

COLOMBIA DIVERSA: HUMAN RIGHTS SITUATION FOR LESBIAN, GAY, BISEXUAL AND TRANSGENDER PERSONS IN COLOMBIA—2005 REPORT

Summary

1. What is the report for LGBT persons in Colombia?

This report gathers and analyzes information and cases concerning human rights violations against LGBT persons in Colombia, which occurred in the years 2004 and 2005. In an investigation of 5 Colombian cities—Bogotá, Medellín, Cali, Bucaramanga and Montería—Colombia Diversa identified the major human rights concerns for LGBT persons: homophobic violence, political abuse, prison abuse, discrimination concerning economic, social and cultural rights, and conditions concerning LGBT couples and families.

2. Why write a report concerning the state of affairs for LGBT persons?

1. To provide real and objective evidence detailing human rights violations against LGBT persons, and to use this information to create investigative reports, in pursuit and formulation of public policies.
2. Because no governmental institution, not even the civil society, monitors the conditions of human rights for LGBT persons.
3. To take effective steps that guarantee and effectively protect the rights of LGBT persons.

3. Who are LGBT persons and why are their rights important?

LGBT persons should enjoy the same rights that others enjoy. However, due to a historical discrimination that has created a high degree of social intolerance, special protections by the State are necessary in order to realize an equilibrium and effective equality with the rest of the population. For the protection, security and respect of LGBT persons' rights, we must also take into account the identities of every person: age, sex, ethnic origin and their economic and cultural conditions, since these factors might aggravate or have distinct implications when pertaining to violations of human rights in this population.

Invisibility and Human Rights

Human rights conditions for LGBT persons in Colombia are characterized by a profound invisibility that surrounds these persons. The invisibility we refer to is that which translates itself into an almost complete unawareness of rights for this population, in the lack of existing information and the lack of interest, at a state level, and in some sectors of society. This creates a cyclical relationship between the invisibility of LGBT persons and their rights and needs, human rights violations against this population and an absence of inclusive public policies.

5. Primary Findings in this Report

- In Colombia there are continuous violations against the human rights of LGBT persons. These violations are a product of discrimination, prejudice and exclusion, which affect this society in different magnitudes and which create repercussions over all spheres of LGBT life.

- The State lacks figures, statistics, population studies and special programs designed for the protection of the rights of LGBT persons in Colombia.
- Constitutional appeal and jurisprudence of the Constitutional Court have become the only recourses available to LGBT persons to protecting their rights, and even so, this has not been sufficient in many cases. An obvious distance exists between our social reality and the material regulations of human rights. This distance demands the creation of adequate regulations, the implementation of policies and programs and, finally, the unmistakable political support for the protection of the human rights of LGBT persons.

Situations of Concern

- **Homophobic Violence:** in various areas around the country acts and threats of homophobic violence have been detected, such as crimes committed against gay men in Bogotá, acts of violence due to intolerance or “social cleansing” in distinct cities of the country, especially against transgender persons, and the cruel treatment of LGBT persons in the military forces.
- **Police Abuse:** information has been reported regarding the arbitrary detention of people, the motives for which were sexual orientation or gender identities of the detained. In addition, we have identified incidents of selective application of the law, that is, abusive acts committed against LGBT persons in seemingly routine operations, such that the applications of prejudices against LGBT persons, committed by members of the National Police of Colombia, are used in order to restrict LGBT persons’ access to and circulation in public spaces.
- **Jail Situation for LGBT Persons:** we present information and analyses concerning the situation of LGBT persons confined in Colombian jails, demonstrating grave acts of violations of human rights such as sexual abuse, cruel treatment and the repression of sexual identity. LGBT persons deprived of liberty are subjects exposed to suffer human rights violations in imprisonment centers, due to the social stigmatization and discrimination that weighs upon them.
- **Discrimination in Economic, Social and Cultural Rights:** we present situations and information concerning discrimination and its relationship towards access, quality and enjoyment of the rights of LGBT persons. Regarding the right to work, cases have been found concerning dismissals based on sexual orientation and gender identity, pressure to change or conceal sexual identity. Regarding the right to education, we have found coexistence manuals or domestic rules in education institutions that even penalize “homosexuality”; sanctions in education institutions by reason of sexual orientation and gender identity and, in general, manifestations of an inadequate education system for LGBT persons. On the subject of rights to health, it has been concluded that health services are not adequate nor are they appropriate, particularly when dealing with the needs of transgender persons. They are also inadequate for attending to the needs and rights of lesbian and bisexual women, particularly when dealing with sexual health. Finally, we document a specific discrimination that refers to the prohibition of LGBT persons being blood donors.
- **Situation for LGBT Couples and Families:** The family can be the first stage of exclusion and violence for an LGBT person. The State does not create measures for the protection of children and adolescents with diverse gender and sexual identities. In other areas, there exists an obvious legal discrimination against same sex couples, which does not recognize the same rights that heterosexual couples have nor does it grant them the fullness of those rights.

2005 High Commissioned Report on Human Rights

“Lesbians, gays, bisexuals and transgender persons were victims of homicide and threats for the sake of “social cleansing.” In general the results of investigations to identify those responsible are insufficient. There were also victims of arbitrary detention and cruel treatment, inhuman or humiliating on the part of members of the police. Also, there have been reports of harassment against homosexual persons by members of illegally armed groups. One can observe the absence specific public policies that would prevent and penalize these acts and that would eliminate discrimination against these persons, especially in education institutions, in the labor force, in police institutions and in imprisonment centers.”

6. Recommendations

The State’s omission and indifference towards the rights of LGBT persons, the absence of public policies that fight discrimination, and institutions’ nonexistent or inefficient procedures perpetuate discrimination and prejudice, and in this manner legitimize or produce violations of human rights against this population.

For this reason, the national government, local governments and public institutions should design and implement integral public policies that guarantee equality and an absence of discrimination against LGBT persons. Recommended are measures such as the approval of legal frameworks that permit the creation of these policies, education campaigns and the raising of community awareness, civil servant training and the elimination of institutional obstacles that prevent the enjoyment of human rights.

Priority Recommendations

Information

Establish a state statistical system, or better regulate the existing systems, in order to adequately collect information concerning the violations of human rights against LGBT persons.

Investigation and Punishment

The government and public institutions, especially the Nation’s General Public Prosecutor’s Office, the Attorney General of the Nation, and the Office of the People’s Advocate should adopt effective measures that prevent and investigate acts of violence and discrimination against LGBT persons.

Normative Changes

Congress should adopt rules to protect the rights of LGBT persons, such as a statute that fully guarantees rights, equality and the lack of discrimination in all social and cultural spheres, and that additionally contains affirmative actions and protective, preventative and penal measures. Additionally, there is an urgent need for the introduction of normative changes that guarantee the same equality of rights for same-sex partners that heterosexual partners have.

Judges and in particular the **high courts** ought to guarantee effectively the rights of LGBT persons, bearing in mind the Constitutional Policy, the treatise on human rights and the interpretation that would be most favorable for the validity and the highest protection of these rights.

Relationship with the Authorities

The national government and public institutions should designate a high-ranking civil servant to be in charge of the watching over and the following through and promotion of the rights of LGBT persons.

Relationships with Social Movements and International Organizations

The movement and LGBT activists should continue producing works that denounce the human rights situation in this population.

The human rights movement, the women's movement and the social movement should make visible in their social demands and acts of investigation: their continued work, their reports and accusations, and the violations of human rights that are related to sexual orientation and gender identity.

We recommend that the accredited diplomatic representation in Colombia pursue with attentiveness the human rights situation for LGBT persons, and that this representation establish dialogue with the State and the civil society, with the objective of finding reconciliations and consensuses concerning the human rights situation in this population.

We invite the Office of the High Commissioner for Human Rights and the international monitoring mechanisms of human rights (special clerks and work groups, among others) to continue with their investigative and follow-up work in the human rights situation for LGBT persons in Colombia.

Colombia Diversa is a nongovernmental organization that works for the rights of lesbians, gays, bisexuals and transgender persons (LGBT persons) in Colombia.

Our Mission

To promote the full inclusion, the respect and integrality of the rights, the recognition and the mobilization of LGBT persons in the economic, social, political and cultural spheres, with the objective of contributing to the construction of a democratic, modern and socially just society.

Our Objectives

- To promote the popularization, the defense and the development of rights for LGBT persons.
- To positively change imaginary and cultural practices with respect to LGBT persons.
- To promote the organization and capacity for political action in the LGBT community.

Contact Information

Marcela Sánchez Buitrago: Executive Director, Colombia Diversa.

Tel.:(+57 – 1) 4831237 Fax: (+57 – 1) 2880393. Mobile: 3103495244.

www.colombiadiversa.org. Email: malbarracin@colombiadiversa.org.