

# Uruguay



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## LESBIANS AND THE LAW

The Uruguayan Constitution contains several provisions that, in theory, protect lesbians from discrimination and persecution. These include:

Chapter I, Section II, Art. 8: "All people are equal before the law which recognizes no distinction among them other than that of talent and virtue."

Art. 10: "The private actions of persons which in no way assail public order nor harm a third party are exempt from the authority of the magistrates."

Art. 39: "All persons have the right of association, regardless of the end they pursue, as long as that association has not been declared illicit by the law."

Chapter II, Art. 44: "The state will legislate on all questions of health and public hygiene to assure the physical, moral and social well-being of all inhabi-

tants of the country."

Nevertheless, lesbians lack any functional protection from discrimination in the Uruguayan legal system and are vulnerable to many different forms of abuse and harassment. Such violations of lesbians' human rights have rarely been documented. While one of the founders of El Servicio de Paz y Justicia (SERPAJ) has acknowledged the importance of including "all those excluded, the marginalized, beggars, prostitutes, street children, homosexuals, the shadows of those who were tortured or disappeared, all those forgotten by the 'human rights' community,"<sup>1</sup> there are currently no organizations in Uruguay which document human rights violations against lesbians and gay men.

The following information was gathered through informal discussions with approximately 50 lesbians in Montevideo in 1994-95. After a brief discussion of several general themes, five specific cases are described. Because of the discrimination that lesbians face in Uruguayan society, the women whose experiences are discussed here never sought to make their experiences public. Thus, much of this information is general in nature and does not identify specific actors. Names have been omitted in order to protect identities.

#### POLICE HARASSMENT

During the military dictatorship (1973-1984), and even during the first restored democratic government, raids, called *razzias*, were very common. During these raids young people, and especially lesbians, gay men, and transvestites, were taken into detention. Several gay bars were closed in such raids, and lesbians and gay men were often detained for 24 to 48 hours.<sup>2</sup> Transvestites were often kept in small roach and rat infested rooms for up to seven days with little food or water. People detained in such raids were photographed, and records were taken of all their personal information: identification card number, home address, place of work, profession, parents' profession, etc. This informa-

tion was kept in special files in police headquarters. Frequently anonymous telephone calls were made to families or employers informing them of the person's homosexuality.

During this same period it was common for lesbians and gay men to organize meetings in their own homes, since the right of free association had been expressly forbidden. Even within private homes, however, they were still subject to police harassment. Many lesbians and gay men who attended such meetings were detained by the police while their records were checked.

Even now with "democracy" returned, it is not uncommon for ordinary citizens to pretend to be policemen in order to intimidate lesbians and gay men and extort money from them. These "policemen" threaten to take individuals to police headquarters unless they are paid a fee. This sort of extortion is only possible because lesbians and gay men know that they are more likely to encounter harassment than protection at the hands of the police.

Homophobic attitudes can be found across a broad spectrum of political opinion. For example, the Communist Party achieved notoriety in the lesbian and gay community when it expelled the daughters of several of its militants in the late 1970s after learning that they were lesbians.

#### CUSTODY

Another arena in which lesbians encounter discrimination is in the courts. It is common for lesbian mothers who have been married and divorced to receive threats from their ex-husbands that their sexual orientation will be raised as an issue in child custody disputes. It is not unusual for doctors, psychiatrists, psychologists, and sexologists to support the demands of the fathers in such cases by testifying that lesbians do not have the moral character to keep the children.

## HEALTH CARE

An evident violation of lesbians' right to health is the complete lack of information about woman-to-woman transmission of HIV in the AIDS prevention materials produced by the Uruguayan Ministry of Public Health. This omission denies lesbians access to potentially life-saving information.

The following five cases demonstrate the specific ways in which lesbians experience persecution and discrimination:

1. In 1984, the last year of the dictatorship, a kiss on the mouth between two women (L. and P.) saying good-bye at a bus stop resulted in the following: a policeman approached them, asked them for their identity cards, and ordered them to accompany him as suspects to the local police station. They were released only when L. said to him, "Let's go to headquarters, if you like, but it's going to get you into trouble. I am the daughter of an army general and she (P.) is the daughter of a colonel."<sup>3</sup>

2. In June, 1977, M.L., a lesbian from Uruguay, was arrested in Buenos Aires in a "military operation" along with two other Uruguayan women with whom she shared an apartment. In a few days, M.L.'s companions were released. One of them states that she heard M.L.'s voice as she was being tortured in Automotoras Orletti. She was never seen again. M.L. is one of Buenos Aires' desaparecidos ("disappeared") from Uruguay. Familiares is an organization in Montevideo for the mothers and family members of desaparecidos; it is part of Fedefam, the Latin American union of all such organizations. However, once Familiares learned of M.L.'s sexual orientation they began to ignore her and her family. They abandoned all efforts to find her and no longer carried her picture in the marches they organized.

3. In 1985 a group of lesbians were leaving a gay bar. They were followed and harassed by a gang of young men

on motorcycles. Two of the lesbians got away and told a police patrol what was happening. The police did nothing to intervene. A week later, in a separate incident not involving lesbians, one of the young men was arrested as the leader of a gang. This example makes clear that while such gangs are not completely above the law, they are able to harass lesbians with impunity.

4. Two lesbians who went to Brazil for a vacation were surprised by a telephone call telling them that their house in Montevideo had been robbed. A friend who lived in the same block passed by and saw several police cars in front of their house. One of the policemen told her what had happened and asked her to call someone who could draw up a list of what was in the house so that they could determine what was missing. Two days later the friend returned to the house and discovered that many additional items were missing. The explanation was simple: while the two women were still in Brazil, the house had been under police guard. Now

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"Since we truthfully stated our sexual orientation, we were confined to two different cells, located on different

two bicycles, a radio, a toaster, shoes, and several other items were missing. One of the two women went to the police commissioner to complain of the theft perpetrated by the police who were guarding the house. The commissioner was very clear. "It would be better if you didn't make any accusations. You have a single double bed in your bedroom. You have photographs of yourself being embraced by

another woman. If you make a complaint against the police this is going to come out and you and your friend could lose your jobs. Think about it." The commissioner's threat had its desired effect; they did not make a complaint.

5. On September 7, 1994, Susana Fernández and Mariana Arnaud, both lesbians, were arrested after robbing one taxi driver and attempting to rob a second. Their statements were taken separately in the Larceny and Robbery Department of the Montevideo Police Headquarters. When asked where they had met, they stated that they knew each other from their involvement in Homosexuales Unidos (H.U.), a lesbian and gay organization in Montevideo. From then on the questions of the police focused on their lesbianism: What was H.U.? What went on there? Were there orgies? Were the two of them married to each other? Who played the part of the man? They were both subjected to verbal abuse and have continued to be specifically targeted for harassment because of their lesbianism. They are currently awaiting sentencing in the women's prison.

In a letter written from jail, Susana Fernández described the discriminatory treatment that lesbians receive:

Once imprisoned in the women's jail, we were asked [once again] whether we were lesbians. This was not a chance question; the main objective of the system is to prevent lesbianism... Since we truthfully stated our sexual orientation, we were confined to two different cells, located on different floors. As new couples are discovered they are separated as well. It is forbidden to stay in a sector other than the one we are assigned. Watchfulness is more severe during the night. Lights remain lit everywhere since darkness is considered a sign of promiscuity. No prisoner is above suspicion.

Having a male partner and children guarantees certain privileges which are only intended for heterosexual women and mothers.... They are given the opportunity

to go out at the weekends and to have their children with them. They give priority to preserving the family institution since it is considered the unit reproducing the system...Lesbians are treated in a different way. They are confined in cells if they do not have children. According to prison regulations cells are punishment. It is forbidden to have more than one person per cell. Gates are locked from 11 p.m. to 8 a.m. Every time we hear the doors are being locked we feel tormented with loneliness.

#### LESBIAN ORGANIZATIONS

Lesvenus, the only existing lesbian organization in Uruguay, is a part of the larger group Homosexuales Unidos. A lesbian group called Las Mismas existed for a brief period between April and August 1991. During this time, the group carried out a survey which was answered by 49 lesbians broken down into two groups: A) 19 to 36 years old, and B) 38 to 47 years old. <sup>4</sup> In particular, the responses to two questions reveal a great deal about the lives of lesbians in Uruguay. When asked if their family and friends knew about their lesbianism, out of the 35 women in group A, 18 said yes, 15 said no, and 2 declined to answer; out of the 14 women in group B, 7 answered yes, 6 no, and one did not respond. When asked about the conditions that lead to negative attitudes and indifference toward lesbians within Uruguayan society, the answers of both groups together, ranked from the most to least common, were:

1. Lack of sex education/lack of knowledge about the subject.
2. Male chauvinist prejudices based on the historical subordination of women.
3. Low esteem for women/women are ignored.
4. Male prejudices women have themselves adopted.
5. Self-marginalization of lesbians.
6. Lack of visibility of lesbians in society.
7. The influence of the Catholic religion.

Thus, over half of lesbians who responded had not revealed their sexual orientation even to their own friends and family, a figure which suggests the strength of anti-lesbian prejudice in Uruguay. As the responses to the second question indicate, many experience this discrimination not only in isolated cases, such as bar raids, but as an added dimension of the everyday discrimination that they face as women.

#### NOTES

I wish to thank the International Gay and Lesbian Human Rights Commission and all of the women who made this report possible, in particular Elvira Lutz; Ana Coreta, member of Lesvenus, for unfailing dedication; and my companion, Sandra, for her advice:

"Según el pronóstico para hoy, habrá vendavales de irreverentes verdes y precipitaciones de cuidados ocres, por lo que se recomienda salir desnudas a la calle"

I dedicate this work to Susana Fernández and Marianela Arnaud; among other things they have taught me to disobey.

- 1 Luis Perez Aguirre, *If I Speak of Human Rights*, p. 13. SERPAJ has been an important agent in the defense of human rights both during the dictatorship and afterwards.
- 2 Raids are known to have taken place at the following bars and discos: Summer Gay (1980). New York City (1982), Moulin Rouge (1983), Don Quien (1983).
- 3 Article 361, which prohibits acts against public decency, is often selectively enforced against same-sex couples in such situations.
- 4 Evaluation by Elsa and Ana Coreta, Lesvenus.

#### ABOUT THE AUTHOR

Ana Martínez is active in Lesvenus and Homosexuales Unidos. She