



**I G L H R C**  
**HUMAN RIGHTS FOR EVERYONE.**  
**EVERYWHERE.**

## **Shadow Report**

**June 2010**

**Argentina**

**Violation of the Human Rights of Lesbian, Bisexual, Travestis,  
Transgender, Transsexual and Intersex (LBTITI) People in the  
North Western region of Argentina**

**Convention on the Elimination of All Forms of Discrimination  
Against Women (CEDAW)**

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## **Acknowledgements**

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This report was drafted through desk research (searching and synthesizing available information including official data, written media, etc.) and interviews with Lesbian, Bisexual, Travestis, Transgender, Transsexual and Intersex (LBTTTI) activists and community leaders from Santiago del Estero, Tucumán, Salta and Jujuy with the goal of assisting in the Honourable Committee's evaluation of the situation of the LBTTTI's human rights in this region.

## Introduction and Executive Summary

The situation in Argentina – and specifically at the regional level in the North-West – has problematic and critical features in terms of vulnerability, ghettoization, repression, and lack of public policies that acknowledge and/or provide for the realization of the rights of lesbian, gay, bisexual, travesti,<sup>2</sup> transgender, transsexual and intersex (LGBTTTI) people.

The demands for civil and political rights raised by the different organizations working for sexual and gender rights clash against the historical lack of State protection for all those who do not comply with the stereotypes of biological woman and man, female and male, and also for those who do not fit in with the heteronormative and patriarchal model present in our countries. This makes for a painful inequality in terms of guarantees for basic human rights, including those protected by the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

The region known as North Western Argentina (NOA), which is made up of the Catamarca, La Rioja, Jujuy, Salta, Santiago del Estero and Tucumán Provinces, has a population of 4,444,553 inhabitants in total.<sup>4</sup> It is the second-most impoverished region in the country and the provinces that make it up show consistently high percentages of people living below the poverty line and in conditions of indigence.

In NOA, communities are also known for their adherence to a heteronormative and patriarchal (heteropatriarchal)<sup>5</sup> system that rules and oppresses all people. Heteropatriarchal mandates continuously reinforce themselves in all “legitimated” social spaces - including family, school, workplace and religious institutions - undermining the free exercise of rights and severely limiting access to the most basic human rights for people who defy heterosexual or gender norms – including decent work, housing, justice and health – impossible.

During the last several years, at the national level there have been commendable advances in Argentina through jurisprudence, laws and decrees that respect the rights of LBTTTI people. However, at the provincial level, access to and application of these advances are very uneven. At the local level there is a widespread absence of even information related to the existence of LBTTTI people, let alone protection of their rights.

*Vulnerability of travesti, transgender, and transsexual people to human rights violations:* Most vulnerable to violations of their human rights - because of their real or perceived sex, gender, sexual orientation, gender identity,<sup>6</sup> gender expression<sup>7</sup> - among this group

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<sup>2</sup> **Travesti** is the term by which most trans individuals in Argentina name themselves. *Travestis* are usually assigned to the male gender at birth, on the basis of their anatomy, and later in life (mostly in early childhood but it can also be later) identify themselves with a female gender identity, in which they live full time. They usually resort to cosmetic surgery and hormone treatments to adjust their bodies to their inner perception of themselves but rarely choose to have genital surgery.

<sup>4</sup> 2001 Census.

<sup>5</sup> **Heteronormativity** is the concept that gives value and affirmation to one particular, idealized form of human relationship. Heteronormativity valorizes heterosexuality, but particularly a gender conforming understanding of heterosexuality, which allocates more power to male leadership in public and private life, rewarding females primarily for reproduction and submissiveness. This concept enables us to understand imbalanced power relations in labor, politics, media, and the family, for example, between those who lead lives according to normative frameworks established in each society and culture, and those who challenge these normative frameworks in diverse ways. It is the links between heteronormativity and patriarchy, a pervasive social structure consolidating male power, that create stereotypes of masculinity and femininity and that privilege the male over the female.

<sup>6</sup> **Gender identity** refers to a person’s deeply felt sense of identification with a specific gender. A person’s gender identity may or may not correspond with the sex assigned at birth. A person may have a male or a female gender identity, or something other than, or in between male and female. Since gender identity is

of people are travesti, transgender, and transsexual individuals, whose gender identity, expression or behavior differs from that typically associated with their assigned sex at birth. Travesti, transgender, and transsexual people may be heterosexual, lesbian, gay or bisexual. Transmen, also known as FTM or female-to-male, are people assigned female sex at birth but who identify as male/masculine and may or may not go through a physical transition process to become male. Transwomen, also known as MTF or male-to-female, are people assigned male sex at birth but who identify as female/feminine and may or may not go through a physical transition process to become female. Such individuals encounter discrimination related to gender identity and gender expression. For example, when a male-to-female transgender person is fired from her workplace after starting a physical transition process, then the discrimination experienced is along the same continuum as the discrimination experienced by heterosexual, lesbian and bisexual women when they do not conform to gender norms.

Another factor which increases vulnerability of transgender people is that in many countries around the world, transgender people are disproportionately working as sex workers. This is often because they are unable to gain other employment due to severe discrimination and because of stereotypes that transgender people must be sex workers. As the United Nations Independent Expert on Human Rights and Extreme Poverty explains, in a foreword to a 2009 unpublished report on transgender women living in extreme poverty,

*"The extreme poverty many trans people in the [Latin American] region confront is a direct cause and consequence of the constant discrimination they suffer merely because of their trans identity and expression. Such discrimination not only quickly pushes them to poverty, but also deepens it, perpetuating discriminatory attitudes and practices against them."<sup>8</sup>*

This CEDAW civil society report describes the macro and micro political, social and cultural contexts and exposes the situation of vulnerability faced by LBTTTI people in general. It is focused on the particular vulnerability of travesti, transgender, and transsexual persons in terms of their civil, political, economic, social and cultural rights in the north western region of Argentina. This report highlights legislative provisions, as well as government policies and practices that violate CEDAW provisions, including:

- Misdemeanour codes and police practices that discriminate on the basis of sexual orientation and gender identity;
- Systemic and unaddressed violence – including sexual violence - against LBTTTI women and girls by police and by teachers in schools
- Prejudiced and stereotyped depiction of transgender people in the media;
- Absence of procedures for transgender people to change their identification to reflect their gender identity, limiting their civil, political, economic, social, and cultural rights.

The report concludes with recommendations for government actions to respect, protect and promote the rights of LBTTTI people in NOA including:

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internal, one's gender identity is not necessarily visible to others.

<sup>7</sup> **Gender expression** refers to the conscious or sub-conscious external manifestation of one's gendered self, which may be expressed through "masculine," "feminine" or gender variant/androgynous dress, appearance, mannerisms, speech patterns, and behavior. Those whose anatomy and physiology (including hormones and chromosomes) do not correspond to the norms of either the male or female sex may find their gender expression rejected by those who cannot accept that there can be more than two genders.

<sup>8</sup> International Gay and Lesbian Human Rights Commission, *Struggling to Survive, Latin American Trans Women Living in Extreme Poverty*, Foreword by Magdalena Sepúlveda Carmona, United Nations Independent Expert on Human Rights and Extreme Poverty, Geneva, September 15, 2009 [unpublished, on file at the International Gay and Lesbian Human Rights Commission].

- Repeal provisions from provincial misdemeanour and contravention codes that discriminate against people on the basis of their sexual orientation or gender identity on their face or in their application.
- Effectively investigate and prosecute those responsible for sexual violence against young women, including young transwomen, in schools.
- Adopt at all levels of government anti-discriminatory legislation guaranteeing equal rights for all people regardless of sexual orientation, gender identity, or gender expression combining it with public policies for the recognition and effective enjoyment of such equality.
- Develop a procedure or adopt a law that will allow people to easily change their gender and name on legal documents to ensure that all people's equality before the law and their freedom of movement—as well as their other human rights and fundamental freedoms—will be respected regardless of their gender identity.

## **Violations to articles of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)**

### **1. Failure to undertake policy measures to eliminate discrimination, including the repeal of, and to undertake appropriate measures to eliminate sex roles and stereotyping in Provincial Misdemeanour and/or Violation Codes**

#### **Articles 2 (d) (f) (g) and 5 (a)**

Several NOA Provincial Misdemeanor Codes allow detention based on an individual's gender identity, sexual orientation or non-normative sexual practices. They include articles that explicitly mention "homosexuality" or "*travestism*" in discriminatory terms, as is the case of the La Rioja and Tucumán Codes. They also include indirect language or penal categories—particularly around sex work—that are applied to harass and arrest LBTTTI individuals in a discriminatory manner. Travesti, transgender, and transsexual individuals are particularly vulnerable to abuses under these codes because of social discrimination on the basis of perceived sexual orientation and gender identity, because of stereotyping of these individuals as sex workers, and because of a disproportionate effect on those who are sex workers.

Misdemeanor Codes of most provinces give the police discretionary powers to detain people under the assumption of violations of public morality, and thus "enable all sorts of abuse and police corruption." A simple demonstration of affection between persons of the same sex in public, according to some reports, is usually cause for arrest.<sup>10</sup> LBTTTI people are at further risk of abuse and mistreatment by authorities during arrest and detention because of prevalent discriminatory attitudes.

These provisions' existence in law and their active discriminatory use against LBTTTI people therefore amounts to a failure of Argentina to meet their commitments to undertake policy measures to eliminate discrimination, including the repeal of penal provisions which constitute discrimination, and to undertake appropriate measures to eliminate sex roles and stereotyping under Articles 2 (d) (f) y (g) and 5 (a) of the Convention.

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<sup>10</sup> Día Internacional contra la Discriminación por Orientación Sexual e Identidad de Género, MendozaOpina.com, 18 May 2010, available at, <http://www.mendozaopina.com/internacional/dia-internacional-contra-la-discriminacion-por-orientacion-sexual-e-identidad-de-genero-6960>.

The particular examples of these discriminatory laws and their application follow below:

Roja Province:

*Law 7062 – Misdemeanor Code of Rioja Province*

Law 7062, which is the Misdemeanor Code of the Rioja Province, defines as “moral offenses,” “Scandalous prostitution and homosexuality,” for which a person can be fined or detained for up to 30 days. It also requires forced medical examinations and treatment for all people arrested for prostitution, violating the privacy and integrity of all people.<sup>11</sup>

Tucumán Province:

*Law 5140 – of Police Violations of Tucumán Province*

In Tucumán Province, someone considered to be committing a misdemeanour can be arrested through the Police Violations Law. That is, the mere assumption or suspicion by a police officer of violation of the law—which includes provisions which penalize those suspected of engaging in sex work or committing acts that “offend morality or decency”<sup>12</sup> — on mere suspicion a person can be arrested, locked up in a police station for up to 38 hours, and have their culpability and punishment decided (detention or fine).

LGBTTI groups in the region report that these abuses happen daily in Tucumán province. This opens the door to systematic police abuse, to which LBTTTI people, especially travesti, transgender, and transsexual people, are particularly vulnerable because of their actual or perceived sexual orientation, gender identity, and gender expression.

The procedure that the police must follow to assess and document that a misdemeanour has indeed occurred is also not regulated. The generic and specific functions of the security forces in these cases are also not regulated. Even less is specified by the law in terms of limitations and necessary checks and balances. There is also a legal gap in

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<sup>11</sup> Law 7062 – Misdemeanor Code of Rioja Province (2001):

*SECTION III  
MORAL OFFENCES*

*SCANDALOUS PROSTITUTION AND HOMOSEXUALISM*

*Article 60: He who as an individual or in the company of others exposes or offers himself, incites or engages in provocative gestures towards others in a public or open place, or in one that is open to public eyes, with the aim of engaging in prostitution; or incites those younger than 16 to commit immoral acts, enables or allows their entrance in places where prostitution is practiced or others unfit for moral purposes, will be punished with up to thirty (30) days of arrest or up to thirty (30) fine units.*

*The person who in any way puts a third party on offer for sexual commerce will be punished with fifteen (15) to thirty (30) days of arrest or up to thirty (30) fine units.*

*DANGEROUS PROSTITUTION*

*Article 62: The woman caught while engaging in prostitution who is affected by a venereal or contagious disease of which she had or should have had knowledge given the circumstances, will be punished with up to thirty (30) days of arrest or a fine of up to thirty (30) fine units, without prejudice to the due sanitary measures being taken.*

*FORCED TREATMENT*

*Article 63: In all processes for violations to Articles 61 and 62, the judge will order medical check-up by specialists on the person of the male and female law-breakers to diagnose the venereal or contagious disease, and when it be detected, the sentence will mandate forced treatment of she and/or he who suffers it, and provide the due communication to health authorities.*

<sup>12</sup> Law 5140 – of Police Violations of Tucuman Province, Article 15.

regards to the rights and defense of those who are presumed to have committed misdemeanours. Thus, this law violates de jure due process guarantees under the Constitution and international law and its enforcement constitutes a de facto violation. As the ANDHES - Lawyers of Northwest Argentina for Human Rights and Social Studies explain:

*"Enforcing the Police Law of Misdemeanours No. 5140 of Tucumán Province and its amendments implies per se the violation of a series of fundamental rights recognized by the Provincial and National Constitutions and in different international human rights instruments with constitutional status. This law – drafted under the latest military Dictatorship – translates the antidemocratic and reactionary thinking that marked this painful stage of our recent history. Thus, this law imports into and recreates in the present days a tool for social control that stands in open contradiction to the constitutional principles in force."<sup>13</sup>*

#### Salta Province:

Other provincial laws that use language that shows discriminatory positions in relation to families and gender roles are still in force. One example is the Salta Provincial Law 7311 for a Responsible Sexuality whose Goal 2.d includes the goal of, "restore[ing] ... value to the roles of men and women, by stimulating a responsible exercise of sexuality and procreation" that can be read as reinforcing the traditional gender norms that are oppressive to women and transsexual persons. Likewise, several laws provide for involvement of the Catholic Church in the design and implementation of public policies related to sexual and reproductive health. This is the case even where the positions of the Church discriminate – either directly or by application—on the basis of sex, sexual orientation, or gender identity.

Still, several provinces should be congratulated for amending their Codes to guarantee the rights of people regardless of their gender identity. For example, Salta endorsed Presidential Decree No. 2678/2008. This decree adopts the document "Towards a National Plan Against Discrimination, Discrimination in Argentina: Diagnosis and Proposals", drafted by *Instituto Nacional Contra la Discriminación, la Xenofobia y el Racismo* (National Institute Against Discrimination, Xenophobia and Racism, INADI), that in Proposal No. 17 proposes the repeal of "those articles in all Provincial and Local Codes that contain 'open' contravention categories (attacks against morals, public scandal, loitering, prostitution, etc) that allow police arrests without prior intervention from a Court."

#### Santiago del Estero:

Likewise, in 2009 in Santiago del Estero, a joint advocacy effort by AMMAR (*Asociación de Mujeres Meretrices de Argentina*, Association of Female Meretrices (Sex Workers) of Argentina) and ATTTA resulted in an amendment to Section 7: Attacks Against Good Customs in the Provincial Code.<sup>15</sup> In its earlier version, the Code had repressive language towards, and prescribed punishments for, any activity that went against "good customs" of the citizens. In practice, it translated into repressive practices and polices against transgender people engaging in sex work in the streets.

#### **Suggested questions:**

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<sup>13</sup> Abogados y Abogadas del Noroeste Argentino en Derechos Humanos y Estudios Sociales (Human Rights and Social Studies Lawyers from the Argentinean North-West), Documento informativo sobre la Ley de Contravenciones y su estado en Tucumán, 24 July 2006, available at, [http://www.andhes.org.ar/index.php?option=com\\_content&view=article&id=32:documento-informativo-sobre-la-ley-de-contravenciones-y-su-estado-en-tucuman&catid=2:noticias&Itemid=2&lang=en](http://www.andhes.org.ar/index.php?option=com_content&view=article&id=32:documento-informativo-sobre-la-ley-de-contravenciones-y-su-estado-en-tucuman&catid=2:noticias&Itemid=2&lang=en).

<sup>15</sup> Código de faltas de Santiago del Estero, Ley 6906 (2008) – (Misdemeanor Code of Santiago del Estero, Law 6906 (2008))

a. What measures have been undertaken to repeal provisions from provincial codes that discriminate against people on the basis of their sexual orientation or gender identity on their face or in their application?

b. What measures have been undertaken to eliminate provisions from provincial codes that perpetuate stereotypes of strict gender roles on their face, or that are used in their application to stereotype lesbian, bisexual, or transgender people as criminals?

**2. Failure of public authorities and institutions to refrain from engaging in any act or practice of discrimination against women including torture, cruel, inhuman or degrading punishment or treatment and to eliminate discrimination by any person, organization, enterprise including sexual violence against girls in schools, regardless of sexual orientation or gender identity.**

**Articles 1, 2, 3, 8, and 10; General Recommendation No. 12, 19, 24**

As has already been stated in Section 1, the travesti, transgender, and transsexual population in NOA is currently facing situations in which their personal integrity and security is at risk due to discriminatory laws and police abuse. There is no protection for them from violence in these contexts because societal attitudes are discriminatory with regards to those whose gender expression and/or identity do not fit in with heteronormative and traditional parameters. The lack of explicit protection from police violence, systematic torture, and abuse as a method of oppression of LBTQTI people indicates a failure of the State to implement Articles 1, 2 and 3, of CEDAW. These articles have, in General Recommendation No. 19, been interpreted to include gender-based violence in the Convention's definition of discrimination and to "establish a comprehensive obligation to eliminate discrimination in all its forms."<sup>16</sup>

These provisions therefore apply to women—including lesbian and bisexual women, and travesti, transgender, and transsexual people targeted because of their perceived or actual sex or gender—who encounter violence because of their sexual orientation or gender identity or because of their work as human rights defenders. Furthermore, as will be discussed below, the sexual violence particularly faced by transwomen in educational spheres in NOA further implicates violations of their rights to education (Article 10).

One clear example of the violence by police against of transgender people in NOA is the following account of Rosario Sansone, vice president of the provincial regional ATTTA (Association of Transvestites, Transsexuals and Transgender Argentina), one commonly faced by transgender activists and human rights defenders.

*"They got several troops of the Second Precinct, who were in civilian clothes, to stop Rosario load her into the car where the beating continued. While beating her, the police were saying, 'Now you will be keen to continue talking in the media.' To Betty, another colleague who was in another corner, what happened same...*

*... Rosario's family knew she was incommunicado and a criminal case and you just might see it on Monday in court. The family wanted to leave a jacket and the medication she needs to take but were told no ... "*

*"When we arrived at the town hall where they arrested our friends, on Saturday*

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<sup>16</sup> Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW), 11th Sess., *General Comment No. 19*, UN Doc. A/47/38, (1992).

*afternoon, looking under dead names identity documents, we [were given excuses why] could not see them. We call the prosecutor and he was angered by the call. He wanted us to make a “verbal habeas corpus”. We called the judge, who also didn’t want to help, but issued the order for us to see [them], as the isolation of [them] has never been ordered as the mayorship had told us...”*

*“I never know if I return home alive,” said Rosario said to the the local press just days before her arrest. ... less than two years ago she was shot six times by the military.”<sup>18</sup>*

According to a study<sup>20</sup> on abuse against LGBTTT individuals in school facilities, trans girls and adolescents currently suffer violence and sexual harassment from their peers and teachers. Their gender expression is the excuse for violence by their peers, and teachers and school authorities do nothing to stop it.

Transwomen who are 25 years old or older report having suffered harassment and sexual abuse by male teachers and school authorities during their childhood:

*“My life changed during a camp when the Physical Education teacher took me away from my peers. I thought it was because they made fun of me. When we reached the room in which he was sleeping, I realized there was only a double bed. I was 10 and had no idea about sex. The guy forced me to have sex with him and that was my first sexual experience, a traumatic one. With fear I told my female teacher and she rebuked me in front of the whole class for lying and for being a fag. I continued to sleep in that room for the entire duration of the camp, enduring the abuse, the shame in front of all the others just for being who I was. I never told my mum and after that I left school and started my life as a trans, but I was broken inside, believing I deserved the worst.” (Nerea, 37)*

*“My mum thought that I was going to be ‘cured’ by going to mass and being active in church, so I spent lots of time there. I don’t really know how it all started but I became lovers with the church’s priest and I was really young, I think about 11 or 12... I had the illusion that he was something like my husband. He used to kiss me, to give me pleasure, do you understand? Everything went wrong when I had some tests done and it came out that I had hepatitis C. I was a virgin, I had not been with any guy or done anything, but when all hell broke loose my mum threw me out of the house. Sometime ago I went back to see the stuff in that house, because my mum ... she died. The priest is still there and he has a choir-boy who is effeminate”. (Clarisa, 25 years old)*

Those interviewed for this study suffered abuses when they were between 9 and 13 years old. Many of them left school and in some cases, also their homes.

### **Suggested Questions:**

c. What measures have been undertaken to ensure that public authorities and institutions refrain from engaging in any act or practice of discrimination—including violence—on the basis of sexual orientation and gender identity?

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<sup>18</sup> Informe sobre la situación los Derechos Humanos de la comunidad Trans de la Región Norte en la Argentina, Cero en Conducta, February 2010, [http://www.globalrights.org/site/DocServer/LGBTI\\_PIDCP\\_Shadow\\_Report\\_Argentina\\_-\\_Spanish.pdf?docID=11185](http://www.globalrights.org/site/DocServer/LGBTI_PIDCP_Shadow_Report_Argentina_-_Spanish.pdf?docID=11185). See also, Mabel Corrales, “Nunca sé si volveré con vida a casa,” La Otra Vos Digital, 12 September 2008, available at <http://www.laotravezdigital.com/spip.php?article19>.

<sup>20</sup> The reserach was conducted by *Crisálida* (through *Crisálida JUS*) and *Centro de Derechos Humanos del NOA* – (North-Western Argentina Human Rights Centre, CeDHNOA).

d. What measures have been undertaken to ensure that individuals who work for International organizations as human rights defenders of the rights of LBTBTI people are free from discrimination—including violence—because of this work?

e. What measures have been taken to prosecute those responsible for sexual violence against young women, including young transwomen, in schools?

**3. Failure to take appropriate measures to modify the social and cultural patterns of conduct of men and women with a view to achieving the elimination of prejudices and customary and other practices based on stereotyped roles for men and women in the media.**

**Article 5(a):**

On May 17, 2009, during the “International Day Against Homophobia”, the Jujuy Media Forum (*Foro de Medios de Comunicación de Jujuy*) recommended eliminating stereotypes in the treatment of news related to the gay, *travesti*, transsexual, transgender and other communities. The use of discriminatory language and derogatory stereotypes intensifies discrimination based on sexual orientation or gender identity by reinforcing the idea of “deviation” from what is “normal”, and encourages criminalizing those communities by de-contextualizing the information spread about them. The prevalence of these negative, damaging stereotypes of lesbian, bisexual, *travesti*, transgender, transsexual throughout media in NOA and the absence of any government measures to modify the social and cultural patterns of conduct that supports these discriminatory prejudices violates Argentina’s obligations under Article 5(a) of the Convention.

Homophobia, lesbophobia, transphobia,<sup>22</sup> and misogyny are realities that express themselves in the NOA educational systems, the hegemonic culture and the discourses of some media. For example, “*In local media, femicides are usually referred to as ‘crimes of passion.’*”<sup>23</sup> In the case of transphobic crimes<sup>24</sup> both the justice system and the media typically justify or excuse the murder by stigmatizing the trans victim. A study on media conducted by Observatorio LGBT Tucumán (Tucumán LGBT Watch-Dog) entitled, “*Diagnóstico sobre la situación de las personas GTTTB en la Argentina,*”<sup>25</sup> shows that the Tucumán media only refers to transgender persons under the entertainment or police sections. The sections focusing on police matters portray transgender people in two ways. The first is to highlight in stereotyped ways how the transgender persons who have been murdered used to live. They also attempt to demonstrate that the transgender person written about constituted “a danger to society,” so the violence the

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<sup>22</sup> Homophobia, lesbophobia and transphobia are a range of negative attitudes and feelings towards people or behaviours identified or perceived as being homosexual, lesbian, or transgender. They refer variably to antipathy, contempt, prejudice, aversion, and irrational fear and are observable in critical and hostile behavior such as discrimination and violence on the basis of a perceived non-heterosexual orientation or perceived non-stereotypical gender presentation or behaviour.

<sup>23</sup> *Travesti baleado: confuso incidente en el Parque 9 de Julio* (A *travesti* shot: confused incident in 9 de Julio Park – note: the victim is addressed in the masculine), available at, [http://www.elsigloweb.com/portal\\_ediciones/581/portal\\_notas/26209-travesti-baleado-confuso-incidente-en-el-parque-9-de-julio](http://www.elsigloweb.com/portal_ediciones/581/portal_notas/26209-travesti-baleado-confuso-incidente-en-el-parque-9-de-julio).

<sup>24</sup> Violence against a person because of her or his gender identity or because she or he identifies as *travesti*, transgender, or transsexual.

<sup>25</sup> “*Diagnóstico sobre la situación de las personas GTTTB en la Argentina.*” llevada adelante por el Observatorio LGBT Tucumán con el apoyo de Crisálida; el Centro de Derechos Humanos del NOA CeDHNOA; la Dirección Nacional de SIDA y ETS; ONUSIDA (Programa Conjunto de Naciones Unidas para el sida); UNFPA (Fondo para la Población de Naciones Unidas) y PNUD (Programa de Naciones Unidas para el Desarrollo). Con la adhesión de la Red PAR - Periodistas por una Comunicación No Sexista y del Instituto Nacional contra la discriminación, la xenofobia y el racismo INADI delegación Tucumán.

person suffered seems justified. The second is to associate their gender identities and expressions with supposed criminal deeds.<sup>27</sup> One can perceive the social norms that have contributed to the historical undervaluing of sexual diversity in language. The language serves to hide information about LBTTTI people's lives or mask it with inaccurate connotations.<sup>28</sup>

Additionally, since 2008, there have been repeated reports of an ultra-Catholic group putting up posters in the streets of San Miguel, the capital of Tucumán that espouse hatred, fear, or violence towards gay, lesbian, travesti, transgender, and transsexual people. On December 17, 2008, the local newspaper Primera Fuente published a story that read,

*"Self-defined as 'La Barbarie' (Savage), an ultra-catholic group started to place posters in the city warning, in an anonymous way, that they are ready to 'fight' against all that they consider enemies of nationalism and religion. In their view, homosexuality is a 'perversion' and a 'subversion' of the natural order."*

Faced with these repeated and systematic calls to violence, on top of the actual physical and symbolic violence against women (be they trans or biological), LGBT and women's organizations exposed them and were granted an interview by the Tucumán Province Human Rights Secretary, to whom they expressed their concern about this kind of public manifestation. During the meeting, the Secretary expressed his concern but made no official statement on the topic. Likewise, INADI Tucumán (National Institute Against Discrimination, Xenophobia and Racism) did not make a statement condemning these events.

#### **Suggested Questions:**

f. What measures have been taken to eliminate the prejudices and customary and other practices based on stereotyped roles for men and women in the media that particularly reinforce discriminatory attitudes towards lesbian and bisexual women and transgender people?

#### **4. Failure to accord all people equality before the law and non-discrimination regardless of gender identity, limiting freedom of movement and to choose one's residence as well as the rights to education, employment and to the highest attainable standard of health.**

##### **Articles 1, 2, 3 4, 10, 11, 12 and 15**

In Argentina there is no law or process which allows *travesti*, transsexual, transgender or intersex people to legally change their sex on their legal documents so as to reflect their lived gender identity. The only resource currently available to trans persons is to claim rights in Court on an individual case-by-case basis, which is a long, difficult process. Thus, they are frequently unable de facto to exercise their most basic human rights and full citizenship. This includes the right to freedom of movement in the provincial, regional and national territory; to access to a higher standard of health, to social security, formal and informal government educational services, and to work and decent housing (Articles 3, 10-12). This constitutes discrimination on the basis of travesti, transgender, transsexual, and intersex people's sex and gender identity in violation of Articles 1,2, and 3 and violates CEDAW's promise of equality before law regardless of sex

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<sup>27</sup> See e.g., *Un travesti detenido por robo mandó a un "doble" a declarar* (an article explains in a sensational way a situation in which a *travesti* who had been arrested for theft sent a 'double' to his trial), available at, [http://www.elsigloweb.com/portal\\_ediciones/561/portal\\_notas/25360-un-travesti-detenido-por-robo-mand-a-un-doble-a-declarar](http://www.elsigloweb.com/portal_ediciones/561/portal_notas/25360-un-travesti-detenido-por-robo-mand-a-un-doble-a-declarar).

<sup>28</sup> Researcher Claudia Correa.

in its application in Article 15, in particular the right of all people to equality with regard to the movement of persons and freedom to choose one's residence.

The work done by transgender community organizations for greater visibility and effective policies for the recognition of individuals' lived gender identity has created a greater awareness of citizenship-related rights in some sections of society. The granting of her National Identification Document (DNI in Spanish) to activist Marcela Romero after 11 years of struggle with the justice system constitutes a step forward and a victory in terms of citizenship rights:

*On August 24, 2009, Marcela – an activist with the Argentinean Association of Travestis, Transsexuals and Transgenders (ATTTA) and vicepresident of Federación Argentina de Lesbianas Gays Bisexuales y Transexuales (Argentinean Federation of Lesbians, Gays, Bisexuals and Transsexuals, FALGBT)— received her new DNI in the offices of the Registro Nacional de las Personas (National Register of Persons) after having testified on several occasions, provided witnesses, been examined by psychologists, doctors, psychiatrists, presented expert opinions, recourses, papers and more papers. Marcela took advantage of the occasion to demand that the Parliament speed up the procedures, "so trans people will not have to wait for ten years while fighting in Court, as I did, for the State to acknowledge that they have a name and the right to have that name in their identification documents."<sup>29</sup>*

However, despite such individual victories, in Argentina there are no plans or measures to facilitate social inclusion of *travestis*, transsexuals, transgender and intersex persons, or of anyone who is gender non-conforming. Trans persons are discriminated against in the workplace, educational institutions and health facilities, and there are no specific protection measures aimed at guaranteeing and facilitating their access to these spaces.

Public powers render the discourses and proposals put forwards by transgender populations invisible. The creation of the INADI (National Institute Against Discrimination, Xenophobia and Racism) provided a physical space for exposing and documenting concrete actions and State policies that constitute discrimination, concrete actions and State policies for LBTTTI persons. However, trans groups in the region report being left out in terms of their participation in decision-making spaces, both by the State itself and by public agencies.

### **Suggested Questions:**

g. What measures will be undertaken to allow people to easily change their sex on legal documents to ensure that all people's equality before the law and their freedom of movement—as well as their other human rights—will be respected regardless of their gender identity?

h. What measures will be undertaken to ensure the full development and advancement of women in the social, economic, and cultural fields, taking into consideration the particular discrimination on the basis sexual orientation and gender identity LBTTTI people face in these fields?

### **Recommendations**

The State is encouraged to:

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<sup>29</sup> Periódico Queer. Federación Argentina LGBT's Newspaper. P. 3. Year 6, Issue 67. September, 2009.

1. Adopt at all levels of government anti-discriminatory legislation guaranteeing equal rights for all people regardless of sexual orientation, gender identity, or gender expression combining it with public policies for the recognition and effective enjoyment of such equality.
2. Repeal provisions from provincial misdemeanour and contravention codes that discriminate against people on the basis of their sexual orientation or gender identity on their face or in their application.
3. Eliminate provisions from provincial codes that perpetuate stereotypes of strict gender roles on their face, and that are used in their application to stereotype lesbian, bisexual, or transgender people as criminals.
4. Ensure that public authorities and institutions refrain from engaging in any act or practice of discrimination—including violence—on the basis of sexual orientation and gender identity by effectively investigating police acts committed using Contravention and Misdemeanour Codes, and punish those responsible for resulting human rights violations.
5. Take steps to ensure that individuals who work for international organizations as human rights defenders of the rights of LBTTTI people are free from discrimination—including violence—in their work and lives.
6. Develop a procedure or adopt a law that will allow people to easily change their gender and name on legal documents to ensure that all people's equality before the law and their freedom of movement—as well as their other human rights and fundamental freedoms—will be respected regardless of their gender identity.
7. To adopt cross-cutting non-stigmatizing public policies and regulations to promote and respect decent treatment of all persons in both public and private spaces regardless of sexual orientation, gender identity, or gender expression, and also to prevent and eradicate discrimination based on sexual orientation, gender identity and expression at the national and provincial levels.
8. Effectively investigate and prosecute those responsible for sexual violence against young women, including young transwomen, in schools.
9. Adopt educational projects and policies to protect children from abuse and discrimination based on their sexual orientation and/or gender identity and expression, and to allow their full development in school, family, leisure, social and any other spaces.
10. Amend the current Anti-Discriminatory Law to include sexual diversity and gender identity as protected categories, making non-discrimination based on sexual orientation, gender identity and expression explicit.
11. To incorporate a gender and sexual diversity perspective to the effective implementation of non-discriminatory sexuality education.
12. To incorporate a gender and sexual diversity perspective in the effective implementation of care to guarantee non-discriminatory access to health. This demand is cross-cutting and includes the hormonal processes we referred to earlier, HIV/AIDS, sexual and reproductive rights.
13. Create a body or Secretary for Sexual Diversity and Orientation, Gender Expression and Identity, in which all organizations that exist in these communities participate, to strengthen their active voices and the effective

realization of the human rights of all people regardless of sexual orientation, gender identity, or gender expression.

14. Punish hate crimes and ongoing violations of basic human rights perpetrated against LBTTTI persons by institutions, public officers and/or individual citizens.
15. Improve existing legislation and promote concrete measures against family violence from a gender perspective, paying specific attention to the situation of LBTTTI (lesbian, bisexual, travestis, transgender, transsexual and intersex) children and adolescents suffering violence from their relatives.
16. Promote educational campaigns through mass media conveying a respectful view of affectional and sexual diversity, gender expression and identity.
17. Take steps to eliminate the prejudices and customary and other practices based on stereotyped roles for men and women in the media that particularly reinforce discriminatory attitudes towards lesbian and bisexual women and transgender people.