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Coming Out of the Margins: LGBTI Activists in Costa Rica and Nicaragua

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Abstract

For decades LGBTQ rights have been approached purely by a legal strategy, in particular advocating for the legalization of same-sex marriage. However, discrimination and violence against the LGBTQ community continues to be a major issue in Latin America because of cultural values such as Catholicism and *machismo* that uphold a standard of and, in turn, have control over people's sexuality. Using a human rights approach towards the politics of sexuality, LGBTI activists in Costa Rican and Nicaragua have been successful in transforming public opinion about sexuality and more importantly, sexual diversity. As a result of their egalitarian framework and efforts to educate people about sexual diversity, they have made great advancements toward achieving acceptance and equality for LGBTI people. This study focuses on how Costa Rican and Nicaraguan LGBTI activists have worked around traditional cultural values such as Catholicism and *machismo* that prevent people from accepting and tolerating LGBTI people. The examples of LGBTI activists in these two countries have important implications for other LGBTI activists and the strategies they use to try to achieve full equality (social and legal) for people whose sexual identity differs from the conventional.

Coming out of the Margins

LGBTI Activists in Costa Rica and Nicaragua

Samantha Ablove

By day, San José, Costa Rica is the cultural hub and the center of political and economic activity in the country. The city is full of Spanish architecture, museums, parks, diverse cuisines and people from all over the world. The streets are lined with hundreds with shops that sell a multitude of items and in the middle of the streets you can find hundreds of street vendors selling clothes, jewelry, wallets, toys, food and many other items from all over Costa Rica and some from Nicaragua. The *Centró* is always lively with people from the suburbs who are traveling to and from their jobs.

By night, the city hosts a very different kind of political and economic activity, one that is also a reflection of Costa Rica's culture. Walking four or five blocks from the center of San José on a Friday night around ten, I observed transwomen sex workers dispersed along the streets and in the alleys waiting for their clients. I was surprised and saddened to see how young these women are; most of them were in their teens and early twenties. They have been forced out of their homes by their families and rejected by employers because their gender identity does not conform to the gender society expects of them based on their biological sex. Not only are they not accepted in their communities, but transgender people are not recognized by Costa Rican law.¹ This marginalization by society has forced many transwomen to work as sex workers in order to survive. With this job come many risks, such as contracting sexual diseases and experiencing violence by police. This is just one of many challenges society presents that

makes life difficult for transwomen. Like transwomen, transmen also face difficulties, just as gays, lesbians, bisexuals, and intersexuals each experience different challenges and have different needs. Costa Rican and Nicaraguan activists have recognized these differences and, as a result, have taken a different approach towards achieving equality of LGBTI — lesbian, gay, bisexual, transgender, and intersex— people than the United States’ focus on same-sex unions and marriage. In the past, legislative approaches in Costa Rica and Nicaragua for LGBTI rights have failed and LGBTI rights organizations realized this was due to strong sociocultural norms against acceptance of LGBTI rights. In order to stop this pattern of failed legislation, Costa Rican and Nicaraguan rights activists have chosen an educational approach with the narrative that LGBTI rights are human rights. Costa Rican and Nicaraguan activists’ work focuses on promoting social acceptance, fighting discrimination and hate crimes, and achieving healthcare for the LGBTI community.

Social reform needs to be prioritized in order to avoid a gap between law and public opinion and actions. The previous section has made it clear that cultural perceptions need to be part of any strategy for LGBTI rights campaigns. My research will investigate LGBTI rights campaigns and how their strategies challenge Catholicism and *machismo*. I hypothesize that SFFP, a Nicaraguan campaign about the rights of sexuality in the 1990s, and CIPAC, a current LGBTI rights organization in Costa Rica, that attempt to capitalize on human rights will be more successful than those that choose to follow the path of Western ideals such as advocating and prioritizing the legalization of same-sex marriage. I will show, through the experience of successful LGBTI rights campaigns, that a strategy that has focused on social norms and changing these values has

proven more effective than one that focuses only on a legislative change. By analyzing these two cases, I believe activists can learn from these community based and culturally sensitive strategies as models for achieving acceptance, tolerance and equality for the LGBTI community universally.

Two Critiques of the Western Approach to Sexual Diversity

Recently, United States LGBTQ rights activists have made great strides towards LGBTQ legal equality by legalizing same-sex marriage in thirty-two states. However, same-sex marriage is not a need of all LGBTQ or LGBTI people and social acceptance, discrimination, violence and healthcare for this community continues to be an issue. In “Machismo at the Crossroads – Recent Developments in Costa Rican Gay Rights Law,” Toni Lester argues that a “human rights approach to securing recognition for the struggles of Latin American gays has produced some significant results.”² Lester defines a human rights approach as one that places “emphasis on general rights that should be guaranteed to *all* people”, as opposed to one particular minority group.³ Many scholars have argued that the U.S. legal system in particular tends to unfairly compartmentalize people into distinct identity categories based on their race, ethnicity, or gender, “which can produce the effect of not taking into account the varied and nuanced dimensions that are inherent in all identities and experiences.”⁴ Lester demonstrates how a human rights approach to securing recognition for the struggles of Latin American gays has produced significant results. Costa Rican and Nicaraguan LGBTI activists use this human rights approach and have seen significant strides towards acceptance of the LGBTI community as an outcome of these activists’ efforts.

Though some Latin American Studies scholars argue that many global developments for homosexuals are the direct result of lobbying, sexuality continues to be criminalized in many Latin American countries. In the United States, LGBTQ activists must go through the democratic bureaucracy in order to obtain rights for the LGBTQ community. Though discrimination based on gender and sexual orientation is illegal and same-sex marriage is legal in some states, discrimination and violence against LGBTQ people continues to be a problem. This is a result of the lack of enforcement of the law on the ground because of a tension between imposed legislation and sociocultural values. In *The Hollow Hope*, Gerald N. Rosenberg argues that the court systems are ineffective at producing social reform. Rosenberg theorizes that “the constraints of the Constrained Court view generally limit courts, but when political, social, and economic conditions have become supportive of change, courts can effectively produce significant social reform.”⁵ Through sufficient precedent for change, these courts are overcome. In Latin America, the LGBTI community is so marginalized that they are not able to work within the legal system, instead, they must work outside the margins of society in order for their voices to be heard and their needs to be addressed. I will argue that Rosenberg’s theory is correct by providing evidence of how Costa Rican and Nicaraguan LGBTI activists’ tactics that work outside of the system through the capitalization of human rights are able to push their needs from off of society’s agenda to open public spaces.

The Cases of Costa Rica and Nicaragua

I chose the cases of Costa Rica and Nicaragua because of their comparable cultural values such as the strong presence of Catholicism and the tradition of *machismo*

which have a significant influence on cultural perceptions of LGBTI people. I am interested in analyzing how LGBTI activists have tried to overcome these obstacles in their strategies to obtain rights. Nicaragua and Costa Rica have anti-discrimination laws; however, there are still high volumes of hate crimes and violence towards those who identify as LGBTI. I am only interested in these two cases because of how successful these culturally driven campaigns have been in changing the social norms.

I have spent time in both of these Central American countries, and through direct observation and a study of the political and legal history of the actual application of LGBTI rights of these countries, I will argue that LGBTI activists who have implemented strategies that take into consideration the needs of these people—eliminating discrimination, proper healthcare and better employment opportunities—have produced felt, positive outcomes for LGBTI people. I aim to prove my argument by comparing one of Costa Rica’s LGBTI organizations, *Centro de Investigación y Promoción para América Central de Derechos Humanos* (CIPAC), Center of Research and Promotion for Human Rights in Central America, and one of Nicaragua’s LGBTI movements, *Sexualidad Libre de Prejuicios*, Sexuality Free from Prejudice (SFFP). CIPAC and SFFP aim to challenge traditional cultural values in order to expose how these cultural beliefs are products of a disguised social construct: heteronormativity. I will show the importance of why it is necessary to change public opinion through strategies that expose underlying sociocultural powers that shape society and capitalize on the notion that LGBTI rights are human rights. These two things are necessary to create social reform which is a step that needs to be taken before LGBTI activists can even consider to change legislation. Legislation that is imposed on society by the courts is ineffective because it

cannot change attitudes and behaviors on the ground, but social change affects peoples' attitudes and preferences which can transform and support legislation.

Through direct observation I have witnessed the impact the implementation of these strategies has on the discourse of sexuality, and in turn public opinion. For example, an example of a human rights strategy I observed was when I worked with *Centro de Investigación y Promoción para América Central de Derechos Humanos* (CIPAC) in San José, Costa Rica. CIPAC goes to schools and holds workshops for professionals about sexual diversity and ant-discrimination. In a workshop that I participated in, the activist facilitator exposed how gender is a social construction that forces people to conform to society's ideal of being either a heterosexual man or woman. The facilitator did this by asking the group to define what a man is and what a woman is and what their roles in society are. After he showed how everyone defines a man as strong, *macho*, provider and a woman as feminine, delicate and caregiver, they defined the various sexual orientations and gender identities. At the very end, he showed a film that illustrates the horrific consequences of discrimination and bullying of this community. I saw these peoples' perceptions of LGBTI people change.

In addition to my personal experiences with CIPAC, their efforts have real world implications. In May 2008, CIPAC along with past Costa Rican president Oscar Arias Sanchez signed an executive order designating May 17 as the National Day against Homophobia. From that moment on began a series of actions dedicated to an anti-discrimination movement. In June 2011, Costa Rica had its first gay pride parade/festival and in 2014 the Ministry of Education declared a day on the official school calendar as "educational day," when the issue of homophobic and transphobic bullying

should be addressed in schools and colleges. Three years earlier in 2005, CIPAC presented a proposal to the Legislative Assembly that legalizes same-sex marriages for couples who have lived together for four or more years. The project proposes to eliminate Article 42 of the *Código de Familia* (Family Code) that only permits marriages between a man and a woman. The Supreme Court rejected this proposal. This is just one example of how legal progress has coexisted with de facto social discrimination for decades. Therefore, Costa Rican and Nicaraguan LGBTI activists have chosen to focus on the latter with the assumptions and hopes that it will change the former. From this example other LGBTI activists can learn that education and promoting awareness about sexual diversity can be more effective at producing social reform on the ground than protesting/lobbying for a change of opinion at the legislative level.

Methodology

I will use historical knowledge in order to prove human rights theory as an effective and successful approach to achieving social acceptance, and eventually equality, for LGBTI people. By examining the strategies and tactics used by the SFFP campaign in Nicaragua and CIPAC members in Costa Rica, I will show how LGBTI rights need to be framed in a narrative where the fight for LGBTI rights is not just about people who identify as LGBTI, but it is about equity for the human species in order to be effective in achieving seeable and felt change by LGBTI people. The cases of Costa Rica and Nicaragua are going to help me highlight how a human rights approach has been effective in challenging, in turn, transforming attitudes about the LGBTI population in countries where there is sociocultural and religious hostility towards people because of their gender

identity and sexual orientation. In order to change society's opinion about people whose sexuality differs from the mainstream, LGBTI rights need to be framed as human rights rather than explained as a minority group with needs that are unique to themselves.

I will measure this success by comparing activists' cultural transformation goals to their end result. Evidence of this change will be evident by sociocultural indicators such as statistics of changes in public perceptions of LGBTI people and the discourse of sexuality and an increase in public spaces for LGBTI people, not only physical spaces such as bars and clubs, but also figurative spaces in society where it is shaped in a way that puts the needs of LGBTI people as one of society's priorities. By looking at the case studies of LGBTI rights in Nicaragua and Costa Rica, I will show why it is important to change society's opinion first rather than prioritizing legislative change and the direct effect this has on LGBTI people's lives.

The Power of Discourse

In addition to framing LGBTI rights as human rights, Costa Rican and Nicaraguan activists believe it is important to use the acronym "LGBTI" instead of "LGBTQ." The Western use of LGBTQ has become an imposition for the non-West. The "Q" in LGBTQ stands for queer. In Spanish, there is no translation for this word. Instead, Latin American countries use "LGBTI" or "LGBTTI" because they recognize the importance of their different needs and want to be inclusive of all types of sexual diversity. The "I" stands for intersex: a person who cannot be biologically identified as either male or female. Their genetic make-up differs from either male or female. Many organizations use "LGBTTI" in order to distinguish the difference between transgender

people and transsexual people, the two “Ts” in the acronym. Someone who is transgender identifies as a gender other than the one socially expected by the person’s biological sex. The sexual orientation of transgender varies and is not dependent on their gender identity. Someone who is transsexual identifies physiologically as a gender/sex different from the one to which they were assigned at birth. Transsexuals often times wish to transform their bodies surgically and hormonally to match how they identify. In societies where heteronormativity is highly valued, diversity is uncomfortable for the people in these societies because they are scared of change. This fear is most commonly known as homophobia and generates various types of discrimination, violence and hate crimes against LGBTI people.

Homophobia began in Costa Rica and Nicaragua because of the association the discourse around LGBTI had with the West. As a result, Costa Rican and Nicaraguan activists have chosen to create their own path towards LGBTI equality instead of following a paradigm of the West. During Nicaragua’s revolutionary era (1960s-1990s), homosexuality was often associated with the United States and Europe, locations that were, at times, “believed to be morally suspect.”⁶ Therefore, in the simplest terms, “homosexuality was bourgeois decadence and an imperialist importation all at once” and at times configured an affront to traditional Nicaraguan values.⁷ There was a notion that “‘in the North sexual rights are more developed’ might be attributed to a hegemonic presumption (or mythos)” about the West and sexual rights struggles.⁸ The proposition that industrialized countries have achieved perfect equity for sexual “minorities” is incorrect, and fits all too neatly into dubious narratives of Western superiority, progress, modernity and egalitarianism.⁹ These sorts of questions about how to effectively institute

sexual rights and how to gauge their success, however, are both provocation and motivation for Central American LGBTI activists.¹⁰ Instead of focusing on legislation that legalizes same-sex marriage, LGBTI activists in Costa Rica and Nicaragua are advocating for various needs of LGBTI people such as eliminating discrimination, helping them achieve proper healthcare and better employment opportunities. What makes Costa Rican and Nicaraguan LGBTI activists successful in achieving all of these necessities for the LGBTI community is educating people about the existence of heteronormativity and how its power works in society, exposing the various types of sexual orientations and gender identities that differ from the conventional.

In 1992, an antisodomy law (Article 204) was instituted in Nicaragua that effectively criminalized same-sex encounters for both men and women.¹¹ A challenge to Article 204 was filed with the Nicaraguan Supreme Court on November 9, 1992 by the way of *recurso por inconstitucionalidad*.¹² The *recurso* challenged the provision on the grounds that it was unconstitutional; the provision violated various sections of the constitution which allowed for individual liberty, respect for the private lives of individuals and their families, and for their honor and reputation.¹³ President of the National Assembly, Alfredo Caesar, requested that the challenge be rejected for failure to comply with the requirement that the challengers describe the prejudice, caused by the law.¹⁴ He also stated that the law did not prohibit sodomy, but rather its “inducement, promotion, propagandizing or practice in a scandalous manner” that the “sin is the scandal”.¹⁵ Ultimately, the Supreme Court rejected all challenges to the law on March 7, 1994.¹⁶ The passing of the law brought the gay community “out of the closet and into

the public spotlight to an unprecedented degree” and began the shaping of the gay population of Nicaragua into a more organized political movement.¹⁷

Article 204 brought lesbian issues to the political agenda, different than previous antisodomy laws that focused on male same-sex relations, in the context that everyone’s sexuality was at risk because of this enacted legislation. Article 204 provoked gay and lesbian activists to craft a new tactic to fight for equality for people whose gender identity and sexuality is marginalized by society. Rather than simply seeking to change policy (such as overturning the antisodomy law), activists have aimed for “a remapping of the cultural logics of the country.”¹⁸ It made more sense to focus on everyday discrimination rather than legislation because this is the lives experiences of these people; it has a direct impact on LGBTI people’s lives. The SFFP foundation was based on sexual rights advocates intent on spreading their message to the larger Nicaraguan population, not only to those who already saw themselves as a sexual minority. Activists began to construct a political project in which tolerance and respect for difference would be embrace by all Nicaraguans, not only gays and lesbians.¹⁹ The SFFP events have become the largest, most well-known, and best-funded representation of sexual rights in the country.²⁰ The SFFP campaign generated a movement and discourse that monitored sexual behavior and safer sex practices more closely.²¹ This allowed them greater assurance of being heard, becoming part of a global dialogue, and receiving financial support.

The Roots and Nurture of Felt and Real Discrimination

Though in both Costa Rica and Nicaragua same-sex sexual activity is legal and discrimination based on sexual orientation is illegal, discrimination continues to exist

because religious beliefs, mainly the Roman Catholic Church, and *machismo* weaken the power of the law . That is, in other words, religion and *machismo* have a strong influence on Costa Rican and Nicaraguan views of LGBTI people that prevent the law from being strongly supported and upheld on the ground. As one Latin American Studies scholar has explained, “[a] host of social factors account for Latin America’s traditional hostility” towards the LGBTI community.²² One of these, he states, is “‘the’ cult of masculinity that is known as *machismo*.”²³ *Machismo* not only affects the roles of women, but it also affects men. Under this long lasting tradition, men are supposed to be dominant and masculine and, subsequently, it plays an important role in perceptions of homosexual activity. It is traditional to stigmatize only the so-called “passive” partner in male same-sex sexual activity; in Spanish this participant is branded culturally with the label *cochón*.²⁴ The man who penetrates the *cochón* is known as *cochonero*. The penetrator’s actions are viewed as consistent with the power dynamic of *machismo* since he assimilated virility and power and his masculinity therefore remains intact.²⁵ On the other hand, the masculinity of the *cochones* is culturally perceived as damaged and diminished.²⁶ These men are socially ostracized, since they are seen as feminine men, not fully male men.²⁷ This culture of *machismo* has contributed to the homophobia that exists in both of these countries, making their lives “uncomfortable and difficult.”²⁸ This uneasiness and uncertainty about people who identify as LGBTI translates into prejudice against them. Violence against gay, lesbian, bisexual, transgender, transsexual and intersex people is both omnipresent in Costa Rica and utterly neglected in public policy. One of the most prevalent issues LGBTI people experience is discrimination by the police and health care professionals. LGBTI people are subjected to harassment,

fines and arbitrary detention by police; however transgender women most often report that they are targeted for abuse by police for simply being on the streets.²⁹

Discriminatory policies and practices, expressed through transphobic and homophobic attitudes of the state and healthcare professionals, prevent LGBTI people in Costa Rica and Nicaragua from having the full right to health. For example, there is a lack of adequate training for medical professionals with regard to LGBTI healthcare needs.³⁰ In addition, transvestites are denied access to antiretroviral treatment as well as condoms at health centers.³¹

Within Costa Rican and Nicaraguan families where a member identifies as LGBTI, felt discrimination appears to affect people more frequently than public policy discrimination. Pecheny found that the subjective realm (formed by an individual confronting him or herself), the intimate-private realm (formed by the individual's loved ones), and the public-private realm are neither coherent nor homogenous when it comes to homosexuality.³² According to testimonies, homosexuality often generates hostile reactions from members of the immediate family, mainly the father and male siblings.³³ In most cases, most individuals know or sense that homosexuality is something to be ashamed about, something to be mocked or excluded, long before they realize they are attracted to people different than who society expects them to be attracted to based on their biological sex. According to testimonies, homosexuality often generates hostile reactions from members of immediate family, mainly the mother and father and male siblings.³⁴ Common occurrences include expulsion from the household, the "silent treatment," and mutual accusations between the homosexual and relatives.³⁵

Not only do LGBTI people experience discrimination, but they also experience direct acts of violence against them because of how they identify. A study done in 2011 in Nicaragua reflected 15 murders committed between 1999 and 2010 which were determined as hate crimes against LGBTI people.³⁶ Violence against LGBTI people is common because of their gender identity and/or sexual orientation. Seven of those murdered were gay men, seven were Transwomen and one was a lesbian.³⁷

The Reality of HIV/AIDS among the LGBTI Communities in Costa Rica and Nicaragua

As a result of these limitations imposed on LGBTI individuals by law and society, these individuals start not to care about themselves because it seems like no one else in their community does. Stereotypes, stigmas and homophobia have a negative psychological effect on people and as a result these people participate in unsafe sex practices such as using drugs, not using a condom, and not asking their partner's HIV status.³⁸ Unfortunately they find comfort and a community through the use of drugs and sex. Many times these two things go hand-in-hand and make for very dangerous situations that can lead to life-threatening diseases such as HIV and AIDS. These behaviors increase the risk of contracting HIV or AIDS. According to the *Dirección de Vigilancia de la Salud* (Health Monitoring Board), 2,093 HIV and 1,720 AIDS cases were reported for the 2002-2009 period in Costa Rica. In 2009, 141 new AIDS and 243 HIV cases were reported, at a rate of 3.1% and 5.4% for 100,000 inhabitants respectively.³⁹ In Nicaragua, HIV/AIDS is also a serious issue. According to a 2008 USAID report, 26% of all people living with HIV/AIDS are men who have sex with

men.⁴⁰ In a study conducted with 310 people between the ages of 18 and 24 and 82% of whom identified as gay and 16% identified as bisexual, 81% of the sample reported drinking alcohol in the last year, 24% reported using a street drug in the last year, 51% reported having used marijuana in the last year, and 34% reported some form of partner violence.⁴¹ The study also found that 14 % of the sample reported a known HIV-positive serostatus, and approximately 40% of the sample reported engaging in each HIV risk behavior.⁴² Though these statistics are only numbers on paper, they have a significant impact on thousands of individuals' lives.

The prevalence of HIV/AIDS in the LGBTI community is a direct result of the felt discrimination and unacceptance these people feel in their communities.⁴³ Widespread discrimination against people living with HIV/AIDS in Costa Rica and Nicaragua exists due to social constructs and a lack of education about the disease. If this discrimination is addressed and prevented, then we should see a correlation between discriminatory acts against LGBTI people and statistics on the prevalence of HIV/AIDS in the LGBTI community. More precisely, with the decline of discrimination against the LGBTI community, then there should be a decline of HIV/AIDS cases among LGBTI people.

Many times, these LGBTI individuals end up committing suicide because the harshness of reality is too much for them. An individual case of a boy who was a client of Dr. Richard Stern, an AIDS activist in Costa Rica, took an overdose that barely killed him. At the age of eighteen, just after high school graduation and before he had even participated in any homosexual sexual activity, decided that death was better than a life. He knew that in his life he would face rejection from his *machista* father and traditional Roman Catholic family. Clearly, for discrimination to end, this fear and uncertainty of

people who identify as LGBTI needs to be addressed and public perceptions about LGBTI people need to be changed.

History of Religious Institutional Challenges

Since a majority of Costa Ricans and Nicaraguans have a commitment to Catholicism, their religious beliefs have a significant influence on their perceptions of homosexuality and what rights LGBTI people should have relating to marriage and family⁴⁴ In 2003, the Catholic Church pronounced that “‘marriage exists solely between a man and a woman’.”⁴⁵ Many Costa Rican Catholics hold similar views to the Church’s official stance. In a recent study of over 3000 Costa Ricans, 2000 being Catholic, 70% disagreed that gays should be permitted to marry in civil unions or should have the right to adopt children.⁴⁶ The public stance of the conservative group, the Citizen Observatory, captures these views. In a 2010 ad placed in the Costa Rican Newspapers, it said: “‘Legally recognizing homosexual unions would turn them into a model for society. This is contrary to the fundamental values we Costa Ricans believe in.’”⁴⁷ As a product of these perceptions, action Article 14 of the Costa Rica Family Code explicitly prohibits same-sex marriage.⁴⁸

In Nicaragua the Church continues to have a “special status” in society.⁴⁹ As a consequence, the “Roman Catholic Church continues to be a ‘great influence on the current government and it is a major obstacle for the recognition of LGBT citizen’s [sic] rights. Its position is to try to eliminate any formal expression of the reality that we [homosexuals] live in, work in and contribute to the development of Nicaragua.’”⁵⁰ In response to protests against a new provision of the Nicaraguan Penal Code criminalizing

sodomy between members of the same sex, the President of the National Assembly stated “[f]or Christians, which the immense majority of we Nicaraguans are, sodomy is contrary to natural law and Divine Law and its propagation in the society merits the biblical punishment that fell on the city of Sodom.”⁵¹ Given the continued hold of the Roman Catholic Church and the culture of *machismo* in Costa Rica and Nicaragua, the attitude toward people whose identity differs from the conventional is not surprising.

Challenging the Constructs: Underlying Powers of Society

LGBTI activists in Costa Rica and Nicaragua aim to challenge discrimination by exposing one of the roots of its existence: heteronormativity. Heteronormativity refers to the tendency of societies to organize social relations and citizens based on the notion that reproductive heterosexuality is ideal.⁵² It imposes on individuals the expectation of having sexual and affective partnerships with members of the opposite sex, raising children in a heterosexual environment, and performing gender-based roles that align with traditional (binary) or majoritarian definitions of male and female.⁵³ LGBTI activists focus on creating safe spaces for those that do not conform to these heteronormative expectations. In Latin America the vast presence of Catholicism (institutions and beliefs) and the cultural value of *machismo* perpetuate heteronormative values and, in turn, homophobia. This fear stands in the way between Costa Rica and Nicaragua enforcing current legislation in society and winning more rights for the LGBTI community. LGBTI activists aim to eliminate homophobia so legislation about LGBTI rights can be enforced on the ground.

The Underpinnings of the LGBTI Movement

LGBTI rights interests in Costa Rica and Nicaragua were expansions of gender equality rights movements in the early 1990s. Feminism and women's politicization were critical to the development of lesbian and gay politics in Costa Rica and Nicaragua.⁵⁴ For many activists, gender politics and sexual rights are intimately related projects, both personally and politically.⁵⁵

In the 1970s and 1980s, revolutionary guerrilla movements fought poverty and dictatorship throughout much of Central American isthmus and in the space of five years, fledgling lesbian movements surfaced in Costa Rica (1987) and Nicaragua (1991).⁵⁶ These movements were a product, in part, of the political and social upheaval of preceding decades; in part they were related to underlying structural change, to the onset of HIV/AIDS in the region, and to the influence of gay and lesbian movements elsewhere.⁵⁷ In 1971, same-sex relations were legalized in Costa Rica.⁵⁸ However, sexuality that differed from the mainstream continued to be criminalized on the street. The original gay and AIDS organizations sprang up in the 1980s in response to police raids on gay and lesbian bars and in response to the AIDS crisis.⁵⁹ Despite some common roots, however, there were striking differences among the lesbian and LGBTI movements that developed in these two countries.⁶⁰

The Costa Rican lesbian feminist group, *Las Entendidas*, created a larger lesbian community within the country.⁶¹ Lesbians belonging in this group raised in them a "feminist consciousness" that helped them realize that if they were to become free and independent, they would have to find their own identity through a feminist interpretation of patriarchal reality.⁶² As the organization evolved, the concept of identity came to

embrace not only individuals, but a wider community.⁶³ By the end of 1987, *Las Entendidas* had begun to define its ideology as feminist and set itself a goal to create a lesbian feminist community through outreach and consciousness-raising among Costa Rican lesbians.⁶⁴ With this in mind, the group founded a monthly “women’s night” at a San José gay bar, where they offered speakers and workshops on topics such as sexuality, feminism, self-esteem and alcoholism, as well as theater, poetry readings and other cultural events.⁶⁵ One historian of the movement comments: “It was an activity...which may have made [women] feel part of the movement of a larger group with the capacity to be involved in activities outside of the ordinary, and the possibility of learning new things.”⁶⁶

Though such public spaces like the one *Las Entendidas* established exist in Costa Rica, discrimination remains a significant problem in present in current Costa Rican politics. In 2012, former president of the Commission of Human Rights and the 2014 presidential candidate for the *Partido Reformista* (Costa Rican Reformation Party) Justo Orozco Alvarez spoke against a same-sex union bill that would have guaranteed homosexual couples economic benefits similar to those of heterosexual couples.⁶⁷ He stated in February 2013 that, “‘homosexual relations have bad consequences,’ reasoning that only sexual relations between a man and a woman were physically compatible.”⁶⁸ Orozco’s arguments added to the population’s misinformation on the matter.⁶⁹ This is just one example of how politicians and judicial figures have been resistant to accepting and defending the principles their bureaucracy has produced.

Like Costa Rica, the awareness of LGBTI issues in Nicaragua benefited and grew from a gender equality movement as well. The LGBTI community in Nicaragua did not

gain rights for another 37 years later due to different political histories. LGBTI people continue to face a lot of turmoil in their fight towards equality. In the 1980s and 1990s, the Sandinista National Liberation Front (FSLN) government provided an opportunity for marginalized men and women to transform their country.⁷⁰ During the Sandinista era, political participation among Nicaraguan women increased dramatically.⁷¹ For example, the *Asociación Promoción y Desarrollo de la Mujer Nicaragüense Acahualt* (Acahualt Nicaraguan Women's Promotion and Support Group) help create the gay rights group, *Una Nueva Esperanza* (A New Hope), the feminist sexual diversity organization *Movimiento Feminista para la Diversidad* (Feminist Movement for Diversity) and the trans rights organization *Cameras Trans* (Trans Goddesses).⁷² In addition, FSLN had a new relationship compared to their oppressive past with LGBTI rights activists – embracing them instead of seeking to silence them.⁷³

A new constitution in 1987 under the Sandinista Revolution was the first to include women's rights in their agenda in the context of protecting family as the basic unit in society.⁷⁴ The revolution furnished a political model that combined diverse ideological forms, blending them into a relatively unified vision for social transformation.⁷⁵ Even as contemporary activists engage with politically liberal notions of sexual subjectivity and human rights, they from a national political history based on communitarian ideals and a hybrid approach to social justice.⁷⁶ Sexual rights advocates have also been very aware of the ways in which Sandinismo failed to provide for a full range of rights, particularly for women and sexual minorities.⁷⁷ Although some women were politically active before the revolution, the new opportunities afforded by the Sandinista era allowed women to more fully negotiate the political and bureaucratic

nuances of the Nicaraguan state.⁷⁸ Women sought to remediate the particular forms of discrimination they faced as women, including legal barriers and structural inequalities, as well as those seen to be cultural, such as the abuses of *machismo*.⁷⁹ Feminism and women's politicization were critical to the development of lesbian and gay politics in Nicaragua. Though the Sandinista state developed formal political projects intended to incorporate women, but in many cases their purpose was to ensure women's continued involvement in the revolutionary project rather than to innovate new approaches to gender politics.⁸⁰ The FSLN formed the *Asociación de Mujeres Nicaragüense, Luisa Amanda Espinosa* (AMNLAE), early in the revolutionary process to serve as an umbrella organization that would address the issues such as family planning, domestic violence, and rape.⁸¹ While the Sandinista state had charted a set of expectations about AMNLAE's function women within the organization were involved in a series of questions about the mission of the association. The debates among the women of AMNLAE set the stage for two controversial gender issues: lesbian rights and abortion.⁸² Elective abortion was illegal in Nicaragua prior to Sandinista control. The FSLN and AMNLAE were wary of addressing any change to abortion law for fear of alienating the politically and morally influential Catholic Church.⁸³ For similar reasons, lesbian rights were seen by some members of AMNLAE as politically taboo. In the late 1980s, the director of AMNLAE publicly confirmed that lesbian rights were outside the organization's mandate, declaring that "lesbians march under their own banner."⁸⁴

In 1989, a group of gay and lesbian Nicaraguans "[marched] under their own banner" and participated in the march to Managua's *Plaza de la Revolución* in honor of the Revolution's tenth anniversary.⁸⁵ This public coming-out of gay and lesbian-

identified Nicaraguans and their allies paved the way for further activism.⁸⁶ However, in 1992, lesbian and gay political activists hit a wall when Article 204 was established, sanctioning only those practices that were related to procreation as “‘natural’ and legal.”⁸⁷ In response to this law, several NGOs had been established that addressed the needs of gay men and lesbians.⁸⁸ *Nimehuatzín*, an active AIDS-education foundation functioned at the outset as a gay community center before it adopted a more professional character.⁸⁹ Xochiquetzal offers health and psychological services as well as sex education, directed largely, though not exclusively, to a gay and lesbian clientele.⁹⁰ The emergence of these NGOs was part of a bigger campaign called Sexuality Free from Prejudice. The title of this campaign not only generated a new discourse around the politics of sexuality, but it also exposed the marginalization of the LGBTI community and forced their needs to the forefront of society’s conscience.

Prioritizing LGBTI Rights as Human Rights

The strategies used by the SFFP campaign and by CIPAC are representative of successful initiatives to create social reform in their countries. These tactics emerged after proposed legislation failed in both the judicial process and to be enforced in society. Previous research has shown that courts in Nicaragua, like Rosenberg’s argument, are not seen as effective agents of change in Nicaragua.⁹¹ This attitude may be attributed to the nature of the courts in Nicaragua’s civil law system. According to Bethany Williams, “‘Civil law systems traditionally [limit] the role of the court’s more sharply than the common law systems.’”⁹² A civil law system usually relies on written codes or statutes,

“as sources of law to a much greater extent than do common law systems.”⁹³ The courts are allowed only to interpret and apply law, not change it.

SFFP gatherings have grown dramatically, in both scope and scale, since it was founded.⁹⁴ In its beginnings it ran a day or two a week, but by 1999, the gathering’s activities stretched for nearly a week and featured call-in radio shows, television appearances by activists, press conferences, research presentations, magazine canvassing, and the screening of films such as *Fresa y chocolate* and *Ma vie en rose*.⁹⁵ With the help and funding from a handful of feminist, sexual rights, and HIV/AIDS-prevent NGOs, SFFP events were able to be advertised in the national newspapers, on leaflets and posters, through the broadcast media.⁹⁶ Activists used these forms of media and communications in order spread awareness about LGBTI issues and encourage participation in SFFP activities. Through these means, they were able to reach a larger audience that would have not otherwise been aware of these events. In addition to screening educational and entertaining films that address the persecution of homosexuals, local NGOs hosted research presentations such as reports on HIV transmission in Nicaraguan cities and research on depression and suicide among gay male youth.⁹⁷ HIV/AIDS and suicide are major issues in the LGBTI community. In 2001, the magazine *Fuera del Closet* (Out of the Closet), published by HIV-prevention and sexual rights organization *Fundación Xochiquetzal*, was distributed around the city.

Nicaraguan LGBTI activists used an egalitarian framing of conscious in order to establish that LGBTI rights are human right. A homosexual man and lesbian woman discussed their experiences of discrimination in the job market and the social stigma surrounding homosexuality in Nicaragua.⁹⁸ Radio shows such as *Derechos Humanos de*

Homosexuales y Lesbianas: La Pareja Perfecta también Puede Encontrarse entre Personas del Mismo Sex (Human Rights for Homosexuals and Lesbians: Your Perfect Match May be Someone of the Same Sex) and *El Amor Verdadero no Tiene Prejuicios* (True Love Knows No Prejudice) were broadcast on youth radio programs.⁹⁹ These presentations were important to appealing to everyone's common sense of humanity.

To frame the political priorities of SFFP and to encourage participation in the events of the summer of 2001, they circulated an announcement by e-mail and had hard copies printed and distributed.¹⁰⁰ The text of their circular described:

The *Jornada por una Sexualidad Libre de Prejuicios* (Gatherings for Sexuality Free From Prejudice) has become a space where sexuality is demystified in order to speak about sexuality as a natural entity, with the end result of learning, understanding, and creating, overall, respect for the human species, all of whom are diverse and equal. The *Jornada* has always promoted the need to have a sexual scientific education. This helps people to recognize that there is sexual diversity and that its existence is an undeniable right.¹⁰¹

The mission of *Jornada* is to highlight sexual diversity and equality as broad social concerns. Notably, the announcement does not refer to gay and lesbian rights specifically, nor does it mention homosexuality, male or female.¹⁰² This narrative around sexuality is important to how LGBTI activists want the public to think about and understand sexuality. Sexuality is not pre-determined by society, it is something we are all born with and it is not black and white at all. Sexuality is a spectrum between black and white; people can be grey, charcoal, ash, aluminum, and chalk white, midnight black—the list goes on and on. Therefore, LGBTI activists are not just advocating for lesbians, gays, bisexuals, transsexuals, transgender, and intersex, they are working towards achieving respect for every individual of the human species. Positioning sexual rights as intrinsic to humanity, and placing sexuality within the greater scope of human

rights, activists propose that sexual diversity is not simply a “minority” concern but one that implicates all of society.¹⁰³ The political logic of SFFP, on the one hand, is a subtle approach, treading carefully before the law; but it is also meant to promote broad transformation and a general social tolerance rather than emphasize minority politics.¹⁰⁴ In other words, the goal of the SFFP is to promulgate the notion that all Nicaraguans have sexuality, in turn, a right to it.¹⁰⁵

This framing around sexuality has promoted more discussion and openness around this subject. As a result, more LGBTI organizations and groups that are working from a human rights perspective.¹⁰⁶ The rapid globalization of mass communications especially TV, cinema and internet, enabled access to and dissemination of modern concepts and practices of sexuality and debate on sexual orientations and gender identities in Nicaragua in an unprecedented way.¹⁰⁷

More public spaces have emerged for people whose sexuality differs from the conventional. In recent years, tranvesti and transgender Nicaraguans have also become more visible and have claimed public space, whether for drag shows and competitions or for monthly gatherings at one of the capital city of Managua’s major traffic circles.¹⁰⁸ President Daniel Ortega and first lady Rosario Murillo showed new support for the trans population. Many regard such shifting alliances to be evidence of the government’s opportunism since this support contradicts Ortega’s previous actions against abortion and constantly associating himself with the Catholic Church in order to gain conservative votes. Though this may be the case, these movements signal a change in the country’s general awareness of gay culture and identity, and of globalized human rights discourses that advocate the inclusion of sexual minorities.¹⁰⁹ Such shifting alliances signal a change

in the country's general awareness of gay culture and identity, and of globalized human rights discourses that advocate the inclusion of sexual minorities.

Costa Rica's courts have also proven to be ineffective against political power.¹¹⁰ The constitutional guarantees of individual rights "afforded little protection against the caprices of political executives, especially for marginalized people."¹¹¹ Gay rights activist, Francisco Madrigal notes, "discrimination against homosexuals is not expressed in physical attacks as in past decades, but rather in terms of the ability to exercise civil and economic rights."¹¹² CIPAC was founded in 1999 by Francisco Madrigal, provoked by police harassment and raids of LGBTI people and private establishments and the ruling by the Costa Rican Supreme Court which gave LGBTI groups the right to peacefully assemble, associate and create their own private establishments as well as their own LGBTI rights associations.¹¹³

In Spring 2014, I had the wonderful opportunity to work with Francisco Madrigal and with CIPAC. On my very first two days I attended a seminar hosted by U.S. Agency for International Development (USAID). This seminar consisted of thirty presentations about studies done on HIV prevention between men who have sex with men, women who have sex with women, men who have sex with transgender women. These studies had a clear pattern: homophobia, lesbophobia and transphobia are a significant reason for the high prevalence risky sex behavior and drug use in the LGBTI community. Most of the studies showed that discrimination and bullying were huge factors as to why people in this community are at great risk of attaining HIV and AIDS. I learned that stereotypes, stigmas and homophobia have a negative psychological effect on people and as a result these people participate in unsafe sex practices such as using drugs, not using a condom,

and not asking their partner's HIV status. This seminar was a great foundation for my understanding of what CIPAC does and the goals of the organization. CIPAC's main goal is to break these cultural perceptions of LGBTI people in order to create a world where everyone is able to live as who they are.

One question I was interested in finding out more about during my time with CIPAC was if same-sex marriage was a priority on their agenda since it seems to be the focus of LGBTQ activists and organizations in the U.S. CIPAC believes that advocating for same-sex unions would be inefficient at this point in time because of the overarching negative perceptions and homophobic attitudes many Costa Ricans continue to have. In order to eventually get same-sex marriage legalized, they have focused their work on exposing the entrenched values of Catholicism and *machismo* that exist in Costa Rican society. The purpose of their work, more particularly, is not to convince Costa Ricans to drop these values, but instead show how these values counter egalitarian values: they control every person's conscious, dictate how people live and infringe upon people's rights. CIPAC educates people about these social constructs through workshops where they educate high school students, college students and professionals about heteronormativity and how heteronormative constructs produce homophobia and, in turn, cause discrimination against these people. I attended a workshop with healthcare professionals and one with college students. The healthcare professionals signed-up to attend the workshop and the college students' professor asked CIPAC to come talk in their class. I had expected that the people at these workshops would be unwillingly to listen and care about what members of CIPAC had to say, but I found the opposite. Every person demonstrated an interest in learning more about sexual diversity and

understanding the different types of sexual orientations and gender identities. I was surprised by their level of interest and their willingness to want to understand these people and make them feel more comfortable in society. For example, many of them talked about friends and family members they have that identify in such ways. There was truly willingness by each individual to want to challenge and change their beliefs about LGBTI people. CIPAC hopes that this work will have a ripple effect in society. They anticipate these workshops will promote a greater conversation in the community by encouraging the people they educate to others about what they learned at the workshop. Eventually, as a result of this new discourse, CIPAC hopes they will be able to change public's overall perceptions of people who identify as LGBTI.

CIPAC shows how acts of discrimination cause these individuals to not care about themselves and engage in dangerous jobs, unsafe sexual practices, and want and attempt to commit suicide. To make their argument stronger they do activities and show films that help their audiences put themselves in these people's shoes by reversing the role. For example, they showed a film which depicts a life of a heterosexual high school girl who lives in a world where identifying as gay man or lesbian is what is expected from society. As a result of her variance from the majority, she experiences discrimination based on her sexual orientation and in the end commits suicide. This video had a powerful impact on the group of people at this workshop. Most of them were in tears by the end of the film. Clearly, showing society that the needs of LGBTI people are the same as the needs of humanity is a powerful strategy and therefore should be prioritized by LGBTI activists everywhere.

In addition to showing the devastating consequences of homophobia, CIPAC works with youth in order to prevent bullying and discrimination towards young LGBTI people. In a study done by the Center for International Studies, conducted with 845 people who identify as gay, lesbian, bisexual and transgender, they found that six in ten high school students say that high school is the place where most people suffer insults and ridicule because of their sexual orientation.¹¹⁴ The study also showed that 63% of gay men experience discrimination in high school and public places for recreation, 35% at work, and 14% in the health sector.¹¹⁵ This bullying is not only done by classmates but teachers as well. The findings of this study are one reason why CIPAC selects schools to do workshops at. The other reason is that these students are the future generation of the country. It is harder to change the beliefs and values of people who are older, and therefore CIPAC hopes to provide children and young adults with a lens for seeing LGBTI rights with the larger goal of changing future politics around LGBTI issues.

This discrimination, violence and abuse experienced by children prevent them from exposing their true selves and maintaining a relationship with places that are considered safer. Since bullying is the most prevalent in high schools, and prevents students from feeling comfortable with themselves, CIPAC addresses this issue to help LGBTI youth. CIPAC does this by going to schools and educating students about sexual diversity, consequences of bullying, and safe-sex practices. Sexuality is not openly talked about to youth because many religious institutions dictate that sex is sacred and should only be used for procreation, but many children are sexually active and not educated about sexually transmitted diseases or infections. CIPAC activists educate students about HIV/AIDS and about safe-sex practices such as how to use a condom.

These workshops have been so successful that CIPAC was able to establish a day on the school calendar dedicated to such education.

What I believe is one of CIPAC's biggest and most impressive accomplishment is in March 2008 CIPAC managed work before the Ministry of Public Health, and declared May 17 the National Day against Homophobia. From that moment began a series of actions to be included in the Formal Education System Calendar of the country, which requires addressing the issue in all schools in the country. With USAID and the Ministry of Defense, CIPAC conducted workshops, press releases and other actions relating to homophobic bullying, the enormous physical and emotional damage and dropout rates that occurred among young people across the country. After six years, finally they managed to have the Ministry of Education include a date on the official school calendar as "educational day," when the issue should be addressed in schools and colleges. From a survey CIPAC conducted with several teachers in various schools across the country, they found there is no guidance on what to teach on this date, how to approach it, what activities, work or materials to give students to teach the messages correctly and effectively in order help reduce homophobia, lesbophobia and transphobia in middle and high schools, as well as specialized education. Costa Rican teachers do not have the tools that would allow them to address the issue properly and can, without the tools, produce more harm to gays, lesbians, bisexuals, intersex and transgender youth. In order to solve this problem, I worked with CIPAC and translated a grant proposal for funding for the necessary tools to accomplish their goal to promote an environment of respect, safety and protection for LGBTI young people embedded in the formal education system.

As an outcome of their efforts with Costa Rican youth, CIPAC has been successful in transforming social attitudes of youth. They work with public and private schools in Costa Rica. In 2011, a national survey conducted by students at the University of Costa Rica reflects these achievements. The study revealed that 70 percent of the population supports gay rights, including giving same-sex couples the opportunity to apply for house loans, to develop a public social life, and to receive a pension in the case of a partner's death."¹¹⁶ These statistics show that CIPAC has been effective in appealing to people's sense of equity and equal citizenship by reshaping cultural notions of how people should be able to live their lives.

In general, Costa Rica has become known for its tolerance toward LGBTI people, and its friendly, "live-and-let-live" attitude in sexual matters.¹¹⁷ However, there is a dichotomy between this "live-and-let-live" attitude and cultural values. In terms of open public spaces for the LGBTI community, Costa Rica has more gay and lesbian bars than any other country in Central America. The capital, San José City, has three large sauna baths for gay men.¹¹⁸ Because of the bars and baths, it has become a tourist destination for many gay men and lesbians from North America and Europe. Though there is clear evidence of progress for "safe" spaces for the LGBTI community, this is only a stepping stone for Costa Rica. LGBTI rights in Costa Rica have strides to go in order to achieve full equality — social and legal.

These changes in social attitudes and sociocultural advances have significant implications and hope for the future. Currently, the Constitutional Court of Costa Rica is considering an appeal to nullify the Civil Code's prohibition of same-sex marriage. According to several surveys, more than one half of the Bar Association membership is

in favor of changing the law, but the pressure of conservatives (chiefly the Catholic hierarchy) is high and the court decision is unpredictable. However, CIPAC knows they must continue to spread knowledge and promote awareness in order to not only eventually legalize same-sex marriage but also for it to be upheld and supported by society.

Conclusion

LGBTQ activists in the United States have long assumed that court systems are an effective means for obtaining rights, that their structure is reliant and strong enough to implement and uphold social reform and that same-sex marriage is a priority for the LGBTQ community. Despite its normative shortcomings, this perception and discourse around LGBTQ rights has become dominant in how the world perceives LGBTQ issues and their needs. LGBTI activists in Nicaragua and Costa Rica have envisioned far more substantive wants for LGBTI people's lives.

My empirical findings have two important theoretical implications: that the human rights approach to LGBTI rights can accommodate a broader notion of equality that is typically supposed and that working outside of the judicial system can have a more impactful, sustainable outcome. LGBTI activists can inspire and facilitate the creation of a new national-level discourse around LGBTI issues. Thus, SFFP and CIPAC are significant examples of telling how a human rights approach to LGBTI issues and grassroots activism can make significant advancements for LGBTI people's lives.

These findings highlight the importance of viewing LGBTI rights as human rights and, more importantly, LGBTI people as humans, with the same needs. Nicaraguan and

Costa Rican LGBTI activists have opened up a new conversation about sexuality and sexual identities by appealing to people's common sense of humanity, and therefore engaging every human being in the discourse of the politics of sexuality.

I recognize that although my findings support my main contention, this is not the perfect recipe for achieving equality for people who identify as LGBTI. There is a lot of work and research that remains since discrimination and violence against LGBTI people continue to exist. One such question that should be studied further is the effect targeting youth will have in the future. LGBTI activists hope that changing students' values now will influence the rest of their lives. Since these tactics are fairly recent, we will not know the full impact it has for several years. However, it is certain that a combination of using an egalitarian framework and using a "margins to the center" paradigm can change the way that people understand the nature of sexuality, transform LGBTI people's roles in society, and eventually close the gap between social tolerance and legal equality of LGBTI people.

I predict that this narrative about sexuality generated by SFFP and CIPAC will continue to grow in strength and number within the next few years, not only in Central America, but in Latin America as well. The more LGBTI activists try these strategies used by SFFP and CIPAC, the more that can be learned and tried in other parts of the world. In the next five years I believe we will see significant decreases in hate crimes and discrimination against LGBTI people and in the next ten years, and the emergence of policies related to LGBTI people's health in addition to more sociocultural advancements, like Costa Rica's National Day against Homophobia, in both countries.

Though the future is uncertain, my article's empirical findings answer one question with certainty: a human rights approach towards the obtainment of rights for any minority group can introduce new issues into the policy agenda, by persuading people these minority groups' needs are as important as every other human's needs, and, in turn, calling attention to interests and opinions not recognized in the current judicial processed, thus underrepresenting the these minority groups. Such important outcomes indicate not only how an enlarged role for a human rights approach can be utilized to achieve equality for marginalized groups, but also how the approach to achieving equality can be reconsidered from a pure legal strategy to focusing on influencing cultural values in order to accommodate civil society's demands for a more responsive government and supportive society that work hand-in-hand.

Notes

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⁹ Ibid, 16.

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¹⁵ Ibid.

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¹⁸ Ibid, 94.

¹⁹ Ibid, 45.

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²¹ Babb, F. E. (2003). “Out in Nicaragua : Local and transnational desires after the revolution. *Cultural Anthropology*”, 18(3), 315.

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