LGBTQI + Justice during the COVID-19 crisis

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For this Open Forum piece, I have been asked to comment on the following question: “In the countries where your research is focused, what have been the main issues faced by organisations working to provide social services for LGBTQI+ communities during the COVID-19 crisis?”. In an attempt to answer this question, it seems wise to start by situating the always limited knowledge one holds about any given topic. So, let me start by saying that I am speaking from Portugal, a post-dictatorship country, reputedly Catholic (at least in its dominant cultural framework) and with a familialist welfare society that compensates the shortcomings of its somewhat fragile welfare state (Wall et al., 2001). Many of these features can be found across Southern Europe (Pieri, 2020). However, when compared to its Southern European counterparts, the additional layer of interest of Portugal stems from the relatively speedy process of recognition and protection of LGBTQI+ people (Santos, 2013a), placing Portugal at the forefront of sexual and gender diversity at a global scale in less than two decades.

In a nutshell, Portugal has been considered one of the safest destinations for LGBTQI+ people, with its inclusive legal framework and low rates of both trans and homophobic hate crime (FRA, 2020; OECD, 2020). In 2020, ILGA-Europe had already ranked Portugal 7th out of 49 European countries regarding LGBTQI+ legislation (ILGA Europe, 2020). The most recent OECD (2020) report placed Portugal as the second most dynamic country in this regard, considering indicators such as social acceptance of sexual and gender diversity and LGBTQI inclusive laws. Also in 2020, the European LGBTI Survey carried out by the European Union Agency for Fundamental Rights (FRA) illustrated the progress experienced by this country in comparison to other geographical contexts (FRA, 2020).

However, such progressive position regarding gender and sexuality is relatively recent and it draws on a much more complex story. Historically, Portugal experienced the
longest dictatorship in Southern Europe. Fascism ruled for 48 years, ending peacefully with the so-called Carnation Revolution in 1974. During the dictatorship, the constraints imposed on the vast majority of the population, mostly on women and sexual dissidents, has been well documented in the literature (Afonso, 2019; Almeida, 2010; Santos, 2013a). Homosexuality continued to be a crime until 1982, eight years after the dictatorship had been overturned. It took another 19 years until a bill addressing LGBTI+ issues was finally presented and approved in Parliament – this bill recognized de facto unions regardless of sexual orientation and it was enacted in 2001. Since then, Portugal has seen a significant increase in policies and laws concerning not only sexual orientation and gender identity but also reproductive citizenship. These include a Constitutional ban of discrimination based on sexual orientation (2004), the recognition of same-sex domestic violence (2007), free and legal abortion (2007), same-sex marriage (2010), adoption and assisted reproduction (2016), as well as a gender recognition law based on self-determination (2018) and the ban on by default surgeries on intersex newborns (2018).

The apparent success of sexual and reproductive politics in Portugal can be understood if attention is placed on the processes that lead to change, especially safe, legal and free abortion upon request and same-sex marriage.

I have argued elsewhere about the importance of understanding these processes through the lens of a “politics of containment” (Santos, 2013b), whereby controversial issues are negotiated among progressive and conservative sectors of society, aiming at achieving wider consensus through the suspension of radical strategies or arguments. This leads to what I have called “diffuse inclusiveness”, instead of placing equality and diversity at the forefront of a strong political strategy (Santos, 2021). Diffusive inclusiveness, stemming from a politics of containment developed through tacit agreements between conservative and progressive social actors, has several consequences. I want to highlight two for the purposes of this paper.

The first consequence is the absence of a radical oppositional platform (either progressive or conservative). In other words, by striving to achieve broader social consensus, hence abandoning arguments or strategies that might be interpreted as crossing the middle ground between conservative and radical, the basis for building a strong resistance or triggering backlash is voided. The second related consequence is the missed opportunity to use controversial struggles to start and consolidate a long-term strategy for equality and diversity, in which education would be more important than immediate consensus for the purposes on a particular legal change.

Where does this overall picture leave us when a global, health-related pandemic crisis affects our practices and experiences for over a year? Discrimination is intersectional, cumulative and aggravated by vulnerability, which has historically placed LGBTIQ+ people at increased risk. Many crosscutting issues emerge from the relationship between the COVID-19 pandemic, natural disasters or other critical events, and sexual and gender diversity. In the remaining part of this paper, I will briefly mention three of these crosscutting issues that place LGBTIQ+ people at an increased risk during the COVID-19 crisis. I will draw on excerpts from interviews and/or online consultations with board members of LGBTIQ+ organizations in Portugal.
Domestic, sexual and gender-based violence

Between 2019 and 2021, a major focus of our research project Diversity and Childhood was sexual and gender-based violence towards LGBTI+ children and youth across Europe. In the context of a pandemic, issues of domestic, sexual and gender-based violence towards LGBTQI+ youth are enhanced by late emancipation (more common in familialist Southern European countries), and the lack of economic autonomy due to job precariousness, which translates into the need of spending lockdowns with the family of origin.

We experienced more difficulties in intervening in situations of violence, because people are at home 24 h with the aggressor and with little or less chance of leaving home. [LGBTQI+ NGO 1 director, Lisbon, 26 April 2021]

As demonstrated by the Diversity and Childhood research project (Esteves et al., 2021; Santos et al., 2020), these already challenging conditions are aggravated by the absence of social networks, informal support from schoolmates and proactive support from school staff. Stemming from these results, our most recent research project Colourful Childhoods, funded by the European Commission, focuses precisely on needs experienced by LGBTI children and professionals in vulnerable contexts under COVID-19.

For young adults, due to permanent or temporary unemployment, returning to the family home and cohabiting with parents was the only option to avoid homelessness. In other situations, due to the late emancipation that characterizes familialist societies in Southern Europe (Pieri, 2020), young adults were already cohabiting with their biological families, but cohabitation became more challenging during lockdown with very limited opportunities to escape from an often oppressive environment (Gato et al., 2021).

Precariousness, unemployment, homelessness

Another common issue is a decline in the objective conditions of existence of those who, due to homophobia, transphobia and other forms of structural discrimination, have a higher rate of unemployment or of invisible, precarious and insecure employment (Pieri, 2020). This is particularly relevant in the case of trans and non-binary people, as we have been studying in the CILIA LGBTQI+ Lives project. The following excerpt is demonstrative of the cumulative impact of intersecting discriminations:

[During lockdown] We had three times as many cries for help as we used to, and involving more complex situations, especially during this second lockdown. Lack of resources and absence of adequate social responses. The existing structures are focused on homelessness or domestic violence, but there are urgent needs that cannot be met by the existing social responses. We had greater difficulty in liaising with other institutions in other parts of the country, technicians of non-LGBTI organizations seemed less willing to liaise with us and to provide support. They also seemed less willing to understand complex situations, which then leads to greater exhaustion of LGBTI people who need support. Example: a trans refugee with a chronic illness and who does not speak Portuguese, who was homeless, was referred and the technicians disregarded her food restrictions and said that she should have learned how to speak Portuguese, etc. [LGBTI NGO 2 director, Lisbon, 28 April 2021]
Ageing, isolation and mental health

An equally important issue is the isolation of LGBTQI+ people over 65, in cases in which ageing, together with digital illiteracy and the absence of an adequate support and care network, lead to increased risks for this heavily neglected population, particularly in situations related to economic and emotional fragility, chronic illness and mental health (Santos, 2022).

*We had more difficulties in providing support in the area of mental health and employment. [...] In severe cases of mental health and homelessness, we have been unable to find adequate responses.* [LGBTI NGO 1 director, Lisbon, 26 April 2021]

*We also faced huge issues related to isolation, mental health, suicidal ideation and the total absence of adequate responses. We received a very high number of requests in moments of great distress and unfortunately we lost one person. And this also posed an additional problem to our volunteers who struggled in managing such urgent requests while working from home.* [LGBTI NGO 2 director, Lisbon, 28 April 2021]

Acknowledging the significance of these three intersecting issues and their impact on LGBTQI+ people during the COVID-19 crisis is a necessary step but an insufficient one. Increased vulnerability exposes LGBTQI+ at greater risks and it is our responsibility, as part of a welfare system, to ensure adequate support is provided.

What about state-based support?

Given the increased difficulties under COVID-19, what has been the state-based support to LGBTQI+ NGOs? The year of 2020 was characterized by little change regarding LGBTQI+ rights in Portugal. The most significant development was related to announcements regarding aid provision during the COVID-19 emergency. Through Resolution 69/2020, of 10 July 2020, the Portuguese Parliament issued a recommendation to the Government to support LGBTI associations and collectives during the epidemic crisis. Under the terms of article 166 (5) of the Constitution, the Parliament asked the Government to:

1 - Guarantee the **financing of the associations and collectives** of lesbian, gay, bisexual, transvestites, transsexuals, transgender and intersexuals (LGBTI) - in the present period and while people suffer the effects of the health, social and economic crisis - to compensate for the measures of community reimbursement. They are considered to be of public interest

2 - Promote the **integration of these entities in the existing networks**, namely in the National Support Network for Victims of Domestic Violence, in the Network of Local Integration and Support Centres of Migrants and in the Network Youth for Equality.

3 - Extend, under protocols to be signed with LGBTI associations and collectives, awareness, information and anti-discrimination programmes, **prioritizing LGBTI issues**.

4 - Contribute to the **creation of a national network of LGBTI reference centres** in the main urban centres, in partnership with local authorities and these associations and collectives.
5 - Reinforce the **inclusion of equality issues** based on sexual orientation, identity and gender expression in education and vocational training, under protocols to be celebrated with LGBTI associations and collectives.

6 - Include these entities in the **discussion about measures and public policies** to be applied after the pandemic, namely measures to promote fundamental rights, health, medium and long term jobs, housing and education.

7 - Expand the **good practices of the National Health Service** in serving LGBTI people, in compliance with the LGBTI People’s Health Strategy”.

As we had the opportunity to explain in the Franet National Contribution to the Fundamental Rights Report 2021 (Gomes et al., 2021), this recommendation represented an important sign of appreciation for the substantial support offered by a wide range of LGBTQI+ organisations during the Covid-19 pandemic. In fact, the lack of a timely public response to LGBTQI+ people in distress during the current crisis is in sharp contrast with the proliferation of initiatives from the private and third sectors, particularly from NGOs with consolidated forms of collaboration with public bodies and ministries. Several of these organisations have provided material support over time to combat poverty and precariousness, which got worse during the pandemic.8

Despite its best intentions, information provided by leaders of two important LGBTQI+ NGOs in April 2021 – that is, 9 months after this Recommendation had been approved by the Portuguese Parliament – was particularly discouraging:

> The recommendation approved by the Portuguese Parliament did not materialize at all. Who was very present with some support (masks, etc.) was the municipality of Lisbon. [LGBTI NGO 1 director, Lisbon, 26 April 2021]

> As for subsidies, there was no specific support, nor is there any news that there will be one. [LGBTI NGO 2 director, Lisbon, 28 April 2021]

As I am writing these remarks, the year of 2021 is far from over and specific state-based support to LGBTQI+ organizations might still happen in the forthcoming months, depending on a variety of factors. Nevertheless, the intersectional impact of sexual discrimination in a pandemic, natural disaster or other critical events must be tackled with short-term, as well as medium and long-term measures to counter both economic and emotional vulnerability, and structural discrimination regarding gender and sexuality. Short-term measures have been largely absent so far, leaving LGBTQI+ people unprotected and disenfranchised in a time in which anti-gender populism is escalating.

**Final remarks**

When we think of sexual and gender diversity, we must necessarily think of resistance and backlash, and how these opposite forces have produced different results according to the context and time. We know that the tendency to create a hierarchy of priorities pushes LGBTQI+ people to the end of the waiting list; we also know that post-crisis
periods have historically been a fertile ground for populist outbreaks. Therefore, in establishing priority areas for intervention and in defining the most urgent measures in a post-COVID 19 imaginary world, the rights of LGBTQI+ people must not be reverted, and sexual and gender diversity must remain a bastion of democracy and human dignity. It is important to accelerate, monitor and consolidate work-in-progress to tackle discrimination, especially in the areas of education, health and employment. To achieve this aim, the task of liaising with agents already working in the field, including non-governmental organisations, social movements and academia, must be strengthened.

My final remarks are directed to academia, namely our role and responsibility as engaged scholars. Evidence-based knowledge production by disciplines such as gender studies and sociology is essential to inform political decision-making and to dismantle populist discourses. Therefore, we need an attentive and participatory university that ensures more and better citizenship, as well as sexual and gender justice. We need a university that blatantly refuses sexist and LGBTI-phobic practices based on tradition or phantasies of an allegedly neutral science. We need a university that stands up to the incredibly significant task of being a proactive agent in the pursuit of justice and well-being regardless of gender, sexual orientation and sex characteristics.

Notes
1. This publication benefited from funding the Colourful Childhoods research project received by the European Commission under CERV-2021-DAPHNE (ref. n. 101049251). Part of this paper draws on the research Diversity and Childhood: - Social attitudes towards gender diversity in children across Europe funded by the European Commission under the Citizens, Equality, Rights and Values [ref. n. 856680], as well as the CILIA LGBTQI+ research, funded by the Portuguese Foundation for Science and Technology within the European Agency NORFACE – DIAL (NORFACE/0001/2016).
2. These remarks stem from an invitation in April 2021 to act as guest speaker at the European Journal of Women’s Studies Virtual Symposium 2021, in a panel dedicated to the topic “Reflections from Activist/Academic Intersections: Gender, Rights & Justice in the Midst of a Pandemic”.
3. The acronym LGBTQI+ refers to lesbian, gay, bisexual, transgender, queer, intersex and other categories in which individuals include themselves.
4. According to the Spartacus Gay Travel Index, Portugal is the world’s best LGBT-friendly travel destination, together with Canada and Sweden (Avery, 2019). This index ranked nearly 200 countries based on 14 criteria, including antidiscrimination policies, marriage and adoption laws, HIV travel bans and LGBTQI+ based violence.
5. In strong connection to the feminist movement, these legal transformations can be partially explained due to consistent actions by a resilient, however recent, LGBTI+ movement that pressured the government through public debate initiatives and lobbying (Cascais, 2006; Santos, 2013a).
7. For more information about the research in Portugal, please refer to https://www.ces.uc.pt/proyectos/cilia/. A short film based on the findings from CILIA Portugal can be found at https://www.youtube.com/watch?v=qJvOmmCBH4Q.
8. That was the case of the associations Madeira Pride, Plano I and Panteras Rosa, among others, which provided ongoing support and distributed food and other first need supplies to LGBTQI+ people in distress. For more information, please refer to frr2021_portugal-frr2021_en.pdf (uc.pt).
References


