

HUMAN RIGHTS SITUATION FOR LESBIAN, GAY, BISEXUAL AND TRANSGENDER PERSONS IN COLOMBIA—2006-2007 REPORT

COLOMBIA DIVERSA

Executive Summary

In the years 2006 and 2007 in Colombia various types of human rights violations committed against lesbians, gays, bisexuals and transgender persons were registered. The most frequent of these violations were related to prejudicial violence in homes, with violations to the right of life—threats, homicide attempts and successful homicides—and with the violent restriction to the free development of one's personality, made manifest in expressions of verbal and physical violence, and in other ways, such as theft and extortion.

Extreme Cruelty

In the same period, **COLOMBIA DIVERSA** documented the deaths of 67 LGBT persons in the whole country. Of these homicides, 29 occurred in the department of Valle del Cauca: seventeen transvestites, five gay men and seven people identified as "homosexuals." The data from this department represented 43.2% of the total deaths of this kind in the nation. Although the homicides during the years 2006 and 2007 in the department of Valle del Cauca occurred in different municipalities, the largest concentration of deaths was reported in Cali: five gay men and sixteen transgender women were killed, with a total of 21 persons in just this one city. About 31% of the total deaths of LGBT persons, known by Colombia Diversa, occurred in the city of Cali between the years 2006 and 2007. In addition to the homicides committed against transgender persons in Valle del Cauca, Colombia Diversa documented another seven in the departments of Cundinamarca, Atlántico, Norte de Santander, Caldas, Meta and Santander.

In the same period eighteen homicides against gay men were registered. However, there were twenty-two more homicides whose victims were catalogued as "homosexuals," and three more in which the sexual orientation or the gender identity of the victims could not be determined. The highest number of homicides committed against gay men, according to obtained information, occurred in the cities of Bogota (8), Cali (5) and Medellín (4). The highest number occurred in the department of Valle del Cauca (7), in different municipalities.

These were not isolated cases; it has been observed that there was a shared context of discrimination exercised as much by individual persons as by an institutional model of discrimination—by action or by omission—enacted by public entities and government officials.

One characteristic of violations against the rights of LGBT persons are signs of extreme violence or brutality. There is a clear and direct relationship between the sexual orientation and gender identity of the victim and the extreme violence that is exercised against that victim. Aggressive acts against LGBT persons occur especially when the sexual orientation of the victim is made visible.

Homophobic Authority

In the years 2006 and 2007, reports concerning police abuse against civilians and levels of impunity increased. Even though the Legal System of National Police—SIJUR—does not register violations against the LGBT population, Colombia Diversa has obtained information from the report concerning 31 cases. Only seventeen of these cases were opened for investigation, and none have been sanctioned.

The principal victims were transvestites and members of the community that make visible their sexual orientation or their gender identity in the public sphere. The most frequent forms of violence are arbitrary detentions, physical aggressions, discriminatory insults and harassment. Impunity has created and constitutes an additional violation of the human rights of LGBT persons.

Even though the largest number of reports have occurred in Bogotá, Cali and Medellín, to a large extent this is due to the fact that in these cities there are LGBT organizations who have created a determined effort to denounce these violations.

Prison Situation

LGBT persons who are confined to prison establishments suffer conditions of overcrowding and are victims of different forms of violence. But not only these persons: partners who come to visit them also suffer aggressions.

Among them, transgender persons are the most assiduous victims of verbal and physical aggressions, sexual harassment, mockery, joking, and physical, moral and psychological ill-treatment. They are especially vulnerable to violations of their rights to human dignity, to physical integrity and to the free development of their personality.

Life in Colombian prisons is marked by prejudice and by the logic of male chauvinistic and homophobic domination. In particular, sexual abuse, cruel, inhuman and degrading treatment, repression of sexual identity and arbitrary restrictions against intimate visits between same-sex partners are registered.

Despite this situation, which particularly affects the LGBT population, progress towards studies and investigations that take into consideration sexual orientation, gender identity and sexual practices in prisons at a national level still has not been made.

With the information that Colombia Diversa compiled from the country's main prisons, it was established that the population of lesbian and bisexual women, in contrast to populations found in male prisons, is greater.

According to regional governments, the presence of LGBT persons in prisons generates rejection and conflict. For this reason the situation concerning their human rights is worrisome. Although there are exceptions, as, for example, the creation of handbooks and training manuals, the general policies of the INPEC (National Penitentiary Institute) and many of the practices directed towards the LGBT population provoke, on the contrary, the violation of their human rights.

Particularly Vulnerable

The poverty situation in Colombia worsens the panorama of LGBT human rights. Even though this population shares with other Colombians the principal difficulties of accessing public assistance services, the possibilities of such access are even more restricted due to a sociocultural attitude that stigmatizes and discriminates against LGBT persons.

The differences and particularities between lesbians, gay men, bisexuals and transgender persons, marked by sexual orientation or gender identity, and in general unknown, create a very distinct experience when LGBT persons address their rights to health, labor and education.

The needs and the interests of the LGBT population are not recognized, studied or considered by public policies or by State institutions. This is especially so in regards to health services—an LGBT person's access to these services and the attention given under these services. It is assumed that access to basic health services for transgender persons, in particular, is very low. The Santamaría Foundation points out that, "approximately 48% of [transgender persons] do not have social security for their health."

On the other hand, the absence of public policies directed toward the LGBT population and the lack of information concerning this situation, regarding health needs and interests, have hindered the creation of effective strategies that might fight and prevent illnesses, as is the case concerning sexually transmitted diseases.

Many of the specific needs of the LGBT population are not included in basic healthcare plans, as they are considered sumptuary. The costs of these procedures are consumed in their totality by those who seek access to them. Such is the case with physical changes that many transgender persons seek in order to live in accordance with their gender identity. Without any level of professional consultation, or adequate medical attention, some transgender persons are found obligated, for example, to use implants made of oil, which frequently cause grave health problems.

On the other hand, for lesbians there exists the latent fear of revealing their sexual orientation in front of health care professionals and personal administrators of Health Promoting Enterprises (EPS). The resulting lack of information creates a situation in which LGBT persons fail to receive the medical attention that coincides with their needs.

HIV/AIDS and high seroprevalence continue to be a priority preoccupation in regards to the health concerns of LGBT persons. Even so, State institutions, instead of seeking greater resources to confront this serious problem, have contributed, rather, to the stigmatization of this population: gay men, bisexuals and transgender persons have been marked as the greatest multipliers of the virus.

As far as the workplace environment, it is feared that LGBT persons confront greater obstacles due to discrimination related to sexual orientation. The more obvious the sexual orientation or gender identity of lesbians, gay men, bisexuals and transgender persons, the less likely it will be to obtain employment. The probability for employment is lower, particularly in the case of transvestites: this is a population that, on the one hand, has not had access to education or training, and when transvestites attempt to obtain employment they find themselves with very few employers who are willing to contract a

transgender person. Prostitution, as a consequence, becomes for them the only possible source of employment.

To retain their jobs, when they have them, LGBT persons find themselves forced to put up with every type of discriminatory expression; to denounce such discrimination, on the other hand, entails making public one's sexual orientation or gender identity.

Despite the fact that one of the greatest fears that LGBT persons have when revealing their sexual orientation is to lose their jobs, for many it becomes very difficult to hide their orientation and to act in accordance with the rigid social and cultural parameters that determine how a woman is or should be or how a man is or should be. These fears are founded, because the probability of suffering hostility or losing employment is high when one makes explicit one's sexual orientation.

Although, in regards to education, there exists in Colombia no study concerning discrimination as one of the causes of school dropouts, experience indicates that when the sexual orientation of a student is assumed or publicly revealed, the resulting reactions pressure or obligate the student's departure from the educational center. These reactions tend to present themselves among classmates, teachers and school administrators, and also in the student's family.

Sexual orientation discrimination is provoked at different levels of the educational system, and this is made evident by the absence of public policies directed towards the LGBT population, and by the existence of handbooks and practices that are openly homophobic in schools.

High schools and elementary schools do not respond adequately to expressions of homosexuality or homophobia among their students. In many cases, in addition, they prefer not to address sexuality or to deny the existence of sexual diversity.

Public Policies

For more than ten years, the movement of lesbians, gay men, bisexuals and transgender persons has pursued, facing various state courts, the minimal protection of their rights. Even so, for seven years, the Congress of the Republic has rejected the approval of five legal projects that seek the legal recognition of same-sex partners.

Confronting this situation, Colombia Diversa and the Public Interests Rights Group (Grupo de Derecho de Interés Público) of the Law Department of the Universidad de los Andes filed suit against the unconstitutionality of law 54 of 1990, particularly its definition of the "de facto marital union" as the union of a "man and a woman."

Only in 2007 were the first rights of gay and lesbian partners in Colombia recognized. The Constitutional Court this year ruled in favor of patrimonial rights and rights to healthcare by affiliation, and, in April of 2008, ruled in favor of survivors' rights to pension.

The Numbers Don't Reflect Reality

Despite the number of registered cases, it is feared that a high number of undocumented cases of LGBT human rights violations is present in Colombia. This is explained by a low level of denunciations and by an absence of protocols and statistical registries that include sexual orientation and gender identity in the studies performed by government and nongovernment state entities that gather information concerning human rights.

Ever since their beginnings, activists for the human rights of victims and LGBT persons have held the hypothesis that the low level of denunciations is a result of the fear of social reproach and defamation motivated by sexual orientation, and that it is also a result of the lack of credibility in the system and government officials as defenders of the human rights of LGBT persons.

The amount of undocumented cases in intermediate cities and departments is particularly high, apparently due to the lack of organization and public visibility of LGBT persons in these zones.

Moreover, misunderstandings and prejudices are observed in public government officials when they confront cases related to the rights of LGBT persons. This is seen in the lack of specialization in organizations that are responsible for detecting and confronting rights violations that are motivated by homophobia of the sexual orientation or the gender identity of victims.

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