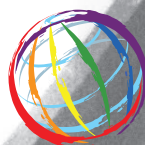
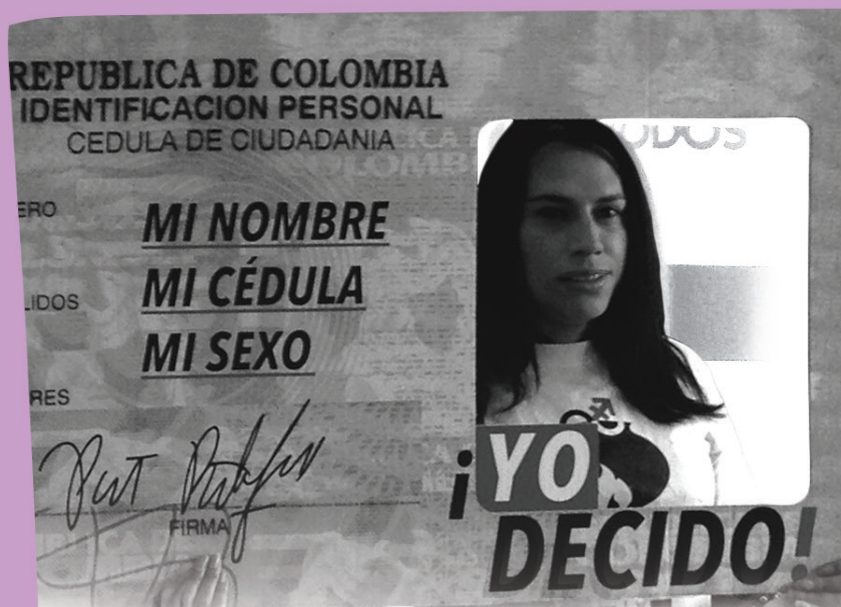


MAPPING Trans Rights IN COLOMBIA



OUTRIGHT
ACTION INTERNATIONAL



Universidad de
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Facultad de Derecho





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Human Rights for LGBTIQ People Everywhere

About OutRight

Every day around the world, LGBTIQ people's human rights and dignity are abused in ways that shock the conscience. The stories of their struggles and their resilience are astounding, yet remain unknown—or willfully ignored—by those with the power to make change. OutRight Action International, founded in 1990 as the International Gay and Lesbian Human Rights Commission, works alongside LGBTIQ people in the Global South, with offices in six countries, to help identify community-focused solutions to promote policy for lasting change. We vigilantly monitor and document human rights abuses to spur action when they occur. We train partners to expose abuses and advocate for themselves. Headquartered in New York City, OutRight is the only global LGBTIQ-specific organization with a permanent presence at the United Nations in New York that advocates for human rights progress for LGBTIQ people.

hello@OutRightInternational.org

<https://www.facebook.com/outrightintl>

<http://twitter.com/outrightintl>

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El Aquelarre trans

Aquelarre Trans is a coalition of civil society organizations (CSOs) and independent activists that seeks to make visible and defend trans identities as part of a valid and valuable life experience, achieving the full recognition of their rights. The coalition includes: Parces ONG (Pares en Acción-Reacción Contra la Exclusión Social), Fundación GAAT (Grupo de Acción y Apoyo a Personas Trans), Entre-Tránsitos Collective, Santamaría Fundación and Hombres en Desorden. The Programme of Action for Equality and Social Inclusion - PAIIS and the organization Colombia Diversa are its strategic allies. Aquelarre Trans is largely responsible (and credited as such by the IACHR) for the state's recent decision to streamline gender recognition processes at civil registries.

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<https://www.facebook.com/aquelarretrans/>



PAIIS

The Programme of Action for Equality and Social Inclusion - PAIIS - was founded in 2007 as one of the public interest law clinics at the University of the Andes School of Law; in order to create awareness, generate legal action and political advocacy for the advancement of human rights, equality and social inclusion of historically marginalized groups. Currently, PAIIS develops projects that work towards preventing the discrimination of groups and individuals on the basis of disability, age, sexual orientation and gender identity.

PAIIS develops its work through five different types of action:

- 1) Rights Pedagogy
- 2) Technical support in the design and implementation of public policies
- 3) Strategic litigation and direct legal representation
- 4) Research
- 5) Training students in the practice of public interest law

With our work, we seek to empower citizens to recognize and practice the United Nations Convention on the Rights of Persons with Disabilities (CRPD) in order to create a more democratic society. For this, PAIIS influences the generation of knowledge and promotes human rights education.

PAIIS offers knowledge, experience and capacity of legal action for the advancement of the rights of people with disabilities, elderly and LGBTQ.

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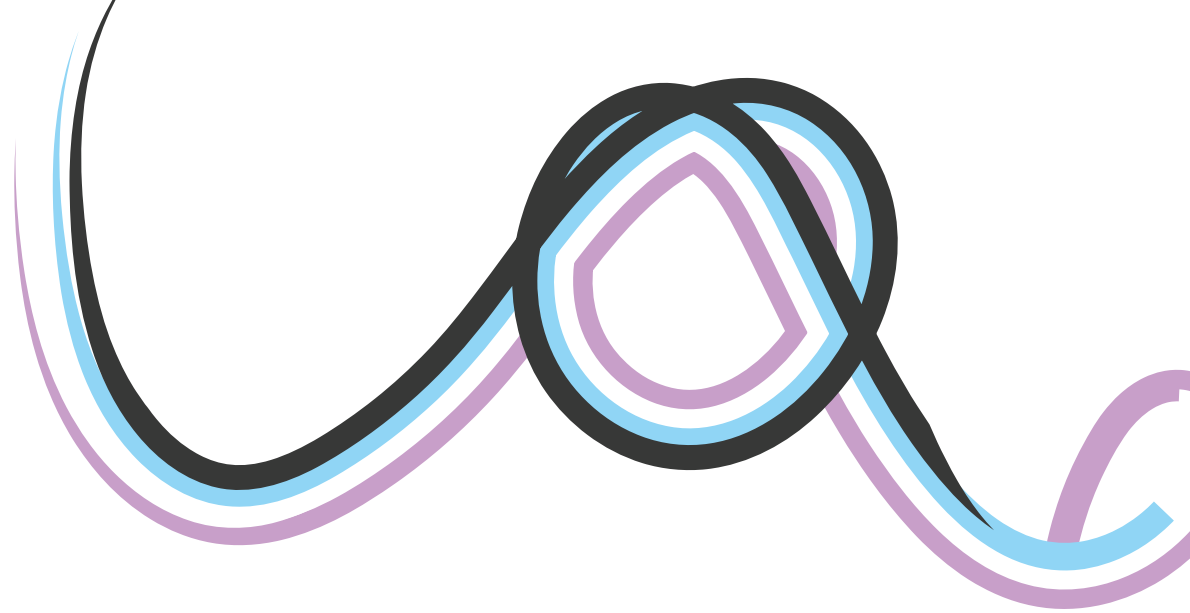




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Terminology¹

Feminization:	The process of making something more characteristic of, or associated with, women.
Gender:	A social construct used to classify a person as a man, woman, or some other identity. It is fundamentally different from the sex one is assigned at birth.
Gender Binarism:	The idea that human gender exists in only two forms: masculine and feminine. The term also describes the system in which a society divides people into male and female gender roles, gender identities and attributes.
Gender Identity:	Gender identity is understood to refer to each person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body (which may involve, if freely chosen, modification of bodily appearance or function by medical, surgical or other means) and other expressions of gender, including dress, speech and mannerisms.
Homophobia:	Homophobia is an irrational fear of, hatred or aversion towards lesbian, gay or bisexual people. Because the term homophobia is widely understood, it is often used in an all-encompassing way to refer to fear, hatred and aversion towards LGBT people in general.
Intersex:	An intersex person is born with sexual anatomy, reproductive organs, and/or chromosome patterns that do not fit the typical definition of male or female. This may be apparent at birth or become so later in life. An intersex person may identify as male or female or as neither. Intersex status is not about sexual orientation or gender identity: intersex people experience the same range of sexual orientations and gender identities as non-intersex people.

¹ These definitions have been drawn from the following sources: the Yogyakarta Principles; the United Nations Free and Equal Campaign; the University of California, Los Angeles' LGBT Campus Resource Center; the University of California, San Francisco LGBT Resource Center; and Amnesty International.

Lesbophobia:	Lesbophobia is an irrational fear of, hatred or aversion towards lesbian people.
LGBT:	LGBT stands for “lesbian, gay, bisexual and transgender.” While these terms have increasing global resonance, in different cultures other terms may be used to describe people who form same-sex relationships and those who exhibit non-binary gender identities.
LGBTI:	Lesbian, gay, bisexual, transgender and intersex.
Pathologization:	The process of regarding or treating (someone or something) as psychologically abnormal or unhealthy.
Psychiatrization:	The process of treating or analyzing (someone or something) psychiatrically.
Sex:	A categorization based on the appearance of the genitalia at birth.
Sexual Diversity:	This term refers to the full range of sexuality which includes all aspects of sexual attraction, behavior, identity, expression, orientation, relationships and response. It refers to all aspects of humans as sexual beings.
Sexual Orientation:	Refers to each person’s capacity for profound emotional, affectional and sexual attraction to, and intimate and sexual relations with, individuals of a different gender or the same gender or more than one gender.
Sexuality:	A person’s exploration of sexual acts, sexual orientation, sexual pleasure and desire.
SOGI:	Sexual Orientation and Gender Identity.
Trans / Transgender:	Transgender (sometimes shortened to “trans”) is an umbrella term used to describe a wide range of identities—including transsexual people, cross-dressers (sometimes referred to as “transvestites”), people who identify as third gender, and others whose appearance and characteristics are perceived as gender atypical. Transwomen identify as women but were classified as males when they were born. Transmen identify as men but were classified female when they were born. Some transgender people seek surgery or take hormones to bring their body into alignment with their gender identity; others do not.
Transition:	This term is primarily used to refer to the process a gender variant person undergoes when changing their bodily appearance either to be more congruent with the gender/sex they feel themselves to be and/or to be in harmony with their preferred gender expression.
Transphobia:	An irrational fear, hatred or aversion towards transgender people.
Yogyakarta Principles:	A set of international principles relating to sexual orientation and gender identity, comprising a guide to human rights which affirms binding international legal standards with which all States must comply.



Executive Summary

This short report sets out the research findings of the Program of Action for Equality and Social Inclusion (PAIIS), Aquelarre Trans and OutRight Action International in relation to respect for the human rights of transgender people in Colombia in law, policy and practice.

The report considers the situation of the rights to legal gender recognition, education, work and health for trans people, concluding with a series of recommendations to the Colombian authorities to ensure greater respect for these rights.

The report shows that Colombia has a robust human rights framework, including a progressive Constitution. Through its jurisprudence, the Constitutional Court has protected the interests of trans people, establishing gender identity as a prohibited ground of discrimination, and developing the right to the free development of personality to include the right to choose one's own identity.

Colombia has a robust human rights framework...however...the reality on the ground is different.

However, as this report shows, the reality on the ground is different. Despite the fact that the Constitutional Court has developed jurisprudence to protect trans people from discrimination, discrimination on the basis of Sexual Orientation and Gender Identity (SOGI) continues. The rights of the Lesbian, Gay, Bisexual and Transgender (LGBT) communities in Colombia are not guaranteed given the discretionary power of the legal and administrative authorities that often put their prejudiced views before the application of the law or ignore the needs and rights of such communities.²

² COLOMBIA DIVERSA. Human Rights situation of the LGBT population: Alternative report presented to the United Nations Human Rights Committee. May 2010.

The right to legal recognition of gender – whereby everyone has the right to have their chosen gender identity legally recognized – has recently gained traction in Colombia. Until recently, it was very difficult to change one's registered sex. But two Constitutional Court decisions in 2015 changed this and, with input from trans organizations, the Interior and Justice Ministries issued a new decree to allow changes to registered sex in ID documents for adults with a simple declaration of will. Yet, despite these positive legal developments, a number of obstacles – including the unpredictable approaches of lower courts and private notaries – hinder trans people's full enjoyment of the right to legal gender recognition and, in turn, the associated rights including the right to free development of personality. Further, related to the right to legal recognition of gender, are the problems created for trans men by the military passbook.

In the education sector, despite strong Constitutional Court decisions upholding the rights of trans people to access education, the problems facing the trans community are diverse. These problems include discrimination reinforced by a lack of understanding around SOGI and a failure to deal with transphobia and harassment that has made some education establishments hostile environments for trans people.

Trans people's right to decent and productive work is undermined by discrimination, legal and administrative barriers including problems caused by the military passbook, and by the fact that some work has become “transexualized” – with trans people in practice limited to specific low paid jobs and often entering the labor market through sex work.

Despite the fact that the right to health in Colombia has significantly developed, with more strong decisions by the Constitutional Court, a large section of the trans community in Colombia has fallen victim to discrimination by the State and private actors. While Decree 1227 allows sex rectification in ID documents, the health system does not as yet allow trans people access to body transformations and hormone treatments without first undergoing a process of pathologization.



Key Recommendations

Key recommendations to the Colombian authorities include:

- **Develop and implement an integrated awareness-raising policy** to raise public awareness of transgender identities, and transgender people's problems and needs, including providing guidance to media on avoiding the use of stereotypes in relation to gender identity and promoting tolerance and the acceptance of diversity of gender;
- **Develop, enact and implement a comprehensive legislative system for recognizing gender identity** to reflect decisions of the Constitutional Court, with a law allowing transgender people to obtain legal recognition of their gender and to change their legal name and gender, including the gender markers on official documents issued by the state, through a quick, accessible, and transparent procedure and in accordance with the individual's sense of gender identity;
- Borrowing from Principle 16 of the Yogyakarta Principles, **ensure that laws and policies provide adequate protection** for students, staff and teachers of different gender identities against all forms of social exclusion and violence within the school environment, including bullying and harassment;
- Borrowing from Principle 12 of the Yogyakarta Principles, take all necessary legislative, administrative and other measures to **eliminate and prohibit discrimination on the basis of gender identity in public and private employment**, including in relation to vocational training, recruitment, promotion, dismissal, conditions of employment and remuneration; and
- **Eliminate pathologization and psychiatrization, and forced sterilization**, as requirements to access transition and gender affirming medical procedures.

Methodology

The findings of this report are based on interviews and desk research.

Those interviewed included trans people, human rights activists, lawyers and Colombian officials.

PAIIS, Aquelarre Trans and OutRight Action International extend their thanks to those who provided information for this report.



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Human Rights Framework

International Obligations

Application of international human rights law is guided by the fundamental principles of universality, equality and non-discrimination.

Everyone, irrespective of their SOGI, is entitled to enjoy the protection of international human rights law with respect to all human rights – civil, political, economic, social and cultural.³

Non-discrimination is a core human rights principle embodied in the Charter of the United Nations (UN), the Universal Declaration of Human Rights (UDHR) and core human rights treaties including the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Non-discrimination clauses in international instruments typically require that human rights are made available to everyone without discrimination, and that States ensure that their laws, policies and programs are not discriminatory in impact.⁴ Colombia is a State party to the ICCPR and ICESCR.

The Constitutional Court has protected the interests of trans people, especially through the jurisprudential development of three rights: the right to equality; the right to the free development of personality; and the right to health.

The specific grounds of discrimination referred to in the

³ UNITED NATIONS. Discrimination and violence against individuals based on their sexual orientation and gender identity. *Report of the Office of the UN High Commissioner for Human Rights to the UN Human Rights Council*. May 4 2015. The full text of the Report is available at: http://www.un.org/en/ga/search/view_doc.asp?symbol=A/HRC/29/23&referer=/english/&Lang=E

⁴ UNITED NATIONS. Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity. *Report of the Office of the UN High Commissioner for Human Rights to the UN Human Rights Council*. November 17 2011. The full text of the Report is available at: http://www.ohchr.org/Documents/Issues/Discrimination/A.HRC.19.41_English.pdf

core human rights treaties are not exhaustive. In its general comment No.20 on discrimination, for example, the Committee on Economic, Social and Cultural Rights – the expert UN body that monitors implementation of the ICECSR – observed that “gender identity is recognized as among the prohibited grounds of discrimination.”⁵

The Yogyakarta Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity (the “Yogyakarta Principles”) – developed and adopted by a meeting of human rights experts in Yogyakarta, Indonesia, in November 2006 – provide a universal guide to applying international human rights law to abuses experienced by Lesbian, Gay, Bisexual and Transgender (“LGBT”) people.⁶

Colombia is a State party to the American Convention on Human Rights and has accepted the jurisdiction of the Inter-American Court of Human Rights, to which the Inter-American Commission on Human Rights (IACHR) and State parties to the Convention can refer cases. The Court has found that sexual orientation and gender identity are prohibited grounds of discrimination under the term “other social condition” in the Convention.⁷ The Inter-Ameri-

can Commission on Human Rights, which has a mandate to promote respect for human rights in the Organization of American States (OAS) region and acts as a consultative body to the OAS in this area, has created a Rapporteurship “on the Rights of Lesbian, Gay, Bisexual, Trans and Intersex Persons (LGBTI)”⁸ and has made strong statements to support the “full enjoyment and exercise of the human rights of trans persons.”⁹ The Inter-American Convention against All Forms of Discrimination and Intolerance, which Colombia has signed but not yet ratified and deposited, explicitly lists gender identity and expression as prohibited grounds of discrimination.¹⁰

National Law

Colombia’s Political Constitution of 1991 was an important milestone in Colombian legal history. It enshrined human rights not protected in the previous legal system; established the writ of amparo—known in Colombia as an *acción de tutela*—as an efficient mechanism to allow people to demand such rights, by filing a *tutela* action to ask the court to protect their rights; and it created the supreme organ, the Constitutional Court, to define the Constitution’s reaches. This

⁵ See paragraph 32, UN Committee on Economic, Social and Cultural Rights (CESCR), General comment No. 20: Non-discrimination in economic, social and cultural rights (art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights), 2 July 2009, E/C.12/GC/20. Full text available at: <http://www.refworld.org/docid/4a60961f2.html> and Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity. Report of the Office of the UN High Commissioner for Human Rights to the UN Human Rights Council. November 17 2011.

⁶ The Yogyakarta Principles – Principles on the application of international human rights law in relation to sexual orientation and gender identity. March 2007. Full text available at: http://www.yogyakartaprinciples.org/principles_en.pdf

⁷ Inter-American Court H.R., Case of *Atala Rizzo and Daughters v. Chile*. Merits, Reparations and Costs. Judgment of

February 24, 2012. Series C No. 239. The full text of the Court’s Judgment is available at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_239_ing.pdf.

⁸ IACHR. The IACHR creates Rapporteurship to address issues of Sexual Orientation, Gender Identity, Gender Expression, and Body Diversity. Inter-American Commission on Human Rights. November 25 2013. Available at: http://www.oas.org/en/iachr/media_center/PReleases/2013/094.asp

⁹ IACHR. On Transgender Day of Remembrance, the IACHR Expresses Concern About the Situation of Trans Persons in the Americas. Inter-American Commission on Human Rights. November 21 2014. Available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/138.asp

¹⁰ ORGANIZATION OF AMERICAN STATES (OAS). Inter-American Convention against All Forms of Discrimination and Intolerance, Signatories and Ratifications. The full text of the Convention is available at: http://www.oas.org/en/sla/dil/docs/inter_american_treaties_A-69_discrimination_intolerance.pdf

has allowed trans people to enjoy rights and access State services that would otherwise have been denied to them.

The Constitutional Court has protected the interests of trans people, especially through the jurisprudential development of three rights: the right to equality; the right to the free development of personality; and the right to health.

In a case of alleged discrimination against a trans woman who was denied access to two social events,¹¹ the Constitutional Court established gender identity as a prohibited ground of discrimination. In the decision, the Constitutional Court also reviewed the historical discrimination to which the trans community in Colombia has been subjected. Since this decision in 2011, any possible act of discrimination against trans people can be challenged through a *tutela*, shifting the burden of proof to those who allegedly discriminate. Other prohibited grounds of discrimination include race, gender, religion and disability, among others enumerated in Article 13 of the Constitution, and established in the Constitutional Court's jurisprudence.

Also, through its jurisprudence, the Constitutional Court has understood that the right to the free development of personality¹² implies the recognition of the capacity of all people to fulfill themselves individually and autonomously, without impositions of any kind and without unjustified controls or impediments caused by the State.¹³ In the Court's jurispru-

dence, the definition of the right to free development of personality has a wide scope, and it has understood that the free development of personality gives people the freedom to choose a "life project". One of the most important elements that guide this "project" is an identification with a particular way of being or, in other words, with someone's own identity. In 1993, the Court established that one's individuality in society is directly related to the projection of one's way of being in the world, one's identity, and, in turn, identity in itself refers to human dignity and the right to free development of personality.¹⁴

Since 2011, the Court has been specifying that any legal disposition based on sex that hinders the possibility for trans people to carry out their life projects, constitutes a restriction of their enjoyment of their identity-derived rights. One of the first cases was a request by an imprisoned trans woman who was prohibited from having a hairstyle and make-up corresponding to her sexual identity.¹⁵ The Court protected the rights of the applicant and reiterated that the Constitution prohibits any kind of discrimination based on SOGI. Furthermore, the Court stated that every act or measure that (i) censors and/or restricts sexual orientation for the purpose of privileging the majority heterosexual trend; and/or (ii) imposes sanctions or negative consequences on the individual based on their sexual orientation, goes against the Constitution.

¹¹ COLOMBIAN CONSTITUTIONAL COURT. Decision T - 314 of 2011, M.P. Jorge Iván Palacio. May 4 2011.

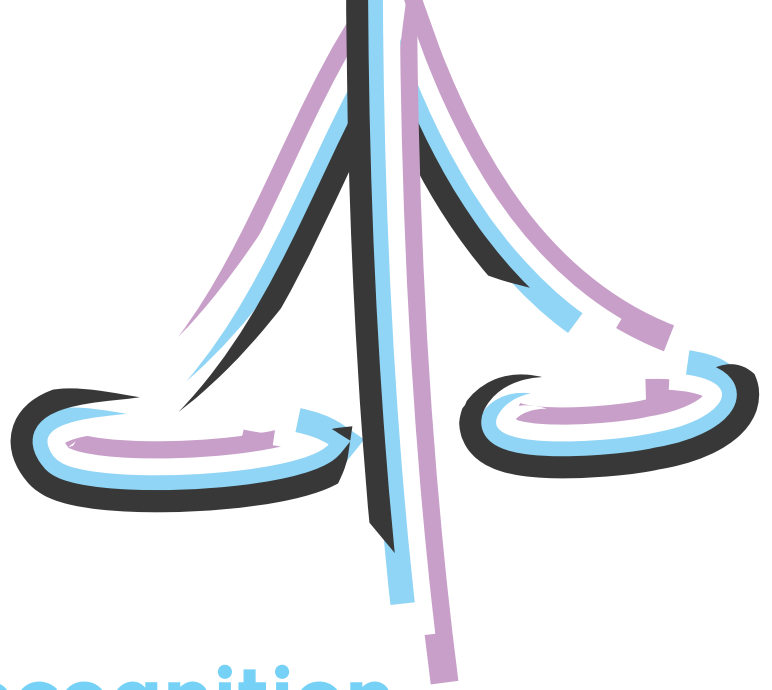
¹² Article 16 of the Political Constitution of Colombia: All persons are entitled to their free personal development without limitations other than those imposed by the rights of others and those which are prescribed by the legal system.

¹³ COLOMBIAN CONSTITUTIONAL COURT. Decision T - 429

of 1994, M.P. Antonio Barrera Carbonell. September 20 1994.

¹⁴ COLOMBIAN CONSTITUTIONAL COURT. Decision T-594 of 1993. M.P. Vladimiro Naranjo Mesa. December 15 1993.

¹⁵ COLOMBIAN CONSTITUTIONAL COURT. Decision T - 062 of 2011, M.P. Luisa Ernesto Vargas Silva. February 4 2011. Although the applicant identifies herself as "gay transsexual", the Court in this decision did not accurately address the conceptual difference between sexual orientation and gender identity. In addition, it did not use the applicant's identity name but only with her legal name.



Legal Gender Recognition

Internationally, the concept of a human right to legal gender recognition – that everyone has the right to have their chosen gender identity legally recognized, in official documents and registries for example – is gaining traction.

UN mechanisms have called upon States to legally recognize transgender persons' preferred gender, without abusive requirements, including sterilization, forced medical treatment or divorce.¹⁶ The Human Rights Committee – the expert UN body that monitors implementation of the ICCPR – has expressed concern regarding lack of arrangements for granting legal recognition of trans-

...the Court made an important shift—without the evaluation and decision of a family judge—by not considering sex as objective and immutable and recognizing the existence of a neurological sex or a sexual definition marked by gender identity.

gender people's identities. It has urged States to recognize the right of transgender persons to change their gender by permitting the issuance of new birth certificates and has noted with approval legislation facilitating legal recognition of a change of gender.¹⁷

The right to legal gender recognition is linked to and embedded in the rights to recognition before the law and to privacy, and the Yogyakarta Principles provide authoritative guidance in this

¹⁶ See paragraph 8, UN Human Rights Committee (HRC), Consideration of reports submitted by States parties under article 40 of the Covenant: International Covenant on Civil and Political Rights: Concluding Observations of the Human Rights Committee: Ireland, 30 July 2008, CCPR/C/IRL/CO/3. Full text available at: <http://www.refworld.org/docid/48c4ff452.html>; and paragraph 7, UN Human Rights Committee (HRC). Concluding observations on the fourth periodic report of Ireland, 19 August 2014, CCPR/C/IRL/CO/4. Full text available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/IRL/CO/4&Lang=En

¹⁷ Ibid.

regard. The right to recognition before the law is enshrined in the UDHR at Article 6 and in the ICCPR at Article 16, while Principle 3 of the Yogyakarta Principles provides that States should “[t]ake all necessary legislative, administrative and other measures to fully respect and legally recognize each person’s self-defined gender identity.” On the right to privacy, enshrined in the UDHR at Article 12 and in the ICCPR at Article 17, Principle 6 of the Yogyakarta Principles provides that States should “[e]nsure the right of all persons ordinarily to choose when, to whom and how to disclose information pertaining to their sexual orientation or gender identity, and protect all persons from arbitrary or unwanted disclosure, or threat of disclosure of such information by others.”¹⁸ [The right to privacy is also closely linked to the right to the free development of personality, which is well developed in some jurisdictions, including Colombia, as discussed above.]

In Colombia, until 2015, changing one’s registered sex entailed a legal process not easily accessed by trans people; however, this was decidedly changed by Constitutional Court decisions T-063 and T-099 of 2015. In the first case, a trans woman in Medellín asked a notary public to amend her ID documents after receiving authorization for gender affirming surgery from the health system and subsequently undergoing such surgery. In the second case, the Court responded to another trans woman who lodged a writ of tutela against the Colombian army for ordering her to define her situation when facing the compulsory military service. The Court found in favor of the women

in both cases, and it issued additional orders for a number of State institutions.¹⁹

The Interior and Justice Ministries, based on the content of the Constitutional Court’s decision T-063 of 2015, decided to issue decree 1227 of 2015,²⁰ which modifies the law that regulates the civil registry in Colombia. This decree, issued on June 4 2015, allows sex rectifications in the ID documents for people who are 18 years old or older with a simple declaration of will.²¹ Ministry representatives called for trans organizations to take part in the development and drafting of the decree in order to find out about trans people’s main concerns, according to a press release issued by the IACHR.²²

¹⁹ Among these orders, the Court urged the Ministry of Interior to include proposals to remove the obstacles trans people face in the modification of their identity or sex in their ID and civil registry documents, within the policy that it had been developing in support of a gender identity law. In particular, the Court recommended the inclusion of mechanisms that: i) make sex and name changes in ID documents and civil registry possible with a simple declaration from a notary public requested by the person that refers to themselves as a trans man or a woman; ii) introduce the possibility that people may not recognize themselves a part of one of the binary sexes (male or female) with the incorporation of a undetermined sex field in official documents; iii) proscribe any judicial, notary or medical procedure which implies that trans people must subject themselves to practices that violate their right to human dignity and invasions of privacy, intimacy and autonomy.

²⁰ COLOMBIA. MINISTRY OF JUSTICE and MINISTRY OF THE INTERIOR. Decree 1227 of 2015. “Whereby a section is added to Decree 1069 of 2015, Single regulatory framework for the justice and law sector, related to the procedure to correct the sex component in the Civil Status Registry”. Available at: <https://www.minjusticia.gov.co/Portals/0/Ministerio/decreto%20unico/%23%20decrees/1.%20DE-CREE%202015-1227%20sexo%20c%C3%A9dula.pdf>

²¹ The Attorney General of the Nation presented a declaration of invalidity against the decree that by the end of 2015 was still being studied by the Council of State.

²² “The IACHR was informed that this decree was the result of a dialogue between the government and civil society organizations that defend the rights of trans people, in particular, the Aquelarre Trans coalition.” Full release available at: <http://www.oas.org/es/IACHR/prensa/comunica->

¹⁸ See the Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity, *supra* note 6.

In Colombia, the registry of the civil status of persons is regulated by Decree Law 1260 of 1970, of which Article 95 establishes that the modification of the components of the Civil Status Registry may be carried out through a notarized deed or a court ruling.

In decision T-918 of 2012²³, the Constitutional Court, for the first time, ordered the modification of the civil registry at a trans person's request without having to turn to the family judge. Although the decision did not modify the rule according to which the family judge has to intervene to alter civil status²⁴, it did admit that "in specific circumstances, the discordance between the sex adopted physically and the registered sex violates the right to identity". In this sense, the Court made an important shift—without the evaluation and decision of a family judge—by not considering sex as objective and immutable and recognizing the existence of a neurological sex or a sexual definition marked by gender identity. It also held that the right to identity assumes consistency between the person's sex as recorded in their civil registry and the person's actual identity.

In decisions T-977 of 2012²⁵ and T-086 of 2014,²⁶ the Constitutional Court considered

dos/2015/075.asp. (Recovered on September 21st, 2015).

²³ COLOMBIAN CONSTITUTIONAL COURT. Decision T-918 of 2012, M.P. Jorge Iván Palacio. November 8, 2012.

²⁴ "[...] The Court considers that the correction of sex in the civil registry deserves the intervention of the tutela judge when the person's specific circumstances compromise her or his fundamental right to identity. Thus, it is the responsibility of the judicial officer to assess the medical proof presented by the applicant in order to determine whether the modification is relevant." Constitutional Court. Decision T-504 of 1994. M.P. Alejandro Martínez Caballero.

²⁵ COLOMBIAN CONSTITUTIONAL COURT. Decision T - 977 of 2011, M.P. Alexei Julio Estrada. November 22, 2012.

²⁶ COLOMBIAN CONSTITUTIONAL COURT. Decision T -

the writs of tutela presented by trans people requesting the right to change their names for a second time in order to adjust to their current "gender orientations" (sic). In both cases, the Court upheld the rights of the applicants and considered that the rule that allows only one name change in the civil registry excessively restricted their rights. For the Court, this obstacle to trans people changing their names compromised their life projects and therefore their right to the free development of personality. In consequence, it decided that the reasons of public information and certainty in the civil registry, which are used to justify the legal restrictions around changing names more than once, must yield to the importance of the guarantee of self-determination in the construction of an identity and the effective possibility of undertaking a life project that is consistent with this identity.

Implementation

Despite these positive legal developments, a number of different obstacles hinder trans people's full enjoyment of the right to legal gender recognition and, in turn, the associated rights including the right to free development of personality.

Some judicial decisions are still based on the medical perception of trans identities; that is, associating the decision regarding one's own gender identity with "imbalances" between the brain (mental) and the body (biological). Despite this, there have been notable advances made in this area; in fact, in the most recent writs of tutela²⁷ the Constitutional Court has

086 of 2014, M.P. Jorge Ignacio Pretelt Chaljub. February 17, 2014.

²⁷ COLOMBIAN CONSTITUTIONAL COURT. Decision T - 804 of 2014, M.P. Jorge Iván Palacio. November 4, 2014.

even reprimanded tutela judges who confuse sexual orientation with gender identity, and use decisions by the Constitutional Court without understanding these concepts. The Court has even called on the Rodrigo Lara Bonilla Law School²⁸ to produce content to train judges on “the rights of the LGBTI population and their justiciability, in which (...) information is offered to the judges regarding the conceptual differences between sexual orientation and gender identity.”²⁹

Despite the fact that Decree 1260 establishes that names can be changed once through notarized deed and before a notary public,³⁰ some trans people report that some notaries refuse to undertake the change given that the new name does not correspond with their sex.³¹ It is also known that some trans people

²⁸ As a consequence of this call, the Judicial School hired the NGO Colombia Diversa to design a module of education for legal officers. The main goal of the Judicial School “Rodrigo Lara Bonilla” is to integrate a teaching system for the judiciary branch, with the exception of the Attorney General’s Office, to foster, diffuse and assess the knowledge and skills necessary for adequate service provision, through processes of research, education, pedagogical, and technological, with strategic cooperation and alliances with national and international organisms. Description taken from the EJRLB Facebook page. For additional information on the Judicial School Rodrigo Lara Bonilla see: <http://www.ejrlb.net>.

²⁹ COLOMBIAN CONSTITUTIONAL COURT. Decision T – 804 of 2014, see *supra* note 27.

³⁰ A notary is an office where a notary or public officer operates, exercising notarial attestation. According to law 29 of 1973 (through which the Fondo Nacional del Notariado was created and other regulations were passed), “Notarial attestation grants full authenticity to the declarations issued before the Notary and to what s/he expresses with respect to the facts perceived in the exercise of her or his functions.”

One of the notarial functions, according to decree 960 of 1970, is “Keep the Civil Status Registry of the people in the cases and with the formalities stipulated by the law”. Notary publics are individuals performing notarial attestation as a public service.

³¹ PAIIS, within the framework of a case of litigation on name and sex change in ID documents, has visited a considerable number of public notaries in Bogota asking for the requirements for a change of name and sex in one’s ID

who despite having changed their name in accordance with their gender identity, did not rectify their sex and, therefore, receive a diploma with a name pertaining to the opposite sex. For example, a trans woman obtained a diploma that only took into account her sex registered at birth and not her gender identity, stating that she graduated as a lawyer, using the masculine *abogado* for her title instead of the feminine *abogada*.

For its part, the Unión Colegiada del Notariado Colombiano, a private notaries’ association in the country, issued Memorandum 1131 of 2015 among its members. The memorandum communicates an affirmation by the association’s president, Álvaro Rojas Charry, that “we will be producing the respective guiding document” on Decree 1227 of 2015, which concludes with the following comment, “Finally, a question arises as to whether, based on a couple’s birth certificates, in which a sex change has been registered, meaning that one appears as male and the other as female, could celebrate a valid civil marriage (sic).”

The Unión Colegiada del Notariado Colombiano has pronounced itself against the recognition of the rights of people with non-normative sexual orientations or gender identities. Insofar as same-sex marriage, the Unión de Notarios decided to refuse to celebrate such marriages in Colombian notaries.³² These positions create

documents. None of the notaries allowed the change of sex, and they offered different information that, in most cases, was not precise. With the promulgation of decree 1227, some notaries still associate a change of name to a change of sex. PAIIS cannot as yet reveal the information found as it is covered by professional secrecy between the client and the lawyers.

³² See AMBITO JURIDICO. Parejas del mismo sexo ya pueden formalizar su unión [Same-sex couples can now formalize their union]. *Ambitojuridico.com* June 20th 2013.

doubt in relation to the guiding document that is being prepared to define the procedure to implement Decree 1227 of 2015. Although the Superintendent of Notary and Registration affirmed, on the day of the launch of decree 1227, that notaries would not be in the position to require further requisites or to impose barriers to registering sex rectifications, what will happen in the face of the Unión Colegiada del Notariado Colombiano's pronouncement and the repercussions this may have in the processing of registering sex changes, remains unclear.

On April 28, 2016, the Colombian Constitutional Court declared unconstitutional the ban on same-sex marriage³³, therefore, this decision solved the question raised by the Unión Colegiada del Notariado Colombiano. When the Unión raised the question, same sex marriage was not constitutional so they previewed that with the option to sex rectification in identity documents, trans people that had rectify their sex, were able to marry, even if they were from the same-sex assigned at birth.

The Military Passbook

In Colombia, all male citizens legally of age, 18 years old, that have finished their secondary education are obliged to comply with their military obligations, either by doing compulsory military service or by paying compensation for not doing so. Law 48 of 1993 regulates the Recruiting and Mobilization Service, which is

compulsory for men and optional for women. According to the current text of Article 36 of the aforementioned law: "Colombians, 50 years old and under, are obliged to define their military situation. Nevertheless, public or private entities will not be able to demand that private individuals present their military passbook. Such entities would have to contact the competent military authority to verify such information only for the following effects: a) to conclude contracts with any public entity, b) for entry into an administrative career, c) taking office in public posts, and d) to obtain a Bachelor's Degree in any higher education institution."

Point d above was implicitly repealed by Article 2 of Law 1738 of 2014, according to which "[...] no higher education institute will be able to establish the presentation of a military passbook as a requirement for obtaining an undergraduate degree." This law came into effect in December 2014, and as such, lifted the obstacles found by trans people in wanting to graduate once they finished their higher education studies.

Bearing in mind the above, a person between 18 and 50, whose ID indicates that he is a man (M), could be required to present their military passbook in three situations: to conclude contracts with any public entity, for entry into an administrative career, and to take office in public positions.³⁴ Despite this norm being modified so that private employers do not have the right to demand to see the document, it is still common practice for such employers to require it.

Available at: <http://www.ambitojuridico.com/BancoConocimiento/Civil-y-Familia/noti-130620-01-parejas-del-mismo-sexo-ya-pueden-formalizar-su-union>

³³ COLOMBIAN CONSTITUTIONAL COURT. Press Release N. 17, April 28, 2016. File T4167863AC. Decision SU-214/16 (April 28) M.P. Alberto Rojas Ríos.

³⁴ This happens in practice, even though the Constitutional Court decisions make it clear that it is not required of trans women.

In 2014, for the first time in its history, the Constitutional Court ruled on the situation of trans women with respect to the possession of a military passbook. In decision T-476 of 2014, the Court considered the case of a trans woman who was not hired in a special LGBTI division of the District of Bogota, precisely because she could not present a military passbook. The Court considered that the requirement was not enforceable in this case, given that the claimant recognizes herself as a trans woman, and on that basis, constructs her identity in her public and social life. Thus, demanding that she present a document that is enforceable for a gender with which she does not identify would violate her right to self-determination and to the development of her gender identity.³⁵

Another problem related to the issuing of military passbooks is that, in practice, people are summoned by the military to undertake military service based on lists provided by educational institutions that are usually based on people's names and not their sex. Thus, both women and men can be summoned and, once there, be subjected to a medical examination.

“In the medical exam, the doctor gathers those summoned together in a room where they all have to strip down to their underwear in front of the others, a nurse, and an army officer. Once they strip down, they then have to jog in a circle for a couple of minutes, before the nurse superficially examines them. At the end, the nurse asks every-

one to look at the ceiling and take off their underwear and she then manually examines everyone's testicles.”³⁶

This medical exam can therefore result in violations of the rights of trans people, including privacy – as the examination may amount to a forced disclosure of an individual's status as transgender – and even of the right to be free from ill treatment, depending on the nature of the examination.³⁷

In decision T-099 of 2015, the Constitutional Court ordered the Ministry of Defense to “design and implement an admissions protocol for trans men—who in principle are required to provide military service—and for trans women on a voluntary basis. This protocol must guarantee the rights of these citizens against discrimination based on SOGI.”³⁸ To date, this protocol has not been initiated.

³⁵ COLOMBIA DIVERSA; PAIIS et. al. Amicus Curiae of LGBT organizations in the case of discrimination against a trans woman who is required to present her military passbook to access public employment (T-4.258.528) July 7, 2014. p.24.

³⁶ Ibid. p. 23.

³⁷ Ibid. p. 24.

³⁸ COLOMBIAN CONSTITUTIONAL COURT. Decision T-099 of 2015.M.P. Gloria Stella Ortiz Delgado. March 10, 2015.



Education

Everyone has the right to education, without discrimination, including on the basis of gender identity. In international law, the right to education is enshrined in the UDHR at Article 26 and in the ICESCR at Article 13.

Principle 16 of the Yogyakarta Principles provides that States should take all necessary measures “to ensure equal access to education, and equal treatment of students, staff and teachers within the education system, without discrimination on the basis of sexual orientation or gender identity.”³⁹

“You go to school to learn, but your teachers and classmates have something against you because of who you are.”

The problems facing the trans community in the education sector are diverse. Discrimination as a barrier to accessing education is reinforced because of a lack of understanding around gender and sexuality at school, the resistance to incorporating non-hegemonic expressions of gender into policies and the curricula, the enforced feminization and attempts to correct what is considered a “deviation of gender”, and finally, because of the undeniable laxity in dealing with homophobia and harassment.

The jurisprudence of the Constitutional Court has addressed such topics in a number of its decisions; for example, in decision T-562 of 2013, which guaranteed access to education for a trans girl in Medellín who had been banned from studying because she attended school in a girl's uniform. In 1998, the Court reversed the principle of primacy of general interest that it had defended in 1994, when it had studied the case of a trans student who went to school dressed as a woman and who was forced to leave school for non-compliance with the school handbook. Back in 1994, the Court had decided that the general interest (related to the school's handbook) was more important than the free development of

³⁹ See the Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity, supra note 6.

the personality of one student. But in 1998, the Constitutional Court changed its approach, prescribing the preeminence, in such cases, of the right to the free development of personality, and it is this principle that has been reiterated since then with regard to the education of trans people.

In a decision in 2013, the Court established the conditions for the right to education to be fully exercised: availability, accessibility, permanence, and quality are the four conditions to guarantee the right to education. In the case of the trans community, studies and testimonials show that none of these conditions is fully guaranteed. In fact, research undertaken in Bogota shows that even minimal compliance with these conditions is far from being reached. Some 12% of the LGBTI persons surveyed do not attend educational establishments due to their fear of being discriminated against on the basis of their SOGI, and 30% affirm having been a victim of verbal, physical, or psychological aggression within such spaces. Of this group, 66% of people consider that they were assaulted because of their SOGI.⁴⁰ A survey undertaken in 2010 in Bogota revealed “of those that do not attend an educational establishment, an average of 11.91% do not do so because of their SO/GE/GI.”⁴¹

According to the 2010 survey, the high levels of discrimination against LGBT students are the main reason they abandon their education. Trans people are the most vulnerable group in educational institutions.⁴²

⁴⁰ BOGOTA CITY HALL. DISTRICT PLANNING DEPARTMENT... “Bogotá, Ciudad de Estadísticas. Boletín No. 25: Lesbianas, gais, bisexuales y transgénero en cifras.” [Bogota, city of statistics: Bulletin No. 25: Lesbian, gay, bisexual and transgender people in figures]. 2010. P. 26

⁴¹ Ibidem.

⁴² SENTIIDO. Los retos de la población transgénero [The

CAMILA'S STORY

“When I was 3, I told my mother that I was Shakira and that I wanted to be Shakira. In primary school, one of the teachers told my mother, “careful, your son’s turning into a fag.” My mother put me in a different school. In eighth grade, I started to become a woman in public and I would sing like Beyonce, Shakira. I was a boy, but I expressed my identity in cultural acts. I lived in a very small town called Santander; I was the town “faggot”.”

“The university doesn’t respect my gender identity; when I introduced myself to my classmates, I said, ‘Hello I am from Santander and my name is Camila.’ The professor immediately said, ‘sorry, but I have you down as Camilo.’ That is when my identity was violated. A classmate asked me whether we transsexuals study.”

– Testimonial of Camila (18) for Outright Action International in October 2014.

Rejected All The Time

“Your classmates reject you because you are the way you are. They laugh at you and you constantly have to defend yourself. That doesn’t feel good. Why would someone go to school if they get rejected all the time? You can’t do your work properly, you can’t concentrate on your studies, so you stop going. They rejected me and they’d always look for me to pick a fight. You go to school to learn, but your teachers and classmates have something against you because of who you are. So I left, I decided to stop studying at secondary school.”⁴³

challenges of the trans population] November 18, 2012. Available at: <http://sentiido.com/los-retos-de-la-poblacion-transgenero/>

⁴³ Interview by Amy E. Ritterbusch for Una Visión Joven de la Ciudad: Las vidas Socio-espaciales y la exclusión de las niñas de la calle en Bogotá, Colombia [A youth vision of

Existing structural discrimination prevents trans people from accessing and remaining in formal education, given that schools and educational institutions in general tend to be hostile environments. Despite availability, trans people lack access, and this is made clear from the moment a trans person registers at an institution. Testimonials show that, for example, when trans people enroll in university programs, functionaries at the admissions offices insist upon using the names corresponding to the sex assigned at birth, and according to their ID cards. There have also been multiple cases reported in which the functionaries themselves are intrusive and ask invasive questions related to the candidates' gender identity. In their testimonials, many students declared having been advised by the functionaries on how to dress in order to blend in with the crowd and not to express affection towards other students.⁴⁴ This also reveals the lack of training in such institutions to impart information and demand greater sensitization on topics related to the trans community.

According to a press release by Bogota City Hall:

“Homophobia, lesbophobia, biphobia and transphobia have permeated the structures of the educational institutions in many ways and have drawn upon practices such as pressure exerted by school boards to transfer students and teachers to other schools because of their sexual orientation or

gender identity, or because of work some teachers have undertaken in recognition of LGBT rights, the existence of a hidden curriculum of homophobia and symbolic and subtle violence, as well as homophobic rules in school handbooks and discriminatory principles in the School Educational Plans (PEI). All of this is due to the inexistence of solid school policies that promote social inclusion, the free development of personality, autonomy, non-discrimination and non-violence due to SOGI in schools and Higher Education Institutions (IES).⁴⁵

When a trans person is able to access an educational institution, they will soon perceive their experience at school as being heavily laden with aggression and offensive attitudes that the education system fails to address; a system that does not incorporate a plural and inclusive perspective of sexual identities. Based on the case of Sergio Urrego, a young student in his last year of school who committed suicide because of the pressures exerted by the school board regarding his sexual orientation, the Constitutional Court ordered the Ministry of Education to review all school handbooks around the country, and set up the National School Coexistence System. Although the case of Sergio Urrego involved discrimination based on his sexual orientation, the orders of the Constitutional Court also include the protection of gender identity.⁴⁶

the city: The socio-spatial lives and exclusion of street girls in Bogota, Colombia]. January 1, 2011. ProQuest ETD, FIU collection. Paper No. AAI3484191. Available at: <http://digital-commons.fiu.edu/dissertations/AAI3484191>

⁴⁴ Testimonial provided by Procrear, Bogota (2012).

⁴⁵ BOGOTA CITY HALL. INTERSECTORAL ROUNDTABLE ON SEXUAL DIVERSITY. Appraisal and perspectives of LGBT public policy. 2011. P. 23

⁴⁶ COLOMBIAN CONSTITUTIONAL COURT. Decision T-478 of 2015. M.P. GLORIA STELLA ORTIZ DELGADO. August 3, 2015.



Work

Everyone has the right to decent and productive work, without discrimination, including on the basis of gender identity.

In international law, the right to work is enshrined in the UDHR at Article 23 and in the ICESCR at Article 6. Principle 12 of the Yogyakarta Principles provides that States should take all necessary measures “to eliminate and prohibit discrimination on the basis of sexual orientation and gender identity in public and private employment, including in relation to vocational training, recruitment, promotion, dismissal, conditions of employment and remuneration.”⁴⁷

Problems of access to education, fostered by negative stereotypes, discrimination in the workplace and low salaries are common problems for the country’s trans community.⁴⁸

The identity document has become a barrier to trans people accessing professional work. Under legal provisions, employers must ask applicants for their citizen ID card. When their gender identity does not correspond to the name or sex registered on their ID card, trans people are obliged to reveal their trans identity. This, in most cases, means that the person will therefore not be hired. In addition, this forced revelation results in systematic discrimination against trans people in the labor market, which, in turn, perpetuates the poverty cycle in which they are usually already trapped.

According to the testimonial of a trans woman, sex work and hairdressing are the only options she has, given that she would face discrimination if she tried to work, for example, as a teacher.

⁴⁷ See the Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity, *supra* note 6.

⁴⁸ SENTIIDO. See *supra* note 42.

Similarly, the military passbook also causes problems. As affirmed by the trans activist, Andrew Aguacía,⁴⁹ “when you apply for work, they demand to see your military passbook; it is compulsory. To graduate from university, men must have their military passbook. To graduate, men have to have their military situation in order, if not, they can’t graduate.”⁵⁰

DARLA'S STORY

“I moved to Ecuador. I had already started my transitioning from male to female, so it was very difficult for me to find work in Colombia to earn us a living, so I went to Ecuador to work in hairdressing.

I lived there for two years and found that I was being doubly discriminated against, because of a difficult situation as an immigrant, so I was being discriminated against for being a displaced Colombian and for being trans.

I came back to Colombia. I was living in Medellin, and working in a hairdressers again, but Colombia had an important financial crisis so I ended up working as a prostitute; they were the only two options we had as trans women: hairdresser or prostitute... and I did both, travelling around different Colombian cities until I got to Pasto.”

– Interview with Darla Cristina, for Outright Action International in 2014.

One of the main problems that trans women have to deal with is the limitation in terms of the spaces in which they can develop themselves professionally. As such, sex work tends to be their main means of entry into the labor market. Working in hairdressing and beauty salons, which trans women themselves have been setting up as small informal businesses, has become one of the only means of making a living. Sewing and dressmaking also appear as sources of work, although they are not as significant.⁵¹

The fact that trans women have limited career choices is due to the negative stereotypes in place in Colombia,⁵² especially in the media. According to the testimonial of a trans woman, sex work and hairdressing are the only options she has, given that she would face discrimination if she tried to work, for example, as a teacher.⁵³ As such, trans people cannot aspire to professional work, as society will not accept this.⁵⁴ “In the same way as we have feminized work,⁵⁵ we can also think about transexualized work. It is worth clarifying that these two jobs are also feminized, but they are particular in that the presence of *trans women* is not perceived as being as

⁴⁹ Andrew Aguacía, trans activist. Interview for Outright Action International, 2014.

⁵⁰ It is not compulsory to present a military passbook to be hired by private companies. However, an interpretation promoted by the Colombian Army, has led to the practice of requiring the document. In addition, thanks to the recent promulgation of a law, the military passbook is no longer a requisite for graduating from higher education programs.

⁵¹ LOZANO RUIZ, Lina, et.al. ¡A mí me sacaron volada de allá! Relatos de mujeres trans desplazadas forzosamente hacia Bogotá [They drove me out of there fast! Stories of trans women forcibly displaced to Bogotá]. First edition. BOGOTÁ CITY HALL, the COLOMBIAN ASSOCIATION FOR THE ADVANCEMENT OF SCIENCE and UNIVERSIDAD NACIONAL DE COLOMBIA. April 2012.

⁵² Ibid, p. 152.

⁵³ Interview by Amy Ritterbusch with Frida Casas, Transgender Women, in Bogotá, Colombia (July 22, 2010).

⁵⁴ Ibid.

⁵⁵ COMAS D'ARGEMIR, Dolors. Trabajo, género y cultura. La construcción de desigualdades entre hombres y mujeres [Work, gender and culture. The construction of inequality between men and women]. Barcelona: Icaria, Institut Català d'Antropologia, 1995.

“uncomfortable” as it is in other activities, on the contrary, the fact that they work in these jobs becomes naturalized.”⁵⁶

The fact that a trans person, in many cases, cannot aspire to becoming a professional, is precisely due to the barriers that exist in all social arenas and throughout the lifespan of a trans person. In this sense, the discriminatory barriers in the Colombian education system foster even more obstacles to trans people entering the formal labor market.⁵⁷ Respective studies reveal that 79% of trans people have been discriminated against in their place of work; only 5.3% of them have signed a work contract; and 40% have been forced to dress and act differently in the workplace.⁵⁸

Angelica, 31, works in a hospital cleaning and maintenance company; she says, “to come to work, I have to pretend to be something I am not. I had long hair and I had to cut it like a soldier, just to be hired.”⁵⁹

So, transexualized work functions, “like marginal ‘labor crooks’ that are characterized by low pay, job instability, and for not granting any kind of benefit or social security, but that are also laden with the socio-cultural mark that seeks to impede mobility (vertical

or horizontal) towards other work spaces for *trans women*, given that by *naturalizing* their presence in such spaces, we build and maintain the idea that that’s all they are good for.”⁶⁰

In Bogota, efforts are being made to improve access to work for LGBT people. Misión Bogotá opens special vacancies for the LGBT population, considering all of the specific needs of the population, and offers them the possibility to study while they work.⁶¹

NATALIA'S STORY

“One day, I said to myself, I am 30 years old, I am getting old and I am deeply unhappy, and the year that I turned 30, I decided, gradually, to start going out in public spaces as a woman, and at work I was like a man.

So I lived this duality for a long time. I worked for an industrial catering business. I worked as a man, when I start the transition, I will have to leave work.

The duality produces much pain and violence; this satisfaction of looking in the mirror and seeing yourself as free and then suddenly have to hide, to be a woman but have to dress as a man.

This is a tremendously violent act. It used to hurt me so much, it was devastating....”

– Natalia, 31, BA degree in International Finance and Business, from Cali University. Interview for Outright Action International in 2014.

⁵⁶ LOZANO RUIZ, Lina. pp. 150-151. See supra note 51.

⁵⁷ “Discriminatory barriers in the education system then lead to hindrances for transgender persons attempting to access the formal labor market”. See PAIIS, et. al. From Forced Sterilization to Forced Psychiatry: Report On Violations Of The Human Rights Of Women With Disabilities And Transgender Persons. UNITED NATIONS COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN. 56th Session, Geneva, Switzerland. 2013. P. 22.

⁵⁸ BOGOTA CITY HALL. DISTRICT PLANNING DEPARTMENT. pp. 29-30. See supra note 40.

⁵⁹ Angélica, a worker in a cleaning and maintenance company who works in hospitals. Interview for Outright Action International, 2014.

⁶⁰ LOZANO RUIZ, Lina. p. 151. See supra note 51.

⁶¹ Sandra Liliana Montealegre was the coordinator for the Casa Refugio LGBTI and of the Legal assistance program for people from vulnerable social sectors. She currently works on the Proyecto de Prostitución (Prostitution Project) implemented by the District Women's Department, in the area of Rights and Policy Design Department. Interview for Outright Action International, 2014.



Health

Everyone has the right to the highest attainable standard of physical and mental health, including sexual and reproductive health, without discrimination, including on the basis of gender identity.

In international law, the right to health is referenced in the UDHR at Article 25 as part of the right to an adequate standard of living, and enshrined in the ICESCR at Article 12. Principle 17 of the Yogyakarta Principles provides detailed guidance on the right to health without discrimination on

...in medical and legal practice, the certificate has become a repeated requirement that implies a pathologization of transgender identities...

the basis of SOGI, including that States should “[f]acilitate access by those seeking body modifications related to gender reassignment to competent, non-discriminatory treatment, care and support.”⁶²

In Colombia, the health service is, on one hand, an economic, social and cultural right and, on the other, a public service. As an economic, social and cultural right, the Constitutional Court has developed the right to health as a fundamental right whereby “health services must be provided to all persons, and it is the responsibility of the State to organize, direct, regulate, and guarantee its provision in fulfillment of the principles of equity, universality and solidarity.”⁶³ The Constitution states that precisely because “access to health promotion, protection and recovery services,”⁶⁴ has to be guaranteed for everyone, the Colombian State must supervise the citizens’ access to such services.

62 See the Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity, supra note 6.

63 COLOMBIAN CONSTITUTIONAL COURT. Decision T-737 of October 17, 2013. M.P: Alberto Rojas Ríos. It is worth highlighting that the Constitutional Court has determined the fundamental character of the right to health in Colombia, by settled case-law. Among them: Decisions T-016 of 2007 and T-760 of 2008.

64 See Article 49 of the Colombian Constitution.

The Colombian health coverage system covers: 1) those who can contribute because they are in formal employment and are affiliated in the contributive regime, and 2) those who cannot contribute and are affiliated through a subsidized regime (Sisbén). For both groups, the Health Service Providers (EPS) must guarantee the provision of all the services listed in the Compulsory Subsidized Health Plan (POS). The POS is a package of basic services in the areas of disease prevention and recovery and helps cover income—through financial loans—when people are unable to work due to illness, accident, or maternity.⁶⁵

From the perspective of trans people, the Colombian health system has been guided by the Constitutional Court on a number of occasions, defining its general obligations and the scope of provisions that it must guarantee. Despite the fact that the right to health in Colombia has significantly developed in legal terms and that there is a general normative framework, a large section of the trans community in Colombia has fallen victim to discrimination by the State and private actors. In this way, the health system in Colombia, despite seeking to provide certain guarantees, is beset by conceptual and implementation

⁶⁵ Ley 1751 of 2015—a statutory health law—was recently issued in Colombia. This new law, which will be enacted on the February 16 2017, eliminates the figure of the Compulsory Subsidized Health Plan [POS]. Article 15 of this law established that in their place, the EPSs are obliged to provide all health and technological services except those:

- A) Whose main purpose is cosmetic or considered a luxury and not related to the recuperation or maintenance of the functional or vital capacities of people;
- B) For which there is no scientific evidence in terms of their clinical safety or efficiency;
- C) For which there is no scientific evidence in terms of their clinical effectiveness;
- D) Whose use has not been authorized by the competent authorities;
- E) That are as yet in a phase of experimentation;
- F) That have to be provided abroad.

problems that make it difficult for trans people to enjoy their rights. Despite the fact that Decree 1227 allows sex changes in ID documents, the health system does not as yet allow trans people access to body transformations and hormone treatments without first undergoing a process of pathologization.

Gender Affirming Surgery

In decisions T-876 of 2012⁶⁶ and T-918 of 2012,⁶⁷ the Constitutional Court protected the rights of trans people whose health service provider had denied them gender affirming surgery. In the second case, the Court, for the first time, drew a distinction between biological sex and neurological sex, accepting that the configuration of the latter presents implications with respect to the rights of trans people in determining their gender identity. It established that for a trans person, it is not sufficient to change their name, given that the lack of correspondence between the person's mental identity and her or his physiognomy may imply a violation of their dignity. Based on this ruling, the Court admitted that the lack of correlation between mental identity and sex prevents trans people from living in accordance with their life project. Through more recent decisions, the Court has begun to recognize gender identity according to the Yogyakarta Principles. However, while surgery is not part of the provisions of the POS in Colombia, trans people will have to continue to resort to writs of tutela to access certain medical procedures.

⁶⁶ COLOMBIAN CONSTITUTIONAL COURT. Decision T - 876 of 2012, M.P. Nilson Pinilla. October 29, 2012.

⁶⁷ COLOMBIAN CONSTITUTIONAL COURT. Decision T - 918 of 2012. See supra note 23.

ALEX'S TESTIMONY

"Thus far most trans people do not have their surgical procedures in this country. Most have them in another country, called Venezuela. Most have their operations there, starting with mammoplasty. In Colombia, breast implants cost at least two million pesos.

You have to pay for the operating room, the anesthesiologist, the implements and the nurse. This is what you pay for the surgery."

- Alex, 22, Interview for Outright Action International in 2014.

A report presented in 2013 to the United Nations Committee on the Elimination of all Forms of Discrimination Against Women (CEDAW Committee),⁶⁸ reveals the discrimination to which trans people are subject when they require medical services. It is precisely for this reason that the CEDAW Committee has expressed⁶⁹ its concern about discrimination by the Colombian State against lesbian, bisexual, trans and intersex women in its provision of health services. In fact, according to a study by the Bogota City Hall, in 2011, an average of 17.22% of LGBT people had felt some kind of discrimination, mistreatment or rejection when it comes to health services, and of this percentage, 26.97% were trans women and men.⁷⁰ Of that 17.22%, 47.20% declares that they had felt some kind of discrimination, mistreatment or rejection by

the health service because of their SOGI. The study also highlights that among this group, it is "trans people who have most perceived such situations with 84.93%."⁷¹

Faced with this discrimination, Andrew Aguacía, trans activist, affirms "we don't go for gynecological check-ups, and if we do go, we always clash with the health personnel because we always have to explain why *Andrew* has to have a pap smear. They think that it is a mistake that a man should be having one. I did it and it was horrible, they protect themselves more, they double-glove, they asked me if I had had an AIDS test..."⁷²

Enforced Pathologization and Psychiatrization

Trans people in Colombia are subjected to enforced pathologization and psychiatrization to access certain rights. To guarantee a true and effective access to the health system; that is, to treatments, plastic surgery, and the accompaniment of a doctor during their transition should they choose this path, trans people have to first undergo psychiatric treatment to certify that they *suffer from* a "Gender identity disorder."⁷³ The certification is given when the person declares that they have no doubts about the treatment to which they will be subjected in order to be able to biologically identify with the sex with which they feel identified. The tendency, according to testimonials by trans people, is that psychiatrists opt for the process to last at least two

⁶⁸ PAIIS. See supra note 57.

⁶⁹ UNITED NATIONS. General recommendation 19, adopted by the Committee on the Elimination of all Forms of Discrimination Against Women, 11th period of sessions, 1992, U.N. Doc. HRI/GEN/1/Rev.1 at 84. 1994.

⁷⁰ BOGOTA CITY HALL. DISTRICT ECONOMETRY PLANNING DEPARTMENT. p. 28. See supra note 40.

⁷¹ Ibid.

⁷² Andrew Aguacía, trans activist. Interview for Outright Action International, 2014.

⁷³ Testimonial of a transgender person obtained through Entre-tránsitos, Grupo de Apoyo Transgenerista, and Procrear, Bogota (2012).

years.⁷⁴ Finally, when the requirements are fulfilled, the individual receives a psychiatric certificate, allowing them access to hormonal treatment, medical exams to determine the collateral effects and risks, and finally the corresponding surgery.⁷⁵

It is worth pointing out that there is no law that requires the presentation of a “gender dysphoria certificate” to access body transformations (including: hormone processes, hysterectomy, breast implants, and sex reassignment surgery, among others).⁷⁶ However, in medical and legal practice, the certificate has become a repeated requirement that implies a pathologization of transgender identities.⁷⁷

Gender affirming surgery, for example, has been granted by court rulings or writs of tutela and, in the cases known,⁷⁸ the judges have demanded the pathologization of gender identity. Even if the person does not want to

undergo body transformations, for the hormone process to begin, medical staff demand psychiatric monitoring. To do this, an EPS medical committee meets⁷⁹ to assign a psychiatrist to whom one has to “demonstrate” one’s trans identity. This demonstration involves, on the one hand, a “real life test” and, on the other, a diagnosis of gender dysphoria. The test contains questions such as: “What is your favorite color? Have you ever read *Motor* magazine? When you were a child, did you play with dolls or cars? How many sexual partners have you had?”⁸⁰ The test has not been approved by the psychiatric community and has been widely criticized for being based on stereotypes.⁸¹

After “demonstrating” this identity, it is recorded in the person’s medical history as gender dysphoria and, with this expert opinion, the endocrinologist or surgeon—if the person decides to have gender affirming surgery—may continue the transition process. The process imposes a number of obstacles in accessing body transformations, given that EPS personnel assume that transitions should always be *complete*; that is, including surgery, completely ignoring the person’s wishes in terms of the make up of their own body. A number of trans people opt to lie in such tests, assuming stereotypical gender profiles of the gender towards which they wish to transition (or that is coherent with

⁷⁴ Tak Combative, trans activist, 28. Interview for Outright Action International, 2014.

⁷⁵ Testimonials of service providers to Entre Tránsitos in a private meeting as part of the production of the Good Health Practices Guide for trans people (2012).

⁷⁶ PAIIS. p. 55. See supra note 57.

⁷⁷ Ibid.

⁷⁸ According to the National Civil Registry, the following sex changes were recorded in ID documents between 2009 and 2012:

	2009	2010	2011	2012
Female to Male	244	260	229	217
Male to Female	257	282	223	230
Total	501	542	452	447

National Civil Registry. Responses to rights of petition 4774 – 53291 – 54658/14. April 1, 2014. PAIIS’ knowledge of the requirements for the voluntary jurisdiction processes comes from the experiences of members of Aquelarre Trans. Aquelarre Trans is a collection of civil society organizations and independent activists that seeks the recognition of trans identities as part of a valid and valuable life experience as well as the recognition of the rights of trans people. PAIIS is part of Aquelarre, as its legal advisor.

⁷⁹ These committees are formed in “difficult” cases (not necessarily related to transitions) and they order for the patient to receive attention by the health team specialized in their medical situation. In Spanish the initials “EPS” refer to Entidades Prestadoras de Salud or Health Service Providers.

⁸⁰ COLOMBIA DIVERSA, PAIIS. p. 8.. See Supra nota 35.

⁸¹ See, among others, LAWRENCE, Anne, M.D. Ph.D. On Transsexualism and Sexuality. SRS Without a One Year RLE: Still No Regrets. (2001). Available at: <http://www.annelawrence.com/hbigda2001.html>

their request from the EPS), only in order to be seen by certain specialists or access the medical procedures they wish to undergo.⁸²

The situation changed after the Constitutional Court decision T-063 of 2015, reviewed above. This decision overturned the decision at first instance which had denied sex rectification with the argument that there was no expert psychiatric opinion that indicated gender dysphoria. In the decision, the Constitutional Court declared that,

“The modification of civil registration data of transgender people do not respond to a change with respect to a previous reality, but to the correction of an error resulting from incongruence between the sex assigned at birth by third parties and the identitarian affiliation carried out by the individual, the latter being the one that is relevant for the purposes of the determination of this element of the civil status.”

Based on this decision, the Ministries of Justice and of the Interior wrote decree 1227 of 2015, ordering the sex rectification in official IDs by an administrative act responding to the person’s will exclusively and banning psychological, medical, or pharmacological treatments as requirements.

⁸² Andrea Parra. Interview for Outright Action International, 2014.

Access to Health

In PAIIS et al. 2013 report to CEDAW⁸³ organizations claimed that the public health system in Colombia is not accessible for trans people so they feel obliged to transform their bodies using risky methods.

“Self-hormonization: what works for a friend, could work for me. I used to combine what I heard from a friend, with what I read on the net and with the availability of medications. Sometimes I would be able to get the injection and I would inject myself, and other times I wouldn’t. Sometimes I had headaches and I didn’t know why I was taking the medicine.”

In 2012, the Universidad Colegio Mayor de Cundinamarca undertook a study in a neighborhood in Bogota, largely populated with trans women who undertake sex work.⁸⁴ The results revealed that 96% of the trans women interviewed affirmed that, at least once in their lives, they had resorted to informal and non-medical mechanisms to

⁸³ PAIIS, et. al. From Forced Sterilization to Forced Psychiatry: Report On Violations Of The Human Rights Of Women With Disabilities And Transgender Persons. See supra note 57.

⁸⁴ ESPITIA PACHÓN, Natalia and PERALTA CRUZ, Karen. Cuerpos que gritan: transformaciones corporales de mujeres transgénero [Screaming bodies: the body transformation of trans women], Bogota. Universidad Colegio Mayor de Cundinamarca, 2012.

transform their bodies. Some 35.4% had done so in a friend's house, 13.8% in other places such as clandestine clinics or beauty parlors, and 26.2% in countries such as Ecuador or Italy. Some 62% of the women had repeated such practices more than once and some of the interviewees had subjected themselves to such procedures up to four times.⁸⁵ Without access to safe, accessible and adequate body transformation services, trans people are obliged to subject themselves to unsafe procedures that put their health and lives seriously at risk. In an interview, former director of the Program for Equality and Social Inclusion Program (PAIIS) at Universidad de los Andes in Bogotá,⁸⁶ Andrea Parra, affirmed that:

“The problem with body transformations is that, in some cases, insurers reject them despite the fact that the psychiatrist has established a case of gender dysphoria. One of the most serious problems is the use of industrial silicone, which, when complications arise, leads to serious infections. Trans people are generally not attended to in ER, so there are cases whereby these women die through lack of medical attention.”⁸⁷

The Entre Tránsitos collective⁸⁸ has found

⁸⁵ Ibid.

⁸⁶ PAIIS is the Action for Equality and Social Inclusion Program pertaining to the Law School at Universidad de los Andes. PAIIS is a legal advisory service for public interest law, focusing on disability, old age, and gender and sexual diversity. PAIIS was founded in 2007, and Professor Andrea Parra Fonseca was the director of the Program (since 2011) until January 2016.

⁸⁷ Andrea Parra. Interview for Outright Action International, 2014.

⁸⁸ Entre Tránsitos' mission is “the transformation, in the political, cultural and social arenas, of the conventional stereotypes of masculinity, making visible the life experiences of trans people in Colombia.” To do this, the collective posi-

that, currently, accepting pathologization is the only way to undergo a safe transition in Colombia, given that it is the only way to have access to medical professionals. A number of trans people who have been able to successfully transition under medical supervision had to subject themselves to a psychiatric evaluation in order to determine whether they can be diagnosed with “gender dysphoria”.

STUDY CONCLUSIONS:

1. Trans people report greater discrimination in accessing health services (83.09% for identified discrimination and 25.72% for declared discrimination).
2. Trans people, among LGBT people, are least likely to go to hospitals or health providers.
3. With respect to medical attention, those who least received it when required are trans people (43.84%), representing the only group above the average within the LGBT community.

PAIIS sent rights of petition to eleven EPSs (Entidades Prestadoras de Salud) in order to obtain information about the process that a trans person has to undergo to achieve body transformation. The Health Ministry only answered half of the questions asked. Their answers determined that the “users with gender dysphoria (...) who decide to undergo a sex change process, must cover their costs with their own finances, as EPSs are not obliged to finance such a process. However, EPSs do cover any psychological or psychiatric attention that

tions “identity, corporality, and sexuality in transit that have been silenced throughout history. We claim new expressions of enjoyment through creative and critical disobedience.” For more information, see: <http://entretransitos.org/>

the patient may require for emotional or mental disorders (psychotherapy, psychology and psychiatry) identified in Art.17 of Agreement 029 of 2011.”⁸⁹

In general, the existing perception is that “to be able to undergo the process with the health service, trans people have to have lived as trans for two years and the first operation [for a trans man] must be that of a hysterectomy,”⁹⁰ which leads to:

“Self-hormonization: what works for a friend, could work for me. I used to combine what I heard from a friend, with what I read on the net and with the availability of medications. Sometimes I would be able to get the injection and I would inject myself, and other times I wouldn’t. Sometimes I had headaches and I didn’t know why I was taking the medicine. A very irresponsible way of taking these medicines that gave me quite a few health problems.”⁹¹

In sum, the information received by PAIIS⁹² on the processes that a trans person must follow in the health system in order to access body transformation procedures is irregular. There are no unified or official criteria to determine the process: all the EPSs to which PAIIS sent rights of petition, affirmed that the procedures were not covered by the POS. But some EPSs

did cover the hysterectomy, although they affirmed having done so only and exclusively because of gynecological problems. In addition, they affirmed that if a trans person without functional problems requires this service, they cannot access the aforementioned service through the EPS.⁹³

Undoubtedly, the issuance of Decree 1227 – which allows changes to registered sex in ID documents for adults with a simple declaration of will – is an important step forward in the recognition of the rights of trans people.

The same study revealed that the EPSs do not have standardized internal procedures that allow them, for example, to refer a trans patient to a group of specialists. In regard to this, the EPSs affirm not being obliged to practice such interventions given that such “cosmetic procedures” are not contemplated in the POS. On the other hand, they also recognized that there are no specific rules in the diagnosis of gender dysphoria disorder, and that they don’t have registration data or systems for the body transformation of trans people.⁹⁴

The Constitutional Court has not only pronounced itself on the obligation to provide health services, but also on (and against) the pathologization. In the first case it heard on the denial of sex reassignment, it clarified that in no way can it be considered that “transgenderism

⁸⁹ PAIIS. p. 56. See supra note 57.

⁹⁰ Tak Combative, interview for Outright Action International. See supra note 78.

⁹¹ Natalia, 31, Interview for Outright Action International in Bogota, November 2014.

⁹² Programa de Acción por la Igualdad y la Inclusión Social – PAIIS [Program for Equality and Social Inclusion] pertaining to the Law School at Universidad de los Andes in Bogotá. PAIIS is co-author of this report and operates as a legal clinic for public interest law, focusing on disability, senior citizenship, gender and sexual diversity.

⁹³ PAIIS. p. 56. See supra note 57.

⁹⁴ Ibid.

(sic) constitutes a disease or a psychiatric category, nor that it requires a diagnosis of gender dysphoria to access identity-related health services.”⁹⁵ In another case, it ordered the EPS to authorize the surgery and any “other medical procedures necessary.”⁹⁶

Training and Information

There are three types of problems around training and information in relation to health services for trans people. First, the lack of professional training of health service providers on trans-related topics, and their tendency to associate the health issues of trans people with HIV-AIDS. Second, the absence of information on State-run health services.⁹⁷ Third, the State’s lack of information regarding trans people, which makes it difficult to identify and design strategies that can facilitate access to services.⁹⁸

To solve the first problem, the Entre Tránsitos Collective produced “good health practices guidelines.”⁹⁹ The Bogota City Hall, for its part, through Bulletin No.25 of 2010,¹⁰⁰ revealed the discrimination that can take place or be perceived in the health sector, in order to determine whether actions had been adopted in the country’s capital to stop it.

⁹⁵ COLOMBIAN CONSTITUTIONAL COURT. Decision T-918 of 2012. See supra note 23.

⁹⁶ COLOMBIAN CONSTITUTIONAL COURT. Decision T - 876 of 2012. See supra note 66.

⁹⁷ See testimonials in, *¡A mí me sacaron volada of allá!: Relatos of trans women desplazadas forzosamente hacia Bogotá* [They drove me out of there fast! Stories of trans women forcibly displaced to Bogotá]. P. 176. Op. Cit., see supra note 51.

⁹⁸ PAIIS. p. 27 See supra note 57.

⁹⁹ Tak Combative, Interview for Outright Action International, see supra note 74. The Good Practices document is filed with Outright Action International.

¹⁰⁰ BOGOTA CITY HALL. PLANNING DEPARTMENT. p. 26. See supra note 40.

The data from this Bogota City Hall study show that 87.95% of the total number of LGBT people interviewed resort to alternative health therapy centers or health institutions in order to see professionals in the field. According to the results, gay men had the greatest access to health services, with a percentage of 93%, while trans people use such services the least, with a percentage of 82.46%.¹⁰¹ What the study shows is that even when they are seen, there are many situations in which trans people don’t receive services that are adequate for their needs. This is due to multiple reasons, which include, among others: the lack of appropriate legal identification, discrimination by medical personnel, and difficult access to hormone treatment or similar medications.

Another particularity of the lack of training for health service providers is the relationship they establish between gender identity and HIV-AIDS.¹⁰² According to Bulletin 25 by Bogotá Humana, health service providers consider that treating trans patients is not easy and that one of the main difficulties is their belief that they may be infected with HIV-AIDS.¹⁰³

The effects of such limitations in terms of trans people’s enjoyment of the right to health were recorded as a baseline study for the public policy to guarantee the full rights of LGBT.¹⁰⁴ The study gathered information pertaining to the legal situation, social context, and administrative capacity to guarantee the enjoyment of the right to health by LGBT people in Bogotá.¹⁰⁵

¹⁰¹ Ibid. P. 27.

¹⁰² Ibid.

¹⁰³ Ibid

¹⁰⁴ Ibid

¹⁰⁵ LOZANO RUIZ, Lina. p. 264. See supra note 51.



Recommendations

In conclusion, this report has shown that, despite Colombia having a robust legal framework with a Constitutional Court that has upheld and advanced the rights of trans people, there are still many obstacles in the way of trans people enjoying and exercising their rights in practice.

Such difficulties may be cultural, administrative, and, to a lesser extent, legal.

Undoubtedly, the issuance of Decree 1227 – which allows changes to registered sex in ID documents for adults with a simple declaration of will – is an important step forward in the recognition of the rights of trans people. The fact that this decree was issued following advocacy by Aquelarre Trans and other organizations shows that trans people in Colombia are demanding their rights and exercising political pressure.

PAIIS, Aquelarre Trans and Outright Action International make the following recommendations to the Colombian authorities, to improve respect for the human rights of trans people in the areas considered in this report:

Human Rights Framework

- Provide explicit legal protection against discrimination on grounds of gender identity and expression in all areas;
- Develop and implement an integrated policy to raise public awareness of transgender identities, and transgender people's problems and needs, including providing guidance to media on avoiding the use of stereotypes in relation to gender identity, and promoting tolerance and the acceptance of diversity of gender;

Legal Gender Recognition

- Take all necessary legislative, administrative and other measures to fully respect and legally recognize each person's self-defined gender identity;
- Develop, enact and implement a comprehensive legislative system for recognizing gender identity to reflect decisions of the Constitutional Court, with a law allowing transgender people to obtain legal recognition of their gender to change their legal name and gender, including the gender markers on official documents issued by the state, through a quick, accessible and transparent procedure, in accordance with the individual's sense of gender identity;
- Provide clear guidance and training to all State employees, and in particular front line service providers, on gender identity, on ending discrimination based on SOGI and on decree 1227 of 2015 and any other new measures taken allowing transgender people to obtain legal recognition of their gender;
- In accordance with Constitutional Court decision T-099 of 2015, design and implement a protocol for the definition of the military situation of trans people, in order for their gender identities to be recognized and for those who want to provide military service to be protected;

Education

- Borrowing from Principle 16 of the Yogyakarta Principles, continue to take all necessary legislative, administrative and other measures to ensure equal access to education, and equal treatment of students, staff and teachers within the education system, without discrimination on the basis of gender identity;
- Borrowing from Principle 16 of the Yogyakarta Principles, ensure that education methods, curricula and resources serve to enhance understanding of and respect for gender identities, including the particular needs of students, their parents and family members;
- Borrowing from Principle 16 of the Yogyakarta Principles, ensure that laws and policies provide adequate protection for students, staff and teachers of different gender identities against all forms of social exclusion and violence within the school environment, including bullying and harassment;

Work

- Borrowing from Principle 12 of the Yogyakarta Principles, take all necessary legislative, administrative and other measures to eliminate and prohibit discrimination on the basis of gender identity in public and private employment, including in relation to vocational training,

recruitment, promotion, dismissal, conditions of employment and remuneration;

- Include in awareness raising initiatives activities to counter discriminatory attitudes around trans people in the work place and “transexualized work”;

Health

- Borrowing from Principle 17 of the Yogyakarta Principles, facilitate access by those seeking body modifications related to gender reassignment to competent, non-discriminatory treatment, care and support;
- Eliminate pathologization and psychiatrization, and forced sterilization, as requirements for accessing transition and gender reassignment medical procedures; and
- Borrowing from Principle 17 of the Yogyakarta Principles, and utilizing the Entre Tránsitos Collective’s “good health practices guidelines”, adopt the policies, and programs of education and training, necessary to enable persons working in the healthcare sector to deliver the highest attainable standard of healthcare to all persons, with full respect for each person’s gender identity.



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