality policy. Conservative activists are only using these objections for short-term political goals.

Besides, some scholars discuss same-sex marriage or LGBT rights based on country. Piatti-Crocker, Pierceson, and Schulenberg (2013) discuss the development of same-sex marriage in Latin America as a whole and each country, revealing the regional, national, and individual factors that have led to significant advances in same-sex equality in Latin America, and exploring the institutional, political, and social barriers faced by same-sex couples in the region. It first explores public opinion on same-sex marriage in the region, the dissemination of policy innovations on same-sex couples, the judicialization of LGBT rights, and the role of the left in supporting same-sex rights. It then analyzes the transnational pattern of same-sex relationship policies and the establishment of same-sex marriage rights in Central America, Argentina, Mexico, Colombia, and Uruguay. Encarnación (2013) discusses the rise of same-sex rights in Argentina, the relationship between human rights and the LGBT community, and the development process of same-sex marriage equality, showing Argentina's pioneering role in LGBT rights. Pousadela (2013) also focuses on Argentina. He examines the LGBT movement in Argentina within the framework of two long concurrent processes. One is that the expansion of LGBT rights occurred only after the political transition from dictatorship to democratic transition. Another is the global expansion of human rights concepts and practices, including those related to sexual orientation and gender identity, and the fight against all forms of discrimination. He starts with a brief overview of the sexual diversity movement in Argentina and then describes the process of legalizing same-sex marriage. He argues that effective strategies and actions between LGBT activists and coalitions contributed to the formation of a new egalitarian social consensus.

## 3. Causes for legalization of same-sex marriage

### 3.1 Tensions between pro-LGBT and opponents

In general, Latin America is characterized by the coexistence of strong "traditional religious values" and higher-than-typical "self-expression values", consistent with its current level of economic development (Inglehart, 2009: 94; Corrales, 2012). In specific, in LA countries where same-sex marriage is legal, conservatives who are mainly led by the leadership of the Catholic Church and Evangelical Christians, oppose same-sex marriage as a moral issue and, based on their religious

pretensions that sex equals reproduction, which means same-sex marriage is contrary to this. On the other hand, LGBT activists generally believe that same-sex marriage not only involves human rights equality and citizenship identity, but also reflects the deepening of social democracy, and they have successfully expressed this appeal to a certain extent (Corrales 2015; Dion & Díez, 2018; Díez, 2015). Therefore, Dion and Díez (2018) argue that this dichotomy has exacerbated tensions between supporters and opponents of the dominant framework for same-sex marriage in the region.

Additionally, in the 1990s, international human rights organizations heavily criticized many Latin American countries for their appalling treatment of homosexual groups (Amnesty International, 1995). For example, international human rights organizations argue that Colombia exists political manipulation, in which homosexuals, sex workers, and drug addicts are classified as “social undesirables”, which should be targets of police “social cleansing” operations. Apparently, the pressure of international public opinion and the global human rights movement trend at that time could stimulate and promote equality and further expansion of homosexual rights. Coupled with the tension of local society in Latin America and the ability of LGBT activists to shape their environment, the region’s LGBT rights, including marriage equality, have developed and improved. Essentially, the LGBT and anti-LGBT tension raises the question: What does Latin America’s experience teach us about the conditions under which rights in general, and LGBT rights in particular, expand? This is the deeper reason behind the legalization of same-sex marriage in Latin America.

### 3.2 Expansion of LGBT rights

The conventional wisdom about the expansion of LGBT rights is that “rights are more likely to advance in high-income democracies (the modernization hypothesis), where social movements are abundant, strong, organized, and sufficiently networked (the social movement hypothesis), and where religion is less influential in the daily life of majorities (the secularist or culturalist hypothesis)” (Corrales, 2015: 4). Based on this, Latin America has its experience in the past decades. Briefly, institutional factors, such as the role of alliances between movements and political groups, degree of party competition, degree of federalism, and degree of court assertiveness and progressiveness (*ibid*), should supplement structural variables, such as income (Corrales, 2015: 23).

Modernization theory has shown that rising incomes, including increased levels of urbanization and a growing middle class, are associated with the improvement and increase of political and social rights, which is consistent with the expansion of LGBT rights in Latin America. Regarding LGBT legal rights, the region’s super-achievers, such as Argentina, Brazil, Uruguay, and Mexico, are the wealthiest, most urbanized, and most middle-class countries in the region. LGBT rights are also strong in Mexico City, Buenos Aires, Bogotá, São Paulo, and Rio, some of the wealthier cities in the developing world. This indicates that the component of the middle class is a crucial factor. In Latin America, there is a strong link between middle-class status and “post-materialistic” values: with less interest in economic livelihoods and shelter, more emphasis is placed on issues of “self-expression”, “subjective well-being”, defense of ideas, and quality of life (Inglehart & Carballo, 2008). Although post-materialist environments are generally seen as conducive to the rise of LGBT rights, there are exceptions, such as oil-rich Venezuela. Therefore, income seems to be a limited reason.

One reason the expansion of LGBT rights is significant is that many pro-LGBT social movements in Latin America have managed to forge strong partnerships with larger movements or political actors, or have developed innovative network-building strategies (Corrales, 2015: 11). This is highly consistent with the research on alliance construction in social movements. In Argentina and Mexico, for instance, the pro-LGBT movement has formed key alliances with the largest and most developed social movements in each country: the human rights communities in Argentina (especially those seeking to expose human rights abuses during the dictatorship) and the democratization movement that has been running in Mexico since the 1990s. Ecuadorian LGBT movements have gained political prominence by aligning themselves with strong feminist and indigenous movements. LGBT groups in Brazil have cooperated with NGOs, many of which have ties to the bureaucracy, to help develop effective strategies to educate the public and provide health services.

However, not a few network-building strategies of some LGBT movements are at odds with those typically expected of left-leaning social movements. In many cities, for example, the LGBT movement has formed alliances with the business community. One of the reasons for the controversy in the strategy is that they prove to the private sector, and even the public sector, that there is such a thing as a “gay market”. The LGBT community could earn allies in government and business circles by demonstrating (even exaggerating) the spending power of LGBT voters and consumers. This is meant to whet the appetite of the business circle and public officials to make them more receptive to LGBT rights and policies (Corrales, 2015: 12). For example, the governments of Mexico and Argentina have begun to develop LGBT tourism. Although some have seen the strategy as a lack of understanding of the economic plight of the LGBT community and the commodification of LGBT culture. Nevertheless, many LGBT groups have embraced tourism as an economic force as a way

to make the state and business sector more LGBT-friendly.

In addition, many LGBT people systematically use the resources offered by globalization and the marketplace to increase discourse power. For example, they use new media technologies such as the Internet to actively monitor and adapt tactics adopted by LGBT movements elsewhere in the world, particularly in Spain and the United States, to enhance their bargaining leverage as activists. In short, while some pro-LGBT movements have formed productive alliances with left-wing groups and adopted framing strategies that resonate with the left, they have also adopted framing strategies that focus on being more pro-market and pro-globalization (Corrales, 2015: 13). LGBT people are participants in globalization instead of disrupters, which allows them to win allies across diverse sectors and choose strategies from multiple sources that best benefit the group. In short, LGBT people, because of their natural social and political vulnerabilities, have to choose an ally with some domestic clout, either because of their size or because the issues they are defending have broad appeal beyond the natural constituency that supports the LGBT movement.

Besides social movements, another reason that facilitates the expansion of Latin American LGBT rights is institutional factors. Inter-party competition, federalism, and the courts are three central institutions. Political parties are essential allies for the LGBT community. Because not only will political parties increase the efficiency of LGBT social movements, but political party support for LGBT causes is likely to increase when there is high competition between political parties. Since the 1980s and 1990s, LGBT social movements in Latin America have been more successful in changing the status quo because of strong ties to political parties than social movements that have not, despite the limits of such cooperative connections. In the 21st century, pro-LGBT movements have found more receptive allies in moderate left-wing parties, the best examples being Brazil and Uruguay. LGBT rights in Argentina, Chile, and Mexico City developed in partisan contests. Additionally, along with same-sex marriage in the United States, Latin America's federalism is a major institutional feature that facilitates the expansion of LGBT rights. Federalism can facilitate the gradual expansion of pro-LGBT rights by providing the stage for incremental change and even experimentation, especially when state institutions are banned. Argentina, Brazil, and Mexico City have less central federalism than Peru and Venezuela, and thus have a greater chance of making progress on LGBT rights at the subnational level and expanding from there (Corrales, 2015: 19). A powerful strategy for the LGBT community to demand recognition has been through litigation, so the judiciary, and the courts in particular, have become essential allies of the LGBT movement, providing the constitutional basis and decisions for recognizing and expanding the rights of same-sex couples. Latin American courts have played an essential role in protecting same-sex couples and recognizing their partnerships in the region's laws (Campana & Vaggione, 2021).

#### **4. The significance of legalization of same-sex marriage**

##### *4.1 Crucial for the well-being of LGBT*

Firstly, the legalization of same-sex marriage is a placebo for LGBT groups to improve their mental health. Wight et al. (2013) studied the relationship between same-sex marriage and mental health in the LGBT community of California. Their research found that lesbians, gays, and bisexuals who were not in any legal relationship suffered from severe psychological distress and high levels of mental pain. This is because LGBT people seem to be at a natural disadvantage in society, suffering from pressures and challenges that ordinary people have never experienced, such as discriminatory experiences and the necessity to hide their sexuality (Frost & Meye, 2009). They are consequently more likely to suffer from mental disorders, substance abuse, suicidal ideation, and self-harm than heterosexuals (IOM, 2011). However, there was no significant difference in psychological distress between registered domestic partnerships and heterosexual relationships. In other words, legally recognized same-sex relationships, primarily legal marriages, reduce mental health disparities between heterosexuals and the LGBT community. It can be seen that the potential mental health benefits and unique positive psychological effects of same-sex marriage cannot be ignored at least in the field of public health.

Secondly, the same-sex marriage law is a guarantee for LGBT groups to resist discrimination and violence from outside. Once same-sex marriage becomes legal, the legal provisions that guarantee the fundamental rights of LGBT people will come into force, restricting any violent behaviors and criminal activities against LGBT people. This is not only the equality of rights in the system, but also conveys a belief in fair identity to the whole society. The United Nations and other agencies (2018) have officially documented a wide range of physical and mental violence against LGBT in various regions of the world, including abuse, murder, assault, and sexual violence in institutional and other contexts. At the family and community level, LGBT people are also particularly vulnerable to physical, mental, and sexual abuse. Even in seeking asylum from persecution and in emergency humanitarian situations, they are also often exposed to the risk of violence and discrimination. The worse is that they may also suffer persecution in the medical field, such as the so-called "therapies" that are unethical and harmful and intends to force them to change their sexual preference. Because of the

stereotype and prejudice of society and many people towards LGBT, their fundamental human rights are jeopardized. However, the same-sex marriage law is the guarantee of prohibiting violence and defending human rights and is a supplement to social justice and support for victims.

Thirdly, the legalization of same-sex marriage is conducive to improving gender equality. Gender inequality is not only reflected in the traditional gender, but also expanded with the diversification of gender cognition. Chang's (2016) research shows that giving same-sex couples the right to have a family of their own does not affect gender education in society, but it may have the opportunity to promote an equal distribution of power between the sexes. She stressed that the purpose of gender education is to pursue gender equality and mutual respect, that is, people will not be treated unequally or have different life opportunities because of their gender, so the legalization of same-sex marriage will help improve people's gender consciousness and reduce gender differences in power distribution. Through the implementation of laws and regulations, the value of respecting different sexual minorities and sexual tendencies can be promoted, and the respect for different genders and even different individuals can be enhanced, to reduce discrimination based on gender.

Fourthly, the same-sex marriage law could reduce the incidence of lavender marriage and protect the legal rights of gay wives and lesbian husbands. A certain number of LGBT people find it difficult to face up to their true selves, unable to be recognized by their families, or afraid of losing their social status, so they have to choose a marriage of convenience to conceal the structurally stigmatized sexual orientation of one or both partners. The essence of this move is the wrong compensation behavior caused by the lack of equal rights for LGBT groups. Such behavior could humiliate their well-being, hurt the feelings and legal rights of an unwitting partner, affect the relationship between the two families, and even increase homophobia and anti-LGBT among the victims, their families, and society. Legalizing of same-sex marriage not only weakens the social discrimination against LGBT, but also makes their identities recognized at the law level. Having sufficient legal support to obtain equal rights for LGBT people who have tried to conceal their sexual orientation will greatly reduce the occurrence of lavender marriage from psychological and social root causes.

#### 4.2 Conducive to the social development

On the one hand, National laws or policies that extend equal marriage rights to same-sex couples signal a reduction in structural stigma and have a positive impact not only on the health and well-being of LGBT people, but also on social development. Marriage is a fundamental intersocial institution. "Structural stigma refers to norms and policies on societal, institutional, and cultural levels that negatively impact the opportunities, access, and well-being of a particular group" (Drabble et al., 2021). Obtaining the right to marry and any form of legal recognition, can reduce LGBT stigma by allowing LGBT people to integrate more fully into society (*ibid*). In the face of the LGBT community, legalizing same-sex marriage has brought greater acceptance and social inclusion to non-LGBT people. At the same time, same-sex marriage provides LGBT people with a wide range of tangible and intangible benefits associated with marriage and opportunities for advancement in society, such as equal distribution of property rights, the ability to raise children or adoption, and access to fair employment opportunities. Briefly, marriage equality could enhance the citizenship of LGBT people, improve their mental health, well-being, and social mobility, and empower the cultural, legal, economic, and political aspects of their lives that were once denied to them, thereby contributing to social prosperity and progress.

On the other hand, the physical and mental health of LGBT people caused by the lack of legal marriage can be seen as a public health issue. Studies show that LGBT people who are not in legally recognized relationships suffer much more than LGBT people who have legalized same-sex marriage. Being in a legally recognized same-sex relationship, especially marriage, appears to reduce mental health differences between LGBT and heterosexuals (Wight et al., 2013). Compared with LGBT people living in areas where same-sex marriage was allowed, living in areas where it was banned was associated with significantly higher rates of psychological illness, such as mood disorders (36% higher), psychiatric comorbidity (36% higher), and anxiety disorders (248% higher) (Gilbert Gonzales, 2014). Stigmatization, discrimination, and human rights violations against people with mental health problems are widespread in communities and care systems around the world, according to the U.N. report (2022). Under the double shackles of structural stigma and stigmatization of mental illness, the equal human rights of LGBT people are compromised, and their living conditions are tough and challenging. To the extent that the legalization of same-sex marriage can improve the mental health of LGBT people and remove structural stigma, it seems to be a way to address this public health issue.

## 5. Case study: Argentina

As a member of developing countries, Argentina's level of globalization is just medium rather than high, but it has already legalized same-sex marriage and also enacted some of the most progressive transgender rights laws in the world. Most notable is a 2012 ruling that allows transgender people to change their gender on government documents without first undergoing psychiatric counseling or gender reassignment surgery. Argentina also requires that hormone therapy and sex reassignment surgery be free in public and private medical institutions (Brigida, 2018). This shows that it is not only a pioneer in Latin America, but also a leader in the world of LGBT rights. Argentina's LGBT organizing can date back to at least the 1960s (*ibid*). Apart from the essential factors that affect LGBT rights, such as the widespread democratic rights, the majority of left-wing parties, and the popularity of secular values, Argentina has its unique characteristics.

### 5.1 Reasons for Argentina's success

At the national level, three main factors promote the success of same-sex legislation. Firstly, the transformation of Argentina's political system has a promoting effect. Argentina's transition from brutal military dictatorship to democratic rule in the early 1980s was based on respect for human rights. It was around this time that LGBT rights groups in the United States and Western Europe began to argue that the relationship rights of LGBT are human rights, so Argentine LGBT activists have conjoined LGBT rights and human rights as a means to gain of gaining social acceptance for LGBT groups (Encarnación, 2013). As a result, local LGBT organizations have successfully appealed to citizens to approve of same-sex marriage by framing it as a human rights issue (Brigida, 2018). Beyond human rights, Argentina has a unique relationship with religion. Although Latin America is known for being overwhelmingly Catholic, Argentina's political system developed without the church's infiltration into the legislative assembly, meaning that Argentina has essentially prevented the church from defining the state (*ibid*). Thirdly, there is the possibility of intense inter-party competition on the question of LGBT rights. Party competition helps explain the transformation of the Republican Proposal (PRO) party from one of the most anti-LGBT to one of the most pro-LGBT in the Americas. In 2005, PRO won the election for the city's Chief of Government office under the leadership of Mauricio Macri who is a wealthy businessman, an owner of one of the country's most important soccer teams, and a well-known homophobe. Macri and PRO mildly prompted President Cristina Fernández de Kirchner to finally come out in favor of marriage equality in 2010 and thus get the law approved in Congress (Corrales, 2015).

On a social level, Argentina's nonstate actors, especially LGBT activists, effectively exploit domestic circumstances. In fact, LGBT activists are the primary force in promoting same-sex marriage legislation. Argentine activists in the struggle for LGBT rights were consistent with its internal development process, effectively utilizing the "political opportunity structures" provided by the domestic context (Tarrow, 1998). Encarnación (2013) explained Tarrow's opinion that the gay movement in Argentina had gone through a process from "negative" rights to "positive" rights to "equal" rights. Negative rights simply require the state not to criminalize homosexuality, that is, decriminalize it. Positive rights claim to extend civil rights to LGBT groups, such as protection against discrimination and recognition of homosexual relationships. Equal rights claim that the state treats homosexual and heterosexual relationships in an equal manner, such as the legalization of same-sex marriage. Since the mid-1960s, influenced by the American Stonewall movement, local LGBT activists in Argentina have effectively led the "gay liberation" movement. During the democratic transition from 1983, when Catholicism was in decline and society was highly developed, these activists took every opportunity to advance their goals. An amendment to Argentina's constitution in 1994 allowed gay activists to use the city of Buenos Aires as a laboratory for gay civil rights (Encarnación, 2013). The dramatic economic collapse of 2001 and the fierce social justice movement it inspired not only provided a rare opportunity for gay civil rights, but also strengthened the political influence of the LGBT community.

Moreover, transnational legalism has played an important role in Argentina. Transnational legalism means that a country's legal system can quickly draw lessons from international cases and thus set legal precedents interiorly (Corrales, 2012). Like Argentina, "most Latin American countries have a tradition of transnational legalism" (Corrales, 2012). They often adopt the provisions of international norms and make them constitutional the domestic; at the same time, they will not hesitate to export a large number of their legal norms, which has contributed significantly to the legal construction of international organizations. This tradition of transnational legalism in Argentina has influenced local LGBT activists, who have a solid capacity to learn from the language and arguments used in the United States in support of LGBT legal rights. Although there are scholars have proposed that this is the "Americanization" of homosexuality and the export of American culture (Herdt, 1997), it is undeniable that Argentina's LGBT community has made achievements.

## 5.2 Changes in LGBT life in Argentina

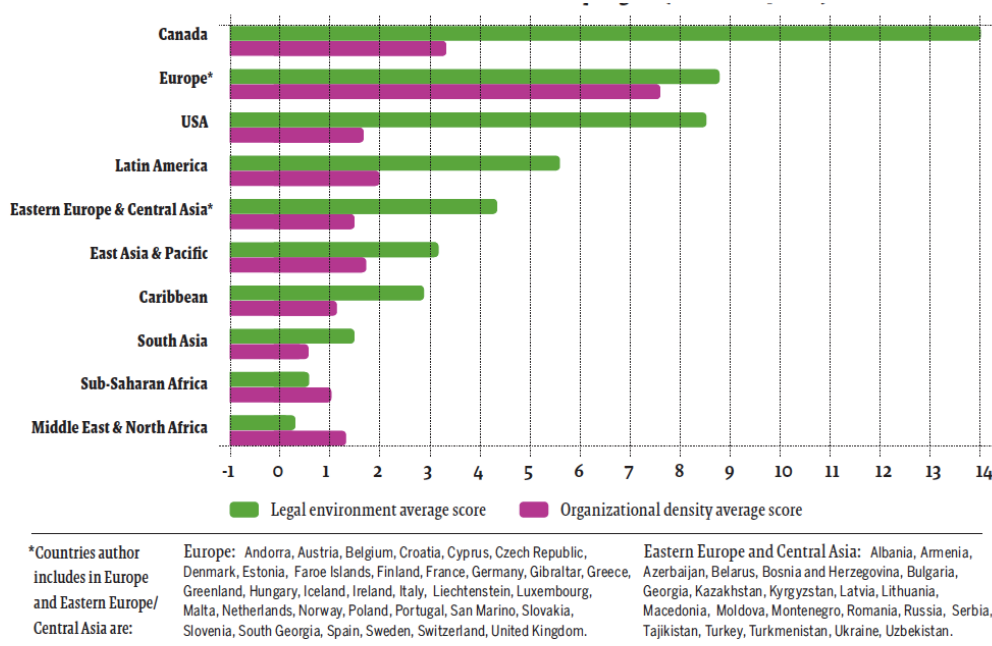
Although the leftist revolutionary Homosexual Liberation Front (FLH) was a significant precedent of the current Argentine LGBT movement in 1971 (Pousadela, 2013), Argentina's same-sex marriage struggle officially began in 2005 with the establishment of the LGBT Federation of Argentina (FALGBT), an organization aims to fight for the legalization of same-sex marriage (Encarnación, 2013). Spain had already legalized same-sex marriage, which greatly stimulated the creation of FALGBT. Spain and Argentina have similar cultural backgrounds, with Catholicism as the main religion, but the church does not dominate Argentina's political system. Since Argentina does not have the same powerful ruling party as Spain, the fight for marriage equality has fallen chiefly to LGBT groups (Encarnación, 2013). While there was little consensus within the LGBT movement on the form of state recognition of same-sex relationships, more established groups, such as Comunidad Homosexual Argentina (CHA), support a national civil marriage law (*ibid*). At the insistence of the LGBT community, through extensive contact with civil society, political parties, the media, and the courts, the Senate passed the same-sex marriage bill in July 2010.

In the process of fighting, Buenos Aires has developed a homosexual tourism industry, where many LGBT people who are not accepted by society and families can feel their identity and dignity. As early as 2002, Buenos Aires became the first city in South America to recognize same-sex unions. With the legalization of same-sex marriage across Argentina, Buenos Aires has become one of the most popular tourist destinations for homosexuals around the world. A survey by the Buenos Aires Municipal Government showed that the proportion of homosexual visitors had reached 20%, equivalent to 500,000 per year (Tang, 2010). The promising homosexual market here has also attracted much foreign investment, coupled with the significant number of tourists each year; the homosexual tourism industry even once became the driving force to help Argentina in the 2001 economic crisis (Encarnación, 2013; Tang, 2010). While this does not prove the level of income and spending power of the LGBT community, it does show the progress that the LGBT community has made over the years.

Except for the influx of travelers, it has boosted an industry dedicated to organizing weddings for the LGBT community (Camacho, 2018). Because the legal recognition of same-sex marriage in Argentina is not confined to residents, it attracts many couples come from other countries. One company named Fab Weddings has helped over 40 couples who come from other countries (Camacho, 2018). This brings hope to couples in other countries where same-sex unions are not allowed, and Argentina has become their preferred place to register for marriage. According to the 2017 Word Report of Human Rights Watch (2017: 87), "since 2010, nearly 15,000 same-sex couples have married nationwide". Its report in 2018 showed that the number increased to 16,200 pairs (Human Rights Watch, 2018: 39). Due to the lack of comparative statistics on the annual data, it is impossible to find the trend of quantitative change. There is no denying that Argentina's legal recognition of same-sex marriage offers excellent hope for equal rights for LGBT people in unrecognized countries around the world.

## 6. The well-being of LGBT groups in Latin America

Because of the different levels of development and political tolerance of LGBT in different countries, there is no international standard to measure the well-being of LGBT people. Despite there being surveys on the degree of discrimination against LGBT groups, it is not easy to conduct statistics and comparisons due to scattered data and lack of summarization. However, according to Corrales's (2012) research, he and his colleagues quantitatively measured the status of LGBT rights by dichotomy. The study focused on two variables: one is the national legal environment, and another is the LGBT-friendly organizations of one country. The numerical values of these two variables respectively correspond to the legal environment average score and organizational density average score in the bar chart below.



**Figure 1: Pro-LGBT Laws and Businesses by Region (on a -1 to 14 scale)**  
 Source: Corrales, J., 2012.

First, they have divided into seven categories of laws that related to the LGBT community based on various materials they collected: “legality of same-sex sexual activity, the legality of same-sex relationships, the legality of same-sex marriage, legality of same-sex adoption, the legality of LGBT military service, the existence of anti-discrimination laws, and laws protecting the expression of gender identity”. Each category is scored on a scale of -1 to 2, depending on the law’s soundness, which is “full, partial, or no pro-LGBT legislation”. If there is no information about one law in one country, it gets 0 scores. Thus, the sum of the variables ranges from -1 to 14.

Then to respond to the variable of organizational density, they created a concept named “index of gay-friend-illness of cities”. The index measures the number of organizations and businesses employing LGBT people and supporting them per 10 thousand inhabitants in the top three cities in 117 countries. They can guarantee the authority of the cities they choose from different countries, and they also acknowledged there were methodological problems with the index. However, they also stressed that the index provides the only measure of the quality of urban life for LGBT people.

Finally, by comparing different regions, it is found that Latin America is the leader in the LGBT community’s rights and urban living standards, second only to Canada, Europe, and the United States. Its average score in the legal environment is 5.53, and that in organizational density is more than 2.

Corrales (2012) and his colleagues then compared different countries within Latin America and concluded that Argentina, Brazil, Peru, and Colombia had the highest average score for LGBT rights status and urban living standards, while most Central American countries had lower scores and the Caribbean was the last. Ultimately, they believed Argentina had been the most prosperous country in Latin America when it comes to legal issues. This study also shows that the advanced legal system of Argentina provides friendly and comfortable legal circumstances for LGBT groups.

## 7. Conclusion

Although Latin America is not the most economically developed region in the world, it has made great strides in developing human rights and social inclusion, especially in protecting and improving the rights of LGBT people. Overall, the legalization of same-sex marriage has led to more equal human rights and a more inclusive living environment for LGBT groups compared to the past in Latin America. In this sense, their well-being has improved. By its nature, the legalization of same-sex marriage is not only the improvement of the legal system, but also the equality of human rights and people’s tolerance and understanding of multicultural and different sexual orientations, which is a sign of social progress and people’s pursuit of freedom and equality.

This essay, after the introduction of background, first explained why same-sex marriage can be legalized in Latin America. Apparently, the maintenance of traditional religious values by religious personnel conflicts with the pursuit of

democracy and human rights by social activists. Essentially, the legalization of same-sex marriage is an expansion of the LGBT groups' rights, mainly due to institutional factors in Latin America: party affiliation, federalism, and the role of the courts. This paper also expounded on the significance and impact of the legalization of same-sex marriage on the LGBT community and the development of society. For LGBT groups, the significance covers four aspects: improving mental health, preventing discrimination and violence against the LGBT community, strengthening gender equality, and avoiding lavender marriage. As for society, same-sex marriage could help remove the structural stigma of LGBT people and improve their mental health. Then the case study of Argentina first explained the reasons for the success of equal rights in marriage from three perspectives. The first is national conditions: the transformation of the political system, the relationship between state and religion, and party competition. The second is the effective use of the domestic environment by LGBT activists. The third is that Argentina takes a severe and inclusive attitude toward the law. This paper further analyzes the changes Argentina has experienced. After all the efforts and struggles made by LGBT groups to legalize same-sex marriage, the status of LGBT rights in Argentina has been upgraded, which also has promoted the development of the homosexual tourism industry. Finally, Corrales's research experiment is used to demonstrate further that same-sex marriage positively impacts the lives of LGBT people in Latin America.

However, this paper has two limitations, which need to be studied further. First, there is no clear definition of the well-being of the LGBT community. Second, it focuses on the positive significance of the legalization of same-sex marriage to LGBT groups while ignoring the analysis of the specific elaboration of the development course of same-sex marriage legalization.

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