



# Report

**ON THE ECONOMIC, SOCIAL  
AND CULTURAL RIGHTS OF  
THE TRANSGENDER  
POPULATION OF LATIN  
AMERICA AND THE CARIBBEAN**



December 2014



## A SPECIAL THANKS.

This report on the investigation into the access that the transgender population has to economic, social and cultural rights in Latin America and the Caribbean was greatly helped by REDLACTRANS GENDER and the consultants María Rachid y Flavia Massenzio, known for their role as activists for human rights for the LGBT community.

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<sup>1</sup> Lesbianas, gays, bisexuales y transgender .

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# 1.PRESENTATION

This document was created as a tool with the intent to reflect the actual state of violations of economic, social and cultural rights (DESC) in certain states – through the omission or action of the governments and the frameworks of each of these – in regards to the transgender population. A sample of countries have been used, the document focuses on the transgender population's access to DESC in **Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, El Salvador, Guatemala, Honduras, México, Nicaragua, Panamá, Paraguay, Perú, República Dominicana y Uruguay.**

The objective of this report is to detect the impact that DESC violations have on the lives of transgender people, specifically their access to education, housing and food, participation in cultural life, the conditions of fair employment and social security.

## 1.1.

### **REDLACTRANS GENDER**

REDLACTRANS GENDER is a network of organizations for the transgender community, available in sixteen countries in Latin America and the Caribbean. There is a regional headquarters based in the City of Buenos Aires, Argentina. Their objective is to increase the visibility of the transgender population in Latin America and the Caribbean through the active and effective participation in providing information, through the drive for more research and information, a for the transgender population to make the decisions and implement public policies in the areas that effect them.



## 2. INTRODUCTION

The DESC constitute a guarantee that a citizen can fully exercise their rights.

These rights are interdependent with other more well know human rights, like in the case of the right to life, it is hard to understand how the right to life simply means the right to subsist over time. Contrary to this, the concept of 'dignified life' – intrinsically bound with DESC, which includes the right to dignified work, the highest level of health possible, a level of social security, an education, a participation in the cultural lifestyle, to a home, to food, amongst others – is a complete life full of meaning, whereas the other meaning is a empty concept. In reality, life is for living, with everything that the concept implies.

Unfortunately, at this great height of evolution and development of human rights on a global and regional level, there are still alarming some facts, there still are many cases of violence, neglect, prohibition and lack of recognition for the rights of the transgender population. This has a dramatic and powerful consequence, half-way though the second decade of the 21<sup>st</sup> century this group is still vulnerable and has a life expectation of only between thirty-five and forty years.

It should be emphasized that these numbers are real and accurate data that has been achieved through various studies and research at different times, all the data is conclusive and supports these alarming figures.

Because of this, we have to ask the question why: why does one group of people end up with a lower life expectancy than another?

Between the many answers that we can write, without a doubt what stands out is the lack of access to the DESC rights. The answer is the amplified and conclusive proof that reflects the exclusion of violence, discrimination, stigma and marginalization that transgender people suffer in this part of the world; an unacceptable rejection of the right to a dignified life.

### 3. RESEARCH METHODOLOGY

In this investigation we turned to diverse sources to compile information, to deepen prior knowledge, and to validate the findings and main concepts presented by the information.

On the one hand, first-hand information was gathered through surveys, interviews and meetings with regional and transgender activists from organizations that promote the rights of transgender people people.

On the other hand, we turned to several previous reports made by organizations that referenced countries by region and international organizations and research centers.

Finally, the information collected and the conclusions found concerning the transgender population were validated by transgender people in the region (specifically by REDLACTRANSFEMINIST ) and with international agencies.

Undoubtedly in cases such as the transgender population, they resort to organizations of civil society, and their recommendations, and through them/ others/ members of the group – constituting the ‘snowball’ methodology- is an important and advantageous method. Who could explain better the scope of the violation of rights and the best way to address the reality and work to change than others of the transgender community who have their stories of exclusion, discrimination, stigmatization and denial of the most basic rights.

It should be observed that the role of transgender people and their voice, as well as transgender organisations has been vital in creating this report. It should be noted that in some cases names may have been changed in order to protect the identities of those interviews, in response to certain situations of risk that vary throughout the region.



## 4. THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS OF THE TRANSGENDER POPULATION

### 4.1. The state of the economic, social and cultural rights in Latin America and the Caribbean. The social context of the transgender population by region.

The regions of Latin America and the Caribbean are well known for their contrast, not only between the countries, but also by the enormous structural inequalities within their societies. “All countries in the region are characterized by wide disparities in levels of income and consumption, access to education, land, utilities and other socioeconomic variables. Inequality is widespread in the region.”<sup>3</sup>

Thus, while Latin America and the Caribbean are not the regions with the highest levels of poverty and destitution (although they are still high) the enormous inequalities generate structural poverty which is difficult to solve without active and strategic intervention by governments of states.

In the recent years trends have changed in regard to these inequalities; they began to decline in several countries in the region following significant increases in the 1980s and 1990s<sup>4</sup>. This is thanks to the efforts of several countries in the region that have claimed the state's role in the planning and organization of the national economies and have implemented economic and social programs, and policies aimed at reducing the levels of inequality.

However, the levels of inequality remain high (despite the lack of specific studies) and it is evident that most of the transgender population occupies the lower percentages of income levels and consumption - as will be shown in this report – they also encounter the difficult situations in regard to education, housing, employment and other DESC.

From this point of view – and as will be argued further on- the implementation of specific policies focused on the promotion of the DESC of transgender people – including social security – it is a necessary and urgent –although not according to the governments of the region – to overcome the extreme violation of rights, poverty and the marginalization of this population.

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<sup>3</sup> Gasparini, Cruces y Tornarolli (2009). (La traducción es nuestra).

<sup>4</sup> Ídem.

This necessity has not been recognised by the majority of the regulatory frameworks of the states of the region. For instance, most countries do not have legislation that protects transgender gender discrimination (either in general or in access to education, employment or other DESC), in regards to both the recognition of a self-perceived gender identity and to the guarantee of their right to sex reassignment surgery or other medical procedures for the construction of gender expression and the preservation of their overall health.

The transgender population of the entire region faces a social situation that at best can be described as 'very worrying' and in most countries is downright 'critical.' Even in countries that recently implemented laws that recognise human rights in general (DESC in particular) of transgender people – including those that promote active public policies – the situation is still serious following decades of exclusion.

*“The lack of personal documents according to self-perceived gender identity, discrimination, violence and strong barriers in access to health care in general – sex reassignment surgery and hormone therapy in particular – that the majority of transgender people in Latin America face, has led to a status quo that cannot be improved without a clear implementation of decisive public policies to promote the rights of this population. For the majority of the transgender population, health systems have only been a place to go in critical situations, and often too late. The education system has excluded them through discrimination, verbal and physical violence and the lack of a suitable accompaniment. The deficit in housing, which most often affects broad sectors of the population is standard practice for a group of people who are often abandoned by their families and expelled from their home at a very young age. Access to work – even informal and badly paid jobs – has been for most just a dream; those who dare to try face discrimination, both for not finishing with basic studies and for not having documentation that is consistent with their gender expression. For the majority of transgender women sex work has not been one option, it has been the only option, and even those who consider sex work to be a personal choice, most countries lack adequate recognition and protection by the state.”<sup>5</sup>*

This description is far from sensationalized, it shows the complex reality of the transgender population, and may serve to help us understand why non-governmental organizations and LGBT activists speak about the urgency and need for the participation of civil society in the implementation of public policies that allow for the recognition of gender identity, access to health service and other policies related to the transgender population and access to DESC, in order to meet any new conditions and difficulties that may arise.

<sup>5</sup> Nasif Salum y Rachid (2014). (La traducción es nuestra).

It is noteworthy that Argentina, Uruguay and the Federal District of Mexico has approved two laws on the recognition of gender identity, with notable differences. In the rest of the region there is no specific legislation in effect and, in the best case, transgender people have to litigate in the courts so that these human rights can eventually be recognised for them.

Also noteworthy are the cases of those countries and districts with previous laws, define and / or sanction discrimination based on gender identity or expression. The most notorious cases are Ecuador and Bolivia, two countries that comprehensively reformed their national constitutions in recent years and included protection against discrimination based on sexual orientation and gender identity (although they also added some clauses that try to hinder the recognition of marriage between people of the same sex).

At the same time, other countries and districts have national and local laws for the prevention and eradication of discrimination. The extent to which 'gender identity' is recognised as a discriminatory pretext ranges from cases such as Law 20.609 of Chile, which explicitly protects against discrimination based on that pretext, or Law 17.817 of Uruguay (which refers to 'sexual identity or sexual orientation') to cases such as in Mexico where the *Federal Law to Prevent and Eliminate Discrimination* only mentions sex, gender or sexual preference, or even the Law 23.592 of Argentina that does not include an explicit reference to LGBT people, but leaves room for interpretation that includes these groups, (and has been applied in this way by both the administration and the courts for many years already.)

On occasion, even though there may be no explicit rules against discrimination in general towards transgender people, there may be more specific legislation that provides protection on some level. This is the case for the Argentine Penal Code, where Article 80 considers aggravating the circumstance of some of the major crimes that are committed are because of hatred on grounds of "sexual orientation, gender identity or expression."

It is easy to see the importance that LGBT activists give to the so called 'right identity' (ie in the case of transgender people, the right to the recognition of self-perceive gender-identity) and this importance is also reflected in this report. Along the same lines, it is increasingly clear that while this law itself is not one of the DESC recognised treaties, recognition of gender identity on the part of the states is a necessary condition for full access to the right to health, education or decent work to name a few. In terms of the proposed campaign "Derecha de Ser" (Right to Be) the Argentina Federation for Lesbian, Gay, Bisexual and Transgender (FALGBT) and the Association for Transgender vestites, Transgender exuals and Transgender geder Argentina (ATTA): which push for the 'right to all rights.'

guatemala<sup>6</sup>

**«SOMOS COMO INMIGRANTES INDOCUMENTADAS EN NUESTROS  
PROPIOS PAÍSES».**

**JOHANA RAMÍREZ, REDLACTRANS, GUATEMALA <sup>6</sup>**

#### **4.2. The fight for access to economic, social and cultural rights.**

In response to the social context of the situation, described in relation to the transgender population in Latin America and the Caribbean, the struggle for access to DESC is represented in the struggle for state recognition of self-perceived gender identity, rights that activists and advocates for transgender people see as fundamental to access other rights. It is, therefore, key to ensuring access to all DESC.

Of course marginalization, discrimination and violence towards the transgender population is not recent, however, it is evident that in recent years there has been a stronger visibility of the transgender population coupled with a strong claim for recognition and protection of their rights that have been violated historically.

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<sup>6</sup> Audiencias temáticas ante la Comisión Interamericana de Derechos Humanos, Octubre de 2011.

Uruguay, Argentina and the Federal District of Mexico have been the pioneers of the region. Argentina in particular has managed to become known as having the best law of identity in the world, and is the first of its kind that does not require any medical or psychiatric diagnosis<sup>7</sup>, and ensures that the registration to change your official information is simple and free and even incorporates mechanisms for recognition of gender identity for young and adolescent transgender girls and boys.

Of course, these historical facts were and are a driving force to urge recognition for the right to gender identity throughout Latin America and the Caribbean.

The great difficulty that is encountered in this process and struggle for the right to gain recognition of self-perceived gender identity, is that there are few official statistics on the situation facing the transgender population in general: the little information available is often linked to health issues, more specifically to HIV and other sexually transmitted infections (STIs). Moreover, until a few years ago the population was comprised of transgender women, without distinction between so-called 'MSM' (men who have sex with men) and the various other transgender groups that are either directly ignored or unknown.

As mentioned, various estimates have determined that, for example, in Argentina the average life of a transgender woman is only thirty-five years old, no doubt as a result of the everyday situations of exclusion, discrimination, segregation and violence that have suffered. The prevalence of HIV/AIDS in the transgender population in Argentina is, in fact, 34%<sup>8</sup>.

In such a dramatic situation, it is expected that even a deeply suppressed and excluded population should try to organise to claim the right to survive. Undoubtedly, the social reality and the political situation is very different in each of the states in the region, and analysis can determine why some countries have advanced by including these rights in their domestic legislation and others are still – more or less- in the process of advancing.

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<sup>7</sup> PNUD (2014a).

<sup>8</sup> «*Síntesis epidemiológica*». Dirección de sida y ETS, Argentina. <http://www.msal.gov.ar/sida/index.php/comunicacion/informacion-para-periodistas/sintesis-epidemiologica#sintesis>



*«Durante el trabajo se relevaron 420 nombres de amigas “El derecho a la vida y a la identidad son pilares de los Derechos Humanos, no podemos acceder a los Derechos Humanos si no tenemos definida nuestra identidad. La aprobación de la Ley de Identidad de Género tiene fundamentos que se basan en las actividades de la vida cotidiana, por ejemplo, el derecho al acceso a la educación, a realizar trámites con un DNI que dé cuenta de la identidad que expresan, a internarse en la sección de mujeres de un hospital, a acceder a un tratamiento de hormonas si así lo requieren”*

*Señaló Claudia Pía Baudracco, coordinadora nacional de ATTTA.*

In 2014, Argentina approved the amendment of its domestic legislation to define a legal process by which all transgender persons can obtain new birth certificates that reflects the gender identity. This implies, however, that every transgender person requiring legal recognition of their gender identity must have the financial resources to pay for the judicial process (legal expenses and professional fees) plus undergo a probationary process of gender identity, which may include skills and medical, psychological, psychiatric and socio-environmental studies. This makes it a cumbersome process, which would take a long time (six months to two years) and not financially accessible to most of the transgender population.<sup>10</sup>

Thanks to the constant work of organizations of sexual diversity, and following Argentina's law, in 2014 the Legislative Assembly of the Federal District amended the 2008 legislation and replaced the cumbersome judicial process with a simple administrative process which takes place before the Civil Registry, where someone can obtain a birth certificate that respects and recognises their gender identity without undergoing outrageous or pathologizing diagnostic tests,

#### • ATTTA (2005)

<sup>10</sup> «Anuncia GDF iniciativa para facilitar trámites de cambio de identidad a personas transgender género».

NotieSe,

22/3/2014. [http://www.notiese.org/notiese.php?ctn\\_id=7299](http://www.notiese.org/notiese.php?ctn_id=7299)

<sup>11</sup> «Aprueba ALDF cambio de identidad de género a personas transgender exuales». Asamblea Legislativa del Distrito

Federal, 13/11/2014. <http://www.aldf.gob.mx/comsoc-aprueba-aldf-cambio-identidad-genero-personas-transgender-exuales--19980.html>



In 2009, the Oriental Republic of Uruguay became the first Latin American country with a Gender Identity Law. The law provides for judicial proceedings by which all transgender persons may request that their registration date be adapted to be accordant with their gender identity. (Law 18.620 of 25/10/2009)<sup>12</sup>.

Similarly, in 2003 Argentina's government made history by accepting human rights entirely, and began the process of propelling public policies for the promotion of defense sectors for marginalised populations. Of course, in the context the transgender population was soon heard.

As part of this process, the Argentine government convened for the first time to organize themselves in discussing sexual diversity, this came to be called the National Plan Against Discrimination approved by decree 1086 in the year 2005.

From there, valuable recognitions were made in relation to the protection of the rights of the LGBT community. From a protocol ensuring transgender people's access to the health system, to the Equal Marriage Act (Law 26.618 2010), that led to the adoption of the Gender Identity Law in 2012 (Law 26.743).<sup>13</sup>

It should be noted that in the Argentine process, the adoption of the Law on Equal Marriage radically changed the social reception of the request for recognition of identity and gender expression, namely, that a fresh debate in society about the recognition of the rights of the LGBT population in general - and more specifically couples of the same sex and their families – paved the way for establishing the discourse of the Gender Identity Law and its urgency.

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<sup>12</sup> Centro de Información Oficial, Uruguay. [http://www.impo.com.uy/lenguaje\\_c/pdf/derecho\\_idgenero.pdf](http://www.impo.com.uy/lenguaje_c/pdf/derecho_idgenero.pdf)

<sup>13</sup> Texto de la ley disponible en <http://www.infoleg.gov.ar/infolegInternet/anexos/195000-199999/197860/norma.htm>

**«NO TENER UN DNI SIGNIFICA PARA NOSOTRAS LA NEGACIÓN DEL DERECHO BÁSICO A LA IDENTIDAD. ADEMÁS DEL DAÑO MORAL QUE ESTO OCASIONA, NOS IMPIDE MUCHAS VECES ACCEDER AL SISTEMA DE SALUD, NOS EXPULSA DEL SISTEMA EDUCATIVO, NOS IMPIDE CONSEGUIR TRABAJO O TENER APORTES JUBILATORIOS U OBRA SOCIAL, FIRMAR CONTRATOS... HASTA PARA VOTAR TENEMOS QUE HACERLO EN LA FILA DE VARONES EN MUCHAS PROVINCIAS LA POLICÍA NOS DETIENE, NOS ENCARCELA Y NOS MATA. PARA LAS PERSONAS TRANS, LA DEMOCRACIA TODAVÍA NO LLEGÓ. VIVIMOS COMO EN LA DICTADURA, BAJO LA SISTEMÁTICA VIOLACIÓN DE NUESTROS DERECHOS HUMANOS».**

**MARCELA ROMERO, COORDINADORA NACIONAL DE ATTTA Y LA REDLACTRANS Y SECRETARIA GENERAL DE LA FALGBT (2011)**

Certainly, in countries or districts that now have specific legislation on gender identity, the advances were preceded by a history of lawsuits seeking to ensure that right. In fact, this is the current state of affairs in many countries of the region. In most cases judges only allow official sex changes to those who have had sex reassignment surgery. This is what has happened for many years in Chile and more recently in Brazil, Colombia, and to a lesser extent in Ecuador.

Yet recently, a Brazilian court authorized a change registration for a person who was to have sex reassignment in a few months in Ecuador. In 2009, the case of a transgender women – Estrella Estevez – became a milestone in the recognition of gender identity, when the justice system ruled that she could be recognised as a women despite have not had a sex reassignment surgery. Moreover, in countries like Peru, changing your name to match your gender is sometimes accepted in court, but not the change of the gender itself<sup>14</sup>.

In all of these cases, it is essential to pay attention to the role of organisations of sexual diversity in these processes: the strategies they have developed, the use of language, communication, legal platforms, liaisons and coordinations with other actors of society. Using these tactics they took advantage of the historic opportunity and advocacy capacity to advance the consecration of rights.

Regarding diversity organizations in the region, the work activists, especially transgender activists needs to be \_\_\_\_\_

<sup>14</sup> Nasif Salum y Rachid (2014).

highlighted. In addition to the work they have carried out in their own countries in the defense and promotion of human rights in becoming true defenders, is the work they have done to create a strong international Network of Transgender People in Latin America and the Caribbean (REDLACTRANS) with which a mutual cooperation of resources and expertise resolutely drives the necessary processes for the approval of gender identity laws in each country of the region.



#### **4.3. The criminalization of the transgender identity as an obstacle to accessing human rights in Latin America and the Caribbean.**

As you'll notice with the information compiled as a result of field studies, the criminalization of the transgender identity in Latin America and the Caribbean is the greatest obstacle to the access of the population – as developed later in this report – to DESC. There are still several national or subnational laws that criminalize, to some extent, people based on their sexual orientation or gender identity or expression, which directly affects their freedom of movement and consequently their access to all DESC. These laws more or less explicitly reference transgender people, and allows analogous punitive security forces to make arrests, confiscations and generally allow leeway for extortion and abuse to occur. Worse, the conditions of detention and prosecution that often result from these procedures are contrary to basic principles of criminal law and the rules of international law in this matter.

País	Cuerpo normativo	Texto
Argentina	Ley 8431 - Código de Faltas de la Provincia de Córdoba (2003)	Capítulo Primero, artículo 42. Serán sancionados con multa de hasta cinco Unidades de Multa (5 UM) o arresto hasta diez (10) días, los que molestaren a otra persona, afectando su decoro personal, mediante gestos, palabras o graficaciones, en la vía pública, lugares de acceso público desde un lugar público o desde un lugar privado con trascendencia a terceros. La pena de arresto será de hasta de veinte (20) días si la víctima fuere menor de dieciséis años o si el hecho se produjere en horario nocturno, cualquiera fuere su edad. <sup>68</sup>
Honduras	Ley de Policía y Convivencia Social	La ley contiene varios términos ambiguos como “vago” y numerosas referencias a la “moralidad” que facilitan su interpretación arbitraria y discriminatoria.
El Salvador	Ordenanza para la Convivencia Ciudadana del Municipio de San Salvador	[Se establece como infracción grave:] Artículo 32. Ofrecer servicios de carácter sexual en lugares públicos o solicitar servicios sexuales de manera notoria o con escándalo que perturbe el orden público; y que aun estando en lugares privados, lesione la moral y las buenas costumbres, ofenda el pudor con desnudeces o por medio de palabras obscenas, gestos, actitudes o exhibiciones indecorosas, realice tocamientos impúdicos o asediar impertinente. <sup>69</sup>
Chile	Código Penal	Artículo 373. Los que de cualquier modo ofendieren el pudor o las buenas costumbres con hechos de grave escándalo o trascendencia, no comprendidos expresamente en otros artículos de este Código, sufrirán la pena de reclusión menor en sus grados mínimo a medio. <sup>70</sup>

Tabla 1. Ejemplos de normas que criminalizan a las personas transgener en Latinoamérica y el

Caribe.

Fuente: «La noche es otro país: impunidad y violencia contra mujeres transgener género defensoras de derechos humanos en América Latina».

REDLACTRANSGENER ; Alliance, what's preventing (2012).

In almost the whole region, even in countries where there are no explicit rules that penalize transgender people, this criminalization is still naturalized. It is so engrained in society and in the collective consciousness that even in countries with laws that guarantee and specifically protect the human rights of LGBT people, there is still scope for security forces to carry out practices that result in criminalization. This is particularly noticeable in the case of transgender people and even more with sex workers. As society continues to condemn and reinforce the stigma and discrimination, violence from the state remains possible by the complicit silence of other citizens and state workers.

It can be said that by ‘criminalization’ we mean not only the guilty actions of the state on the basis of laws where penalties are determined by sexual orientation or gender expression/identity, but also the social condemnation that transgender people suffer daily just for being who they are, condemnation which is the responsibility of the states, at least for the omission of international commitments to act against all forms of violence and discrimination.



**«SUFRI 189 PERSECUCIONES DE LAS FUERZAS DE SEGURIDAD POR APLICACIÓN DE LOS EDICTOS POLICIALES, Y EN DECENAS DE OPORTUNIDADES ESTUVE HASTA 21 DÍAS ENCARCELADA SIN PROCESO ALGUNO POR EL SOLO HECHO DE SER UNA MUJER TRANS Y VIVÍ SIENDO VÍCTIMA DE LA CONSTANTE Y PROFUNDA VIOLENCIA INSTITUCIONAL... ME ACOSTUMBRE A SALIR DE MI CASA TODOS LOS DÍAS CON UNA FRAZADA EN LA CARTERA PORQUE SEGURAMENTE TERMINABA DURMIENDO EN UN CALABOZO POR SER YANINA».**  
**YANINA MORENO.<sup>15</sup>**

Given this legal and social condemnation, all other rights which transgender people seek to acquire to be on the road towards becoming a fully represented citizen, are illusory.

In this regard, El Salvador's report on the Human Rights of Transgender People, presented at the 20th round of the Universal Periodic Review of Rights Council (UPR) to the Council of Human Rights at the United Nations (UN) in November 2014 notes that the Salvadoran society has historically had rooted prejudices and stereotypes, which have caused transgender gender and transgender vestite people – particularly women – to suffer discrimination, marginalization and rejection from society in general.

Due to the high degree of stigma and discrimination, transgender people are subject to conditions of inequality and exclusion in the economic, social and legal level, and in the exercise of their rights. A study conducted in 2011 on the levels of stigma and discrimination in society in relation to HIV in Central America<sup>16</sup> by measuring attitudes towards transgender women, they found for example, that more than two thirds of the population disagrees that transgender gender women have the right to have identity documents that identify them as a woman, and over 80% of the surveyed population feel entitled to attack transgender /transgender vestites was of being,

<sup>15</sup> Reconocida activista transgender argentina, de 62 años. Extracto de su declaración en la demanda contra el Gobierno de la Ciudad de Buenos Aires por otorgamiento de subsidio reparatorio por la violación de sus derechos históricamente vulnerados. Para más información:

<http://www.pagina12.com.ar/diario/sociedad/3-230405-2013-10-03.html>

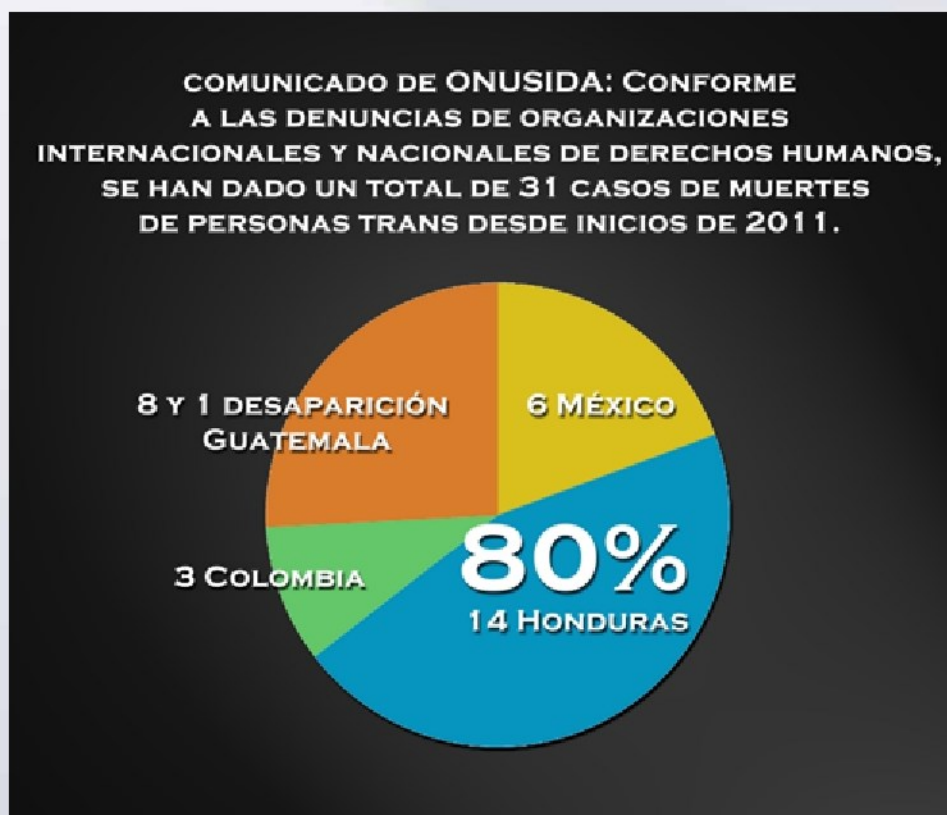
<http://www.infojusnoticias.gov.ar/nacionales/el-gobierno-porteno-debe-indemnizar-a-5-mujeres-transgender-por-discriminacion-1785.html>

<sup>16</sup> USAID/PASDCA (2012).

<sup>17</sup> Respecto al enunciado «*las personas Transgender /Travestis tienen derecho a tener documentos de identidad que las*

*identifique como mujeres*», el 49,2% de las personas dijo estar muy en desacuerdo y el 23,2% en desacuerdo, haciendo un total de 72,4% de respuestas desfavorables para esta población. En relación a la afirmación «*las personas tienen derecho de agredir a las personas Transgender /Travestis por su forma de ser*», un 50,7% de las personas reportó

It is necessary to emphasize that this criminalization (social, and also legal in some countries) of transgender identities exposes them to an extreme violation of human rights.



In this regard, UNAIDS warned in March 2012<sup>18</sup> of complaints from international and local human rights organisations that in Mexico, Colombia, Honduras and Guatemala there had been at least 31 cases of violent deaths of transgender people since the beginning of 2011, 6 of which occurred in Mexico, 14 in Honduras, 3 in Colombia and 8 deaths and disappearances in Guatemala. Note that there is almost certainly an underestimate of these cases, as not having legislation in most countries of the region means that self-perceived gender identity is often not recorded and the genders of those murdered are listed as the gender on their documentation, or the press will just report it as a murder of a homosexual person.

Usually, the records of crimes against transgender people emerge from civil society, which then has the difficult task of reporting these killings or disappearances as what they are: hate crimes against

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estar muy de acuerdo y un 34,4%, de acuerdo, lo que suma 85% de respuestas desfavorables para la población transgender. No obstante, un 30,8% de las personas dijo estar muy de acuerdo con «*sentirse cómodo o cómoda trabajando a la par de una persona Transgender /Travesti*» y un 35,4% dijo estar de acuerdo, lo que da un total de 66,2% de respuestas favorables.

<sup>18</sup> «La oficina regional de ONUSIDA para América Latina condena muertes de personas transgender». Onusida, 2012.

<http://onusida-latina.org/es/press-statements/146-comunicado-la-oficina-regional-de-onusida-para-america-latina-condena-muertes-de-personas-transgender.html>



transgender based on their gender identity or gender expression. Therefore, it is expected that the number of killings and disappearances is even higher.

In addition, among transgender people who suffered violent deaths, several of them were defenders of human rights of LGBT people.<sup>19</sup>

«SUFRI OCHENTA REMISIONES A LA CÁRCEL DE VILLA DEVOTO POR LOS EDICTOS DE POLICÍA QUE CASTIGABAN CON DETENCIÓN A LAS PERSONAS, QUE COMO YO, NOS VESTÍAMOS CON ROPAS DEL “SEXO OPUESTO”. DURANTE ESTAS DETENCIONES LITERALMENTE ME “MOLÍAN A PALOS”, ERA UNA MUERTA CIVIL, DETENIDA SIN ORDEN ESCRITA DE AUTORIDAD ALGUNA, SOCIALMENTE DESPROTEGIDA, PSÍQUICAMENTE DESMORONADA... CARECÍA DE LOS MÁS MÍNIMOS Y ELEMENTALES DERECHOS, NO TENÍA VIDA... ESTABA A MERCED DE LA PERVERSA VOLUNTAD DE QUIENES ME SOMETÍAN».

MARLENE JAIMES<sup>20</sup>

#### **4.4. The persecution and stigmatization of sex work in Latin America and the Caribbean.**

It is a well established fact that the vast majority of transgender women in Latin America and the Caribbean are sex workers in order to support themselves. It is estimated that 90% of transgender sex workers are women. Also, previous reports indicate similar or even higher figures for other countries, as indicated by a study by REDLACTRANS GENDER<sup>21</sup> which says that in 2009 the number in Chile was as high as 95%.

In this context, the deep discrimination and stigma suffered by sex workers in Latin America and the Caribbean find themselves in situations of violence and persecution which is even more aggravated when a sex worker has the added status of being transgender. This means that most transgender women have many stigmas weighing on them, and discriminatory pretexts are enhanced and created by a direct violation of their DESC.

These situations of violence and discrimination take many years rooted within the societies of the region to become naturalized; thus, the social stigma naturalizes violence and discrimination against which there is no punishment or penalty but absolute impunity.

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<sup>19</sup> Ídem.

<sup>20</sup> Mujer transgender fallecida a los 71 años. Extracto de su declaración de los hechos en su demanda contra el Gobierno de la Ciudad de Buenos Aires para el otorgamiento de un subsidio reparatorio por la violación de sus derechos históricamente vulnerados.

<sup>21</sup> Borgogno (2009).

In this sense, the state's omission of the status of the violation of human rights for sex workers reinforces prejudice, stigma and discrimination,<sup>22</sup> and constitutes a material breach of international commitments to fight all forms of discrimination<sup>23</sup>.

The current situation of sex workers is generally constant persecution, institutional violence and job insecurity because of the clandestine conditions which they are forced to endure, since in most of the countries surveyed there is no legal framework that recognises this activity as work. As a result, sex workers have little leeway in deciding where or under what conditions to work, and their work is left to the discretion and control of the police and administratives<sup>24</sup>.

The absence of regulation, standards and laws regarding sex work reinforces the stigma and discrimination and greatly affects the sex workers – for the intersection of different discriminatory pretexts - the transgender sex workers within this group. This severely hampers access to preventative mechanisms of institutional violence that the rest of the world has access to. In this regard, studies indicate that sex workers are doubly punished, both formally and informally.<sup>25</sup> This is inevitably associated with the virtual impossibility or difficulty of the enjoyment of DESC.

Regarding access to health for example, 96% of sex workers who work in big cities lack health coverage, and studies and surveys show that they suffer from inadequate healthcare. Public and private health services can be hostile, prejudiced and demeaning and promote stigma, marginalization and exclusion<sup>26</sup>.

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<sup>22</sup> El estigma ligado al trabajo sexual se encuentra bien documentado en investigaciones académicas. Morcillo S. dice: «El estereotipo estigmatizante [...] el "estigma de puta", atraviesa la subjetividad de las personas que realizan trabajo sexual y se convierte en un status social que perdura en el tiempo». Ver: Instituto Gino Germani (2011-2012).

<sup>23</sup> En Overs y Leoff (2013) se afirma que la falta de reconocimiento de las trabajadoras sexuales como tales afecta desproporcionadamente su capacidad de gozar de los derechos fundamentales.

<sup>24</sup> En PNUD (2012) se afirma que «*para las personas trabajadoras del sexo [...] la amenaza de violencia —ya sea de la policía o de los clientes— es una realidad cotidiana [...]. La violencia policial impide a las personas trabajadoras del sexo buscar la ayuda de la policía, lo que arraiga una cultura de más violencia policial y de los clientes. Los delinquentes y los clientes utilizan la amenaza de sanciones penales para controlar y explotar a las personas trabajadoras del sexo*».

<sup>25</sup> En contextos de ausencia de normas formales, las prácticas de control tienden a ser arbitrarias y corruptas. Según Overs y Leoff (2013), como resultado de la reforma legal en Nueva Zelanda en el año 2003, las trabajadoras sexuales aumentaron sus posibilidades de denunciar la violencia que sufrían. <sup>26</sup> Comas *et al.* (2008).

Globally, according to figures from UNAIDS, one in three sex workers do not receive the necessary preventative services or HIV treatment and are 13.5 times more likely to be living with HIV than other women. In its latest report the agency said that “women in key populations such as [...] sex workers [...] are more prone to violence.” It also stresses that “stigma and discrimination, abuse and violence deter women from undergoing HIV testing or requesting other essential health services.”<sup>27</sup>

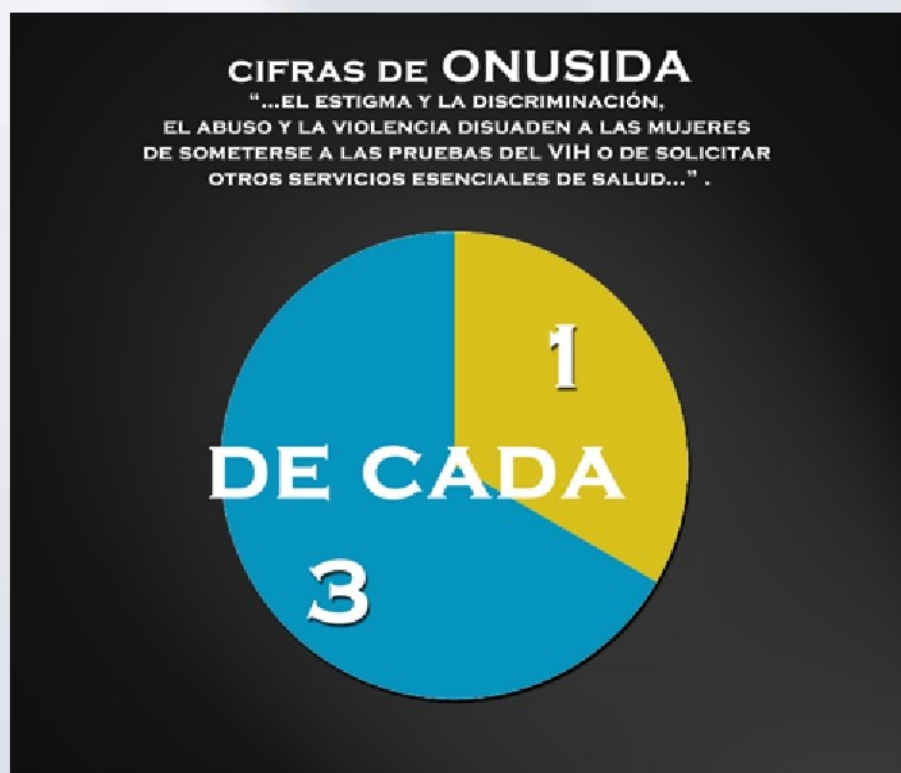
Regarding the right to employment, it should be noted that the International Labour Organization (ILO) has recommended that sex work be recognised as an occupation so that it can be regulated in a way that would protect the workers and the clients.<sup>28</sup>

Given the scenario described in previous sections, and considering the many pretexts for discrimination and social stigmas surrounding transgender sex workers (which, as noted, are most of the population of transgender women), one can only hope that the situation of access to DESC, such as education, health and employment and social security show serious situations even greater than those described by sex workers in general.



<sup>27</sup> ONUSIDA (2013).

<sup>28</sup> OIT (2010),



#### **4.5. The states' obligation to guarantee the recognition of the gender identity of transgender people. The situation of the countries with a gender identity law.**

As already mentioned – and as will become more evident after exposing the results of the work in the field- the constant violation of rights suffered by the transgender population in Latin America and the Caribbean is a result of discrimination, stigma and violence, explained mainly by the lack of recognition of gender identity and expression which constitutes the chain of events that leads to the prevention of the transgender people fully enjoying DESC.

Such discrimination is a violation of human rights itself, rooted in social practices and concepts that have crystallized over decades and left their indelible mark on the bodies and lives of the people who have suffered. Therefore, it is clear that no law can change such a critical situation in a day. But without a legislative amendment to guarantee the recognition of the gender identity and expression it is not possible to advance the fight against discrimination and exclusion, nor to achieve the effectiveness of public policies to reverse, or at least seriously reduce, the effects that these policies have had on the lives of transgender gender people.



The lack of recognition as a specific group that is discriminated against in a systematic way, and the lack of personal identification documents that reflect their gender identity and the name under which they operate in their daily lives keeps transgender people invisible in the institutions state. And there is a 'free' choice to stay out of the system: just imagine for a second the life of a person in whose every interaction with public or private entities must provide explanations on why your name, gender and appearance do not match what is in your documentation? It is uncomfortable and tiring in itself even if there were no discriminatory reactions, but the fact that in most cases the reactions range from simple refusal to being alluded by name and gender manifests in ridicule, public exposure, and even the refusal to give the attention it would for anyone else.

Moreover, as mentioned, the lack of recognition of the identity of transgender gender people makes it very difficult to define precisely the scope of human rights violations suffered by this population, as it is invisible in all statistics. However, even if the figures do not always accurately reflect reports that transgender gender organizations make, one report indicates that between 1 January 2008 and 31 December 2011, 80% of murder cases transgender people in the world occurred in Latin America, with a total of 826 cases. In turn, at the end of 2014, the Inter-American Commission on Human Rights expressed concern and alerts on violence against LGBTI people in América.

In this context he presented a report documenting killings and other serious acts of violence against LGBT people over a period of fifteen months (from 1 January 2013 and 31 March 2014), which was designated Violence Registry; according to him, 594 people were LGBT or perceived were killed in that period. For the specific case of the transgender population, according to data collected in the Register of Violence, 80% of transgender women murdered were thirty-five years of age or younger.

The document further states that violence against transgender people, particularly against transgender women, is due to a combination of factors: exclusion, discrimination and violence in the family, school and society in general; lack of recognition of their gender identity; occupations that place them at greater risk of violence; and a high degree of criminalization.

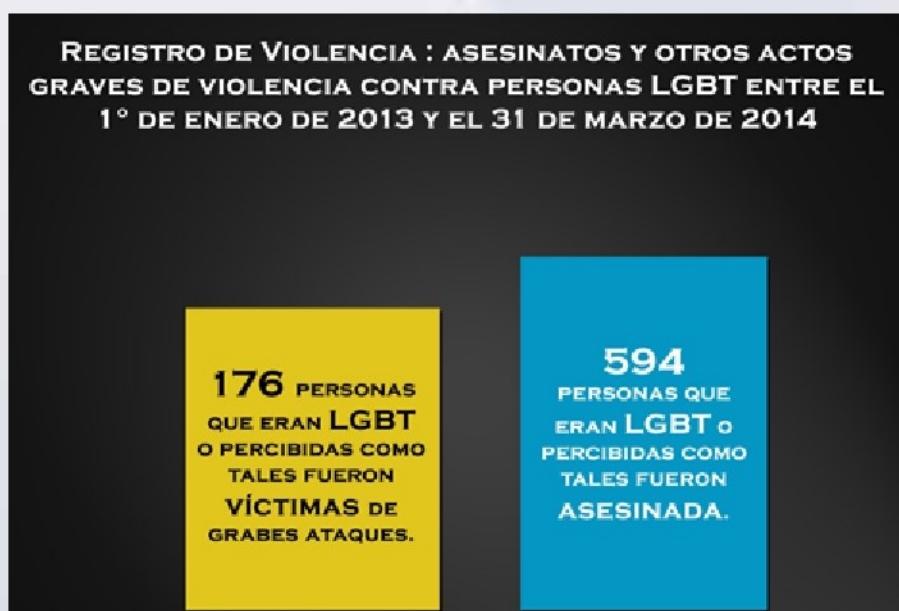
Finally, it calls on all states to ensure the right to identity and gender expression through the adoption of a rule or a legislative amendment to allow transgender people access the rectification of their

<sup>29</sup> REDLACTRANSFENDER – Alliance, what's preventing

<sup>30</sup> (2012).

«CIDH expresa preocupación por la violencia generalizada contra personas LGBTI y la falta de recopilación de datos por parte de Estados Miembros de la OEA», CIDH, 17/12/2014.  
<http://www.oas.org/es/cidh/prensa/comunicados/2014/153.asp>

registry information, change of name and sex through a fast and simple administrative procedure, without cost or requirement other than the express consent of the person concerned.

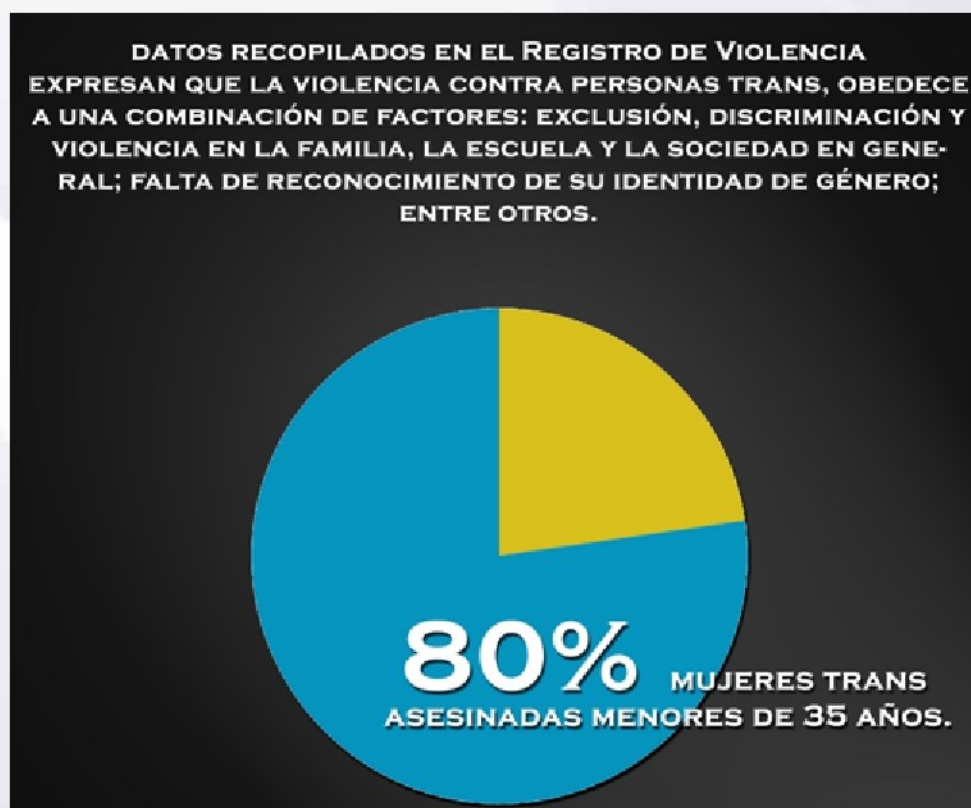


As mentioned in previous sections, there are few examples of such legislature in the regions of Argentina, Uruguay and Mexico DF, and without a doubt, the Argentine model (and when it comes into force, the law recently amended in Mexico DF), which allows for recognition of identity in an administrative and easy way, mediating only the consent of the person concerned. The Argentine model includes a specific feature that allows for the recognition of children and adolescents in line with the principles of international law, among other outstanding features. This is the law that comes closest to the standard proposed by the Commission, and has shown the most chance of success.

In fact, it is noteworthy that despite widespread skepticism, or you could say 'caution' in regards to the short-term consequences of legislation of this type, that the process of parliamentary and social discussion and subsequent approval of the Law of Gender Identity in Argentina has triggered a process of awareness and interest in the issue from officials, the public, the media and social media. This has resulted in a, still insufficient, but not negligible decrease in discrimination and stigma, and has promoted the development of public policies at all levels of government, that seek to accelerate the process towards minimizing the suffering of a group of people who have been historically excluded from all walks of political, economic, social and cultural life.



This shows that there are many possibilities for states to ensure transgender access to their DESC, and that the sanction of a standard to ensure the recognition of self-percieved gender identity is not only a necessary step in the process, but an excellent oppportunity to raise awareness in society in all its diversity, and generate the necessary steps to address such a complex and deep state od denail of human rights.



#### **4.6. Legal framework. Recognition of economic, social and cultural rights in the universal and regional human rights system. Application of this system in regards to sexual diversity: General Recommendation No.20 and Yogyakarta Principles.**

In relation to regional and universal human rights legal framework, there are instruments ensuring international recognition of economic, social and cultural rights of all persons without discrimination.

Specifically, the **International Pact on Economic, Social and Cultural Rights in**

su art 2, inc. 2, established : “States party to the present pact undertake the guarantee to exercise the rights set out, without discrimination based on race, color, sex, language, religion, political beliefs, national or social origin, property, birth **or other opinion or status.**” In su art. 6 inc. 1 it states “the states party to the present pact recognise the **right to work**, comprising the right of everyone to have an opportunity to gain a living by work which they freely choose or accept, and take appropriate steps to safeguard this right.<sup>31</sup>”

Also of great relevance are the rights set out by Art 9 “States party to the present pact recognise the **right of everyone to social security.**” Art. 11 inc 1: “The states party to the present pact recognise the **right of everyone to an adequate standard of living** for himself and his family, including food, clothing and housing, and for the continuous improvement of living conditions...” Art 12 inc. 1 “States party to the present pact recognise the right of everyone to the enjoyment of the **highest attainable standard of physical and mental health,**” and Art.13, inc. 1: “States party to the present pact recognise the **right of everyone to education.** They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms.<sup>32</sup>”

In the inter-american sphere, these and other part of the universal system and the inter-american system itself lay down similar rights, as complemented by the **Additional Protocol on the American Convention on Human Rights and Economic and Social Rights**, also known as the “Protocol of San Salvador.” It is good to note the accuracies made about the right to social security, article 9 states: ‘All persons are afforded the right to social security protecting them from the consequences of old age and disability which prevents physically and mentally from the means of leading a dignified and decent life. In case of death of the beneficiary, social security benefits shall be given to his dependents.’

Also, in regards to human rights there is a broad consensus that the guiding principles establish that the interpretation of rights should be done holistically and dynamically and in light of all current legislation and subsequent developments. Therefore, other international instruments should be considered as well, such as:

- The American Declaration of the Rights and Duties of Man

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<sup>31</sup> Los destacados son nuestros.

<sup>32</sup> Ídem.

- The Universal Declaration of Human Rights
- The American Convention on Human Rights and the San José Pact of Costa Rica
- The International Pact of Civil and Political Rights

In particular, it is central to this comprehensive interpretation the signs and definitions given by the organizers of treaty implementation. In this regard, it is of particular relevance the **General Committee No.20 of the DESC**, not only by the overall depth of the analysis made on the different ways in which discrimination occurs and prevents the full realization of DESC rights to certain groups, but also because it explicitly recognizes that 'sexual orientation and gender identity' are prohibited by the discriminatory pretexts in the implementation of DESC.

In this regard, it affirms: "Gender identity is also recognised as a prohibited ground. For example, transgender people often face serious violation of human rights, such as harassment in schools or places of work."

In addition, the General Comment elaborates on the obligations of states to ensure the exercise of DESC without discrimination: **In addition to refraining from discrimination, states and parties should take concrete, deliberate and targeted measures to ensure the eradication of any discrimination in the exercise of the rights contained in the pact.**" And in this regard, stresses the importance of **"passing laws to combat formal and substantive discrimination,"** and **"a proactive approach to eliminating systemic discrimination and segregation."**

In the same spirit, it clarifies that if a state violates the pact through action or inaction, when they do not make every effort to ensure DESC rights to everyone without discrimination, they are internationally responsible for the profound exclusion that is a direct result of direct actions or policies of the state, or when the state does not make the necessary efforts to change the situation.

It is also extremely important the relevance of inter-America in the **resolution AG/RES. 2807 (XLIII-0/13) about "Human Rights, Sexual Orientation and Identity and Expression of Gender" of the General Assembly of the OAS, adopted in plenary in La Antigua, Guatemala in 2013.** In it, the General Assembly resolved to "condemn all forms of discrimination against persons on grounds of sexual orientation and gender identity or expression" and violence under identical pretexts, and other related considerations such as discrimination and violence suffered by the LGBT, and the mechanisms the states can implement to promote the full enjoyment of their human rights.

Moreover, the approval of the Inter-American Convention Against All forms of discrimination and Intolerance in 2013 is a milestone . While most countries have pending signatures or ratification of this recently approved instrument, it is noteworthy that for the first time, a treaty applicable in the region expressly prohibits discrimination based on ‘sexual orientation, gender identity and expression.’

More abundant, is the interpretation and application of existing international framework and perspective on sexual diversity, gender identity and expression, note the Yogyakarta Principles. An International Commission of Jurists and the International Service for Human Rights developed a series of legal principles on the Application of International Human Rights Law in relation to sexual orientation and identity or gender expression, presented in March 2007 at the session of the UN Human Rights Council in Geneva.

These principles have had a good reception by the jurisprudence of some countries, as in the case of Argentina, where basis of the judgements towards equal marriage and gender identity became the source of Argentine law.

All this international scaffolding of human rights treaties should be interpreted and applied holistically, and requires states to take “**all appropriate measures to ensure the proper development of people of diverse sexual orientations and gender identities** and that measures are taken to ensure such groups or individual’s enjoyment or exercise of human rights on an equal basis. Such measures shall not be considered discriminatory.”

The Right to Social Security and other social protection measures, states that “everyone has the right to social security and other social protection measures, without discrimination based on sexual orientation or gender identity.” It also states that “all states should take all appropriate legislative, administrative and other measures to ensure equal access without discrimination on the grounds of sexual orientation or gender identity, social security and other measures of social protection including [...] *unemployment benefits, insurance, healthcare related benefits (including body modifications related to gender identity) and other insurance covering social issues [...] pensions [...]*”

Is is also recommended that states undertake *'targeted **programs to provide social support to all people**. Establish measures and legal services programs, and education and social services; to address the factors that increase vulnerability to trafficking, sale and all forms of human exploitation, including sexual exploitation but not limited to this, based on sexual orientation or identity or percieved gender, including factors such as social exclusion, discrimination, rejection by families or cultural communities, lack of financial independence homelessness, discriminatory social attitudes that lead to low self-esteem and lack of protection from discrimination in access to housing, employment and social services*<sup>33</sup>.

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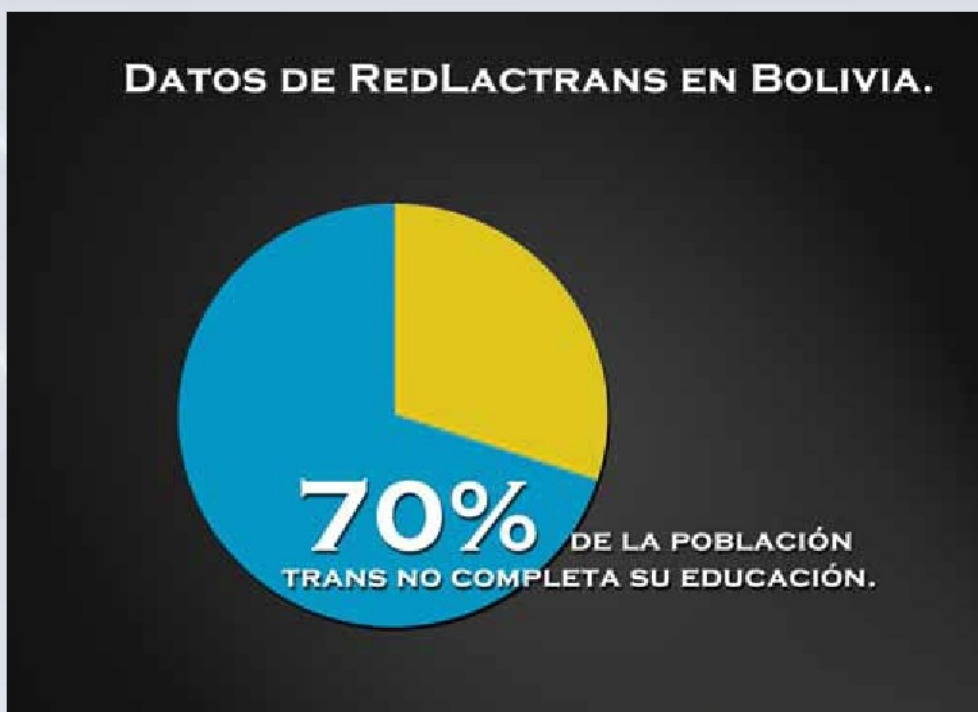
<sup>33</sup> Ídem.

## 5.RESULTS OF THE INVESTIGATION BY

Presented below is a summary of the main findings, observations and results of the research by field. They are organised in relation to the rights with which they are concerned and they try to cover a variety of countries. Note that here, as in the rest of the report, the names of the people who make statements may have been changed to protect their identity.

### 5.1. Education and Culture

The majority of transgender people in Latin American have not completed a basic level of education, which clashes with the guarantee for primary education (art. 13, inc. 2. A), of the DESC pact). This is supported by the fact that according to REDLACTRANS GENDER , in Bolivia 70% of the transgender population has not completed their education.





The major obstacles and barriers that arise to prevent access to education in the countries surveyed, are discrimination, bullying and school violence and the failure of state policies to include transgender people.

In this sense, REDLACTRANS GENDER of Ecuador emphasizes that *“it is necessary to have a wide social awareness campaign; If the state does not do this the defections will continue to be a common denominator.”*

These barriers, together with the fundamental problem of lack of recognition of identity and gender expression of transgender people in most countries surveyed, are the main obstacles to remaining in the education system.

It should be noted that there is no legal barrier to entry or residence of transgender people in the education system, but deep discrimination and denial of their identity drives them out. In this regard, particular account should be taken into consideration, made by the Committee on DESC Recognition, comment No.20, on the different ways of discrimination and the international responsibility of the signatory states to take action to remove these obstacles to allow for the full recognition of DESC.

In relation to this, the benchmark for REDLACTRANS GENDER of Nicaragua expresses: *“The weight of certain customs outweighs the constitution itself, since each and everyone is entitled to access to free education, but the price to pay to access education is very high.”*

The non-recognition of gender identity by students, teachers and authorities results in violence, bullying and harassment, which make it hard for transgender people to remain in the education system, or – to reuse the expression by Nicaragua’s REDLACTRANS GENDER - they can only remain at a high cost.

The reference for REDLACTRANS GENDER in Panama is narrated in the same way: *“Personally, when I was in school I had a teacher that told the other students not to share with me because I was different. This marked my life forever.”*

**«ME SACARON DE LA ESCUELA POR MI ORIENTACIÓN SEXUAL [sic], ASÍ QUE ME PASÉ AL LICEO MORAZÁNICO. DURANTE MI PRIMER AÑO DE ADMINISTRACIÓN SALÍ COMO UNA TRANS. PRIMERO ME SUSPENDIERON POR SEIS DÍAS, LUEGO POR DOCE DÍAS Y LUEGO INDEFINIDAMENTE. NO PUDE GRADUARME. FUE GRACIAS AL TRABAJO SEXUAL QUE LOGRÉ TERMINAR MI CICLO BÁSICO».**

**DEILIN, SAN PEDRO SULA, 4 DE DICIEMBRE DE 2008.**

In Argentina, where these sort of testimonies are infrequently heard after the adoption of the Law on Gender Identity. A study in 2013 by the ATTTA and the Guest Foundation almost a year after the adoption of the law, shows that one in ten transgender women and three in ten transgender men have returned to education. That means that the existence of a law guaranteeing the right to gender identity has achieved overcoming the barrier of the access to education without discrimination.

Moreover, in most countries there are no official or private local databases for national statistics regarding education for the transgender population. Most countries only have studies and research on health, where they can get rid of inconclusive data.

The regional advisor for Health Education revealed that 65% of transgender people in Latin America have experienced violence in schools. He highlighted the legal framework developed in Argentina and Uruguay as countries to model their representation of the right of transgender people to be free from harassment and discrimination in schools because of sexual orientation and identity or gender expression, and said that countries like Nicaragua and Chile have more smaller scale efforts<sup>34</sup>.

For example, in Chile on July 12, 2012, a law against discrimination was passed that included gender identity explicitly, and constitutes a fundamental tool in combating discrimination.

In most of the countries surveyed, to date, there are proposals and legislative projects or public policies for transgender, with the exception of proposals of civil society in countries like Argentina.

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<sup>34</sup> «Al menos el 40 % de los gais latinoamericanos sufre homofobia en la escuela». Terra, 28/10/2014. <http://noticias.terra.com.ar/mundo/latinoamerica/al-menos-el-40-de-los-gais-latinoamericanos-sufre-homofobia-en-la-escuela,519571bf97859410VgnCLD200000b1bf46d0RCRD.html>

No specific mechanisms are recorded for transgender people to report bullying and school violence, to support their return to the education system.

This crude picture has been the force in the region for decades, although in most countries surveyed, free education is guaranteed up to secondary level. This again makes it clear the responsibility of states in breach of DESC to ensure rights without discrimination.

A good practice of education is the creation of the popular high school Mocha Celis<sup>35</sup> in the City of Buenos Aires, Argentina. It is the first educational center with diverse sexual orientations and where there are a higher number of transgender students enrolled. The study schedules are flexible, and are known as 'adult high schools.'

Regarding the right to participate in cultural life, there are few possibilities for transgender teens due to the high levels of violence and discrimination and lack of recognition for their self-perceived gender identity.

Here again the organizations of civil society play a fundamental role, since many of them are active for the transgender population, while promoting the participation and integration of cultural life in general.

## **5.2. Health**

The majority of the transgender population – when requiring medical care – will only go to the public health systems in cases of great need. To a lesser extent, they resort to the private system's health services offered by civil society.

Most transgender people do not have access to comprehensive health care, and do not receive periodic health checkups.

By contrast, the contact of transgender people with the health system in most cases occurs only in serious or critical situations; ie in situations where the 'cost' faced by interacting with the system is less than not receiving medical care.

<sup>35</sup> «Sileoni encabezó el inicio del ciclo lectivo del Bachillerato Popular Transgender "Mocha Celis"». Ministerio de Educación, Argentina, 15/4/2013. <http://portal.educacion.gov.ar/prensa/gacetillas-y-comunicados/sileoni-participo-del-inicio-del-ciclo-lectivo-del-bachillerato-popular-transgender-mocha-celis/>

In some cities, as in the case of Panambi, Paraguay, mobile clinic outputs are provided through the National HIV Program, which conducts testing once a month and provides health care.

When asked what the main obstacle the transgender population has in accessing healthcare in the countries surveyed, the almost unanimous response refers to the lack of preparedness, awareness and training of staff and professionals to provide health care for transgender people. The treatment does not provide a focus on human rights and in most cases gender identity of transgender people or the name is not in accordance with the self-recognised gender.

In addition, comprehensive care is often denied and often are referred to areas of HIV and STIs without further procedures.

Even in such a complex scenario, in countries that have a Gender Identity Law the same results are more or less observed. A notable case is that of Argentina, where according to a study,<sup>36</sup> before the enactment of the Law on Gender Identity, 8 out of 10 people reported transgender discrimination and stigmatizing situations from operators of the health system, this figure decreases sharply to 3 out of 10 in 2013 (one year after the enactment of the law).

It is true that such changes are not – at least completely- only an immediate consequence of recognition of gender identity, but result from active work of civil society organizations. But without such recognition, in practice and, especially, with the symbolic content that calls law the "will of the State", the process would be much slower and limited. As one Argentine transgender male: said "The law says that the state recognizes me and accepts me as I am. And when I go to that law when I require dignified and appropriate care, and my identity is recognized in my documents, I feel much more secure and supported. "(Daniel, 25, Argentina).

Beyond these "exceptions," in most of the countries surveyed situations of discrimination and violence in the public system and / or private health are a constant; discriminatory acts by identity or gender expression or HIV diagnosis are very common, especially when you consider that there are rules on ethics for health professionals on caring for people with HIV or even laws in several countries protect transgender people from discrimination.

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<sup>36</sup> Estudio realizado por ATTTA y la Fundación Huésped sobre 500 encuestas realizadas en todo el país en el año 2013.

In most countries surveyed, transgender people cannot access treatment or sex reassignment surgery, and where there is such possibility, transgender people require judicial authorization for surgery. The exception are the countries with a law of gender identity and cases like Chile, which have performing these surgeries since 1973.



The surveyed countries have a national legal framework that protects and guarantees the right to health under conditions of equality and equity; for example, in their constitutions. Using the example of Paraguay, they stressed that the Paraguayan National Constitution in Articles 68 and 69 establishes in relation to the Right to Health and the NHS that "[t]he State shall protect and promote health as a fundamental right of the individual and in the interests of the community.



*No one shall be deprived of public assistance to prevent or treat diseases, pests and relief in cases of disasters and accidents. Everyone is obliged to submit to health measures established by law, while respecting human dignity. A national health system to execute integral sanitary actions with policies that facilitate consultation, coordination and complementarity of programs and resources from the public and private sector will be promoted."*

However, these states do not specifically protect the right to health of transgender people, except in the case of countries with a gender identity law. Manifested in the testimony regarding the REDLACTRANS GENDER in Paraguay "this is something really unique for the transgender population, it has worked well since the program, in a protocol in 2005, began to care for PEAR - higher risk populations, this is still a program, not a legal framework".

Paradoxically, in most of the countries surveyed the population is generally legally guaranteed free public health system.

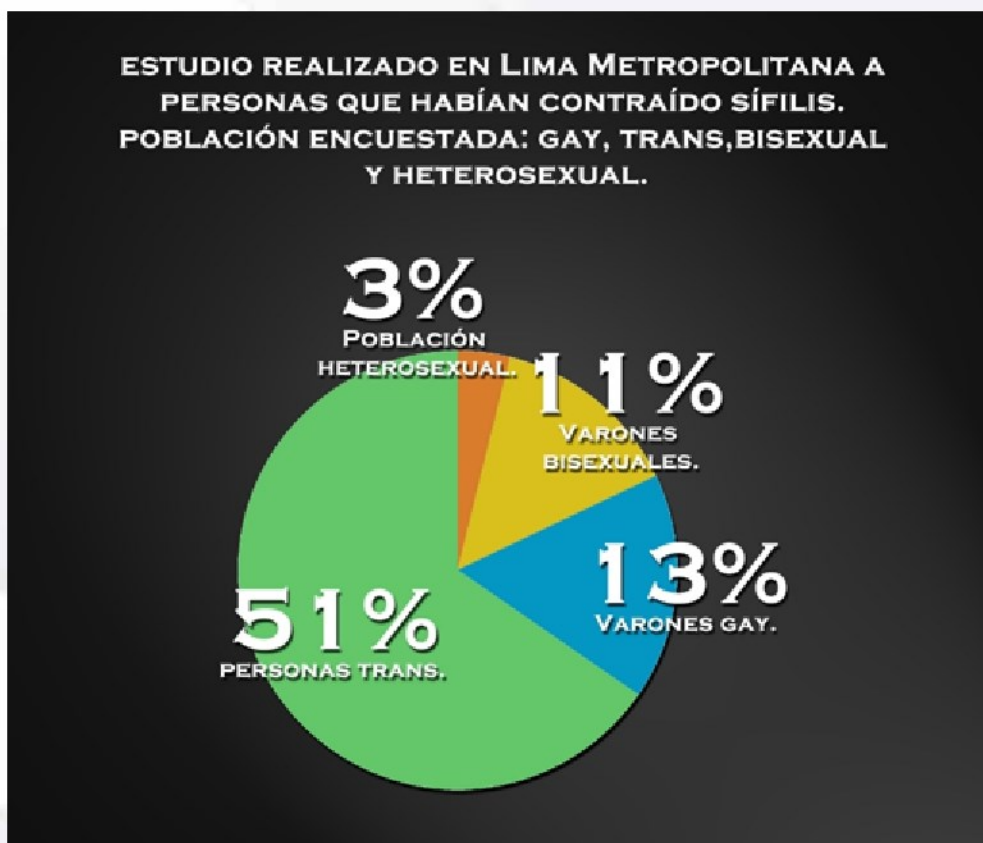
Regarding the availability of statistics and research, government or private data, at national or local level, health of transgender people usually arises from studies of HIV and STI prevalence in key populations.

For example, the study of CVC / COIN<sup>37</sup> made in Dominican Republic reveals that the prevalence of HIV among those who identify as transgender is 17.2% and that the major risk factors for HIV and other STDs to transgender girls and women in the country is risky sexual behavior, discrimination in access to health services and high levels of stigma and discrimination.<sup>38</sup>

In this regard, a study in Lima among the gay population, transgender and bi showed that 33% of transgender gender people surveyed had contracted HIV, compared with 18% of gay men and 15% of bisexual men. As for the STIs, the same study reported that 51% of transgender gender people had contracted syphilis, compared with 13% of gay men, 11% of bisexual men and 3% of the heterosexual population<sup>39</sup>.

<sup>37</sup> El Centro de Orientación e Investigación Integral (COIN) y la Coalición de Comunidades Caribeñas Vulnerables (CVC, por sus siglas en inglés).

<sup>38</sup> Observatorio de Derechos Humanos para Grupos Vulnerabilizados *et al.* (2014). <sup>39</sup> IESSDEH - REDLACTRANS GENDER - UNFPA (2009).



In countries that have a gender identity law, an increasing number of proposals and draft legislation or public policy has been shown to improve access to health care for transgender gender people. By contrast, in countries that do not have this type of legislation, or are isolated cases, such as that mentioned below in Chile, do not have mechanisms to collaborate with access to health care for transgender gender people or they enable victims of discrimination in the health system.

A notable exception is the case of Chile, while they do not yet have a gender identity law, in 2011, the Ministry of Health adopted a national protocol -the "Via clinic for body fitness in people with incongruity between physical sex and gender identity<sup>40</sup>" - which governed the body transgender formation processes. This ministry also issued Circular No. 34, which requires health centers throughout the country to treat transgender people by the name which they present<sup>41</sup>.

<sup>40</sup> Ord. B22 (2011), disponible en: <http://www.movilh.cl/documentacion/transgender/Ord%2057%202988%20>

Env%C3%ADa%20v%C3%ADa%20cl%C3%ADnica%20para%20la%20adecuaci%C3%B3n%20corporal%20en%20personas%20con%20incongruencia-1.pdf

<sup>41</sup> Circular 54, disponible en: <http://www.movilh.cl/documentacion/transgender/circular%2034%20instruye%20sobre%20>

la%20atenci%C3%B3n%20de%20personas%20transgender%20y%20fortalecimiento%20de%20la%20estrategia.pdf

### 5.3. Land, Housing and Food

The difficulty of access to housing is a large problem in all countries of the region. So, it is no surprise that transgender people -given the family, work and social exclusion faced- have serious difficulties in accessing housing and land. However, the severity of this situation – and each individual case- must be repaired allowing for the exercise of all other DESC.

The main difficulty encountered in access to housing, land, or credit is the inability to demonstrate financial solvency, with no formal employment record. And of course, pervasive stigma and discrimination add complexity to the situation and create difficulties even in the few cases where there are usually guarantees required.

Reflecting this situation, it is appropriate to cite the testimony of a reference for REDLACTRANS GENDER

Ecuador: "As is the common denominator for our gender identity, there are prejudices that prevent transgender people from credit, the right to lease any property, or to be included in a particular sector; often they must live together in the same property, with more than five people they are overcrowded".

In most of the countries surveyed there are no programs and / or public policies implemented by the state to promote home ownership and land for transgender people or for access to credit and technology.

The main challenges observed in the countries surveyed is the invisibility of transgender people, because of their strongly conservative societies. This invisibility denies, limits and restricts the equal access of transgender people to social programs.

For instance, the only specific social programs that are identified to the transgender population are in the field of health, specifically through national programs against HIV and STIs.

In the countries surveyed the level of access to healthy food in the transgender population was characterized at best as "medium", and in most cases as 'regular', 'limited' or 'none'. A recent study on the situation of transgender gender people PLHA related to adherence to antiretrovirals treatments in Argentina, reveals that 90% of transgender gender people do not eat the four meals recommended and neither reach the feeding level suggested for the adherence to the treatment.

In turn, there are not internal mechanisms for victims of discrimination in the area of access to and control of resources.

When asked about the challenges in accessing the resources, land and housing in equal conditions, the REDLACTRANS GENDER in Mexico says: "Equal exercise of full citizenship is a challenge, but I think it is the promotion of the rights our population, especially working on making social change as we have been doing. "

Meanwhile, when asked about the difficulties, the referent of Nicaragua states: "The main challenges facing transgender people have to do with the necessary documentation that matches the image constructed and social name chosen; when companies or institutions working these areas request the necessary documentation, the transgender person obviously can not provide it. "

#### **5.4. Work and Social Security**

The combination of lack of personal documentation according to the self-perceived gender identity and deep rooted prejudices in the societies of the region, makes access to formal employment virtually impossible for transgender people in countries that do not have a gender identity law.

"We are the scourge of society", supporting this point from the REDLACTRANS GENDER in Panama.

As already noted in Section 5.1., There are very few transgender people who have achieved training to access formal employment.

Furthermore, there are serious difficulties for continued employment in cases of those who express their gender identity once already working somewhere. Discriminatory dismissals or harassment situations that end up evicting people from their jobs are common.

Even in the few cases of transgender people manifesting their identity after accessing formal employment, inclusion in the workplace is very difficult and they are usually the center of ridicule and victims of workplace harassment by their superiors and peers.

In that context, as explained, the livelihood of most transgender women in Latin America and the Caribbean is sex work. Based on surveys conducted, it appears that about 90% of the population of transgender women are sex workers as the only means of subsistence.

**«TENEMOS EL DERECHO A TRABAJAR, ESE DERECHO NOS LO VIOLAN... TENEMOS QUE TRABAJAR EN LAS CALLES. TENEMOS DERECHO A LA EDUCACIÓN... NOS ECHAN DE LAS ESCUELAS. NOS DEJAN UNA SOLA POSIBILIDAD, USAR NUESTRAS BELLAS VIRTUDES PARA SOBREVIVIR EN ESTE PAÍS DISCRIMINATORIO».**

**CYNTHIA NICOLE, TEGUCIGALPA, 5 DE DICIEMBRE DE 2008.**

The vast majority of transgender men - excluding cases of men who perform sex work - and other transgender women, only have access to the most poorly paid and informal jobs with enormous instability. There are minority cases of self-employment and freelance, as an exception to the cases of occupational sex work. All of them, in any case, face daily discrimination in their activities due to prejudices deeply rooted in their societies.

Faced with such gravity, we cannot fail to mention the severity of the state's failure: lack of public policies for social inclusion to ensure DESC for transgender people as full citizens. As already argued, there is a lack of international commitments undertaken by the states.

Recurring, is the fact that sought after formal (and even informal) employment is hard to come by so they turn to sex work, which most often is configured as the last resort, because of the conditions that exist in some of the most dangerous cases, they are exposed to violence and persecution, especially by security forces.

In most of Latin America, sex work is not regulated; it has not been legally defined as an activity and as a result it socially and institutionally criminalized. Despite being a lawful activity in most countries, it is not a sexual offense if it is autonomous work, which is penalized pimping, trafficking and human trafficking for sexual exploitation.



In many cases there are also rules enabling the security forces to arrest sex workers on the street for "scandalousness", "offering of sex in public," "indecent assault", etc.

In the case of Paraguay, for example, in the city of Encarnación, municipal authority prohibits informal jobs on public roads; and informal work is meant as street vendors, windshield cleaners, trapeze and sex work, among others.

The only country in the region with a regulation that recognizes sex work is Uruguay. Autonomous persons performing sex work can register to access social security and all benefits of registered employment.

Regarding prejudice, it should be noted that transgender people as sex workers also suffer media and social criminalization: they are highly stigmatized and are often associated with no reason to theft, robbery, drug trafficking, violence and even homicides. The prejudice associated with transgender people to all crimes generates a huge social barrier that virtually rejects and denies their access to basic and fundamental rights and causes exclusion and marginalization.

Discrimination and stigma towards transgender people is also institutionalized and widespread among authorities and state agents. For example, a report in the year 2012<sup>42</sup> reveals that all the authorities of the security and justice systems of Honduras and Guatemala, interviewed as part of this research, described transgender women as men or homosexual transgender vestites.

The blunt testimony of a representative of the National Civil Police of Guatemala states: "Not to be offensive, but I have studied criminology, and they're not called transgender women, but male transgender vestites, whose deviant behavior is characteristic of criminals. We study especially cases of transgender vestites and prostitution, which are the same. But we do not discriminate. <sup>43</sup>"

As for the age of onset in sex work, studies that CVC / COIN made in Dominican Republic show that for girls and transgender women the average age is sixteen years and most have been forced into their first sexual experience (all situations in which, clearly you can not speak of "autonomous sex work", either by age or by coercion). The average age of transgender sex workers was 22.7 years, which means that most of these sex workers are "young" women, arguably part of a population with a life expectancy of around thirty-five years.

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<sup>42</sup> REDLACTRANSFENDER - Alliance, what's preventing

<sup>43</sup> (2012).

Entrevista con autoridad del Departamento de Delitos contra la Vida de la División Especializada de Investigación Criminal de la Policía Nacional Civil, Guatemala; en el marco de la investigación publicada en op. cit.

Studies made in Peru<sup>44</sup> also conclude that sixteen years is the average age that transgender people are initiated into "sex work". The same study indicates that age is lower than reported for the start of sex work in non-transgender women (or "cis"). This shows that this age would be related to the lack of opportunities for transgender people in Peru in entering the world of formal work and the exclusion of the nuclear family and the education system.

Otherwise, there is a naturalization of sex work in transgender women. This prevents the opportunity for having labor alternatives.

In most of the countries surveyed there are no rules of national or local legal framework, policies and programs that address promotion policies and inclusion of transgender people in access to employment, maintain employment, wage equality and protection and access to social security.

With regard to political or labor inclusion programs, the referent of the REDLACTRANS GENDER in Ecuador reports that there are "only those constructed from the civil society; ALFIL is currently trying to argue with the Municipality of Quito for labor inclusion program for transgender people. "

There are practically no official or private statistics, national or at a local level, in labor matters regarding the transgender population.

Very few countries have proposed legislative or public policy projects to improve the employment situation of transgender people. It is no coincidence that these countries are precisely those who already have a gender identity law that allowed them to move legislatively or from other public policy issues, as in the case of Uruguay and Argentina.

This is reflected in the testimony of reference for REDLACTRANS GENDER in Argentina, who states that while "society still has prejudices against the employment status of a transgender person, the government is creating inclusion programs; and I think the real inclusion will be gradually giving."

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<sup>44</sup> IESSDEH, REDLACTRANS GENDER , Miluska Vida y Dignidad, UNFPA (2009).

In most of the countries surveyed there are no internal mechanisms available to transgender gender victims of discrimination in the workplace or access to employment for transgender people, and mechanisms to address the needs and labor protection for transgender people performing sex work (of course, with the exception of Uruguay persons, where security parameters are set, but which are not specifically aimed at the transgender population, prostitutes in general).

Regarding the right to social security, except in Uruguay, sex work regulators do not have any type of social insurance for sex workers once reached a certain age, when they no longer can do their job, they will have no income or social coverage, or pension to enable survival security.

Nor are there social security programs that take into account the situation of extreme vulnerability of transgender gender people who have overcome the very low life expectancy of the population. It should be mentioned that in Argentina an initiative that promotes FALGBT in different districts and national level, pushed for the state to provide a minimum income, for little to no income transgender people over forty years of age.

**«A LO LARGO DE MI VIDA PADECÍ TODO TIPO DE VIOLENCIA Y DISCRIMINACIÓN, ABUSOS, BURLAS Y DESPRECIOS. LAMENTABLEMENTE HOY NO ALCANZA CON TENER LA IDENTIDAD RECONOCIDA JURÍDICAMENTE PARA REPARAR TODO LO QUE HE PASADO. AYER MI RECLAMO ERA POR VIVIR COMO SOY Y HOY MI RECLAMO ES POR VIVIR DIGNAMENTE».**

**MARIELA MUÑOZ**

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<sup>45</sup> Mariela Muñoz es una reconocida activista transgender argentina de 71 años. Extracto de su declaración de los hechos en su demanda contra el Gobierno de la Ciudad de Buenos Aires para el otorgamiento de un subsidio reparatorio por la violación de sus derechos históricamente vulnerados.

## 6. Conclusions and Recommendations

- ✓ Undoubtedly, the main conclusion from the research is that most of the transgender population of Latin America and the Caribbean face a critical situation regarding access to its DESC. Invariably there are huge obstacles to accessing the labor market, social security, housing, land, resources, education, health and culture, among other rights recognized in human rights treaties.
- ✓ These obstacles are mainly discrimination based on gender identity and its expression and stigmatize transgender gender people, and the discrepancy between personal documents and self-perceived gender identity and the name used socially.
- ✓ In this sense, the main factor of inequality within the transgender population of Latin America and the Caribbean itself is precisely whether the state recognizes their identity and gender expression or not.
- ✓ Most countries in the region do not have a law on gender identity. Only Argentina, Uruguay and Mexico City warrant such recognition in its domestic legislation.
- ✓ Ecuador has the particularity to authorize administratively changing the name from male to female viceversa, but not the sex change in documents. In turn, its Constitution, in art. 83, inc. 14, states the duties and responsibilities of Ecuador: "[r] espect and recognize ethnic, national, social, generational, gender differences and sexual orientation and gender identity." Bolivia, in turn, although it also lacks a law on gender identity or other similar legislation, in its Constitution also protects against discrimination based on gender identity.

- ✓ It is also noteworthy that in most countries parliamentary initiatives are driven to recognize gender identity and self-perceived through REDLACTRANS GENDER ' continuous advocacy work to ensure security in the region.
- ✓ Currently, only Argentina clearly states that the change of registration documents must be administrative, free, without medical, psychiatric or psychological diagnosis and unsponsored by a lawyer. In Uruguay, however, the process requires legal assistance and therefore is not free.
- ✓ In relation to sex reassignment surgery, in most countries judicial authorization is required and gratuity is not guaranteed; costs are generally high.
- ✓ While the free public health system is ensured in many of the countries surveyed, the reality is that we find only in Argentina, Uruguay, Brazil and Mexico City Mexico specific public policy from the state to the transgender population. It is no coincidence that precisely in these countries and states (except Brazil) which guarantee the right to gender identity of transgender people, it has greatly improved its position in relation to access to DESC.
- ✓ This is illustrated clearly by testimony of the Referent of Paraguay: "From Panambi we say that it is important to have a law on gender identity because this way we will be recognized, we will be made visible to the state and society, and through this transgender people can access all rights, such as health, education, labor, land and housing. "
- ✓ Indeed, access to the DESC is a necessary condition for the exercise of full citizenship.
- ✓ As has been clearly established in this report, the enactment of rules ensuring the legal recognition of gender identity and expression transgender people in their personal documents in a simple, free way is a fundamental condition to begin to retrace the path of exclusion and stigmatization that this population has historically suffered.
- ✓ Moreover, political, communication and social processes of legislation facilitate the debate on the awareness of citizenship, as officials, as communicators , among others, on the serious situation facing the transgender population and help raise awareness and interest in their problems. This gives an important tool for civil society to accelerate the process of improving the transgender population access to the DESC, which begins with the recognition of their identities.



**«NO PEDIMOS OPORTUNIDADES DIFERENTES, SINO IGUALITARIAS. UNA LEY DE IDENTIDAD DE GÉNERO NO NOS VA A SOLUCIONAR LA VIDA. NO SIGNIFICARÁ QUE MAÑANA VOY A SER UNIVERSITARIA O QUE VOY A TENER UN TRABAJO DE EJECUTIVA, PERO SÍ AYUDARÁ A COMBATIR EL ESTIGMA QUE PRODUCE QUE MI DOCUMENTO DE IDENTIFICACIÓN DIGA UNA COSA Y MI APARIENCIA, MI IDENTIDAD DE GÉNERO, DIGA OTRA».**

**ACTIVISTA TRANS EN GUATEMALA, GUATEMALA, JULIO DE 2012.**

It is also essential to establish rules to prevent, punish and eradicate discrimination based on gender identity and expression. In this sense, it is necessary for countries without such legislation to move forward in that direction. Also the signature and ratification by the countries of the region of the Inter-American Convention against all forms of Discrimination and Intolerance help raise the standard of protection of human rights of LGBT people.

Attention to multiple and very specific obstacles that transgender people have found historically in access to each of its DESC, require active, comprehensively implementation with the participation of civil society, especially with those organizations with strong public policies and territorial presence, to accelerate social change processes that allow transgender gender people to live a decent life.

Without a gender identity law that guarantees the recognition of the identity of the transgender people of all ages in simple, free and expeditiously effective rules against discrimination, public policy advocacy and social security mechanisms that address the most urgent situations, full access of the population transgender their DESC without discrimination will be an impossible goal to achieve. The states of Latin American and Caribbean have an international responsibility to its citizens to urgently implement all necessary actions to overcome the plight of rights violations and initiate a path toward full equality, and real social justice.

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<sup>46</sup> REDLACTRANS GENDER - Alliance, what's preventing (2012).



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<sup>47</sup> Campañas gráficas por la Ley de Identidad de Género utilizadas en Argentina (2010).

### 7.1. Bibliografía

- ATTTA - FALGBT (2011). *Por el derecho a ser quien cada uno y cada una es. Por el derecho a todos los derechos*. Buenos Aires, Argentina.
- ATTTA - FALGBT (2012). *Guía para comunicadores y comunicadoras. Derecho a la Identidad*. Buenos Aires, Argentina.
- Borgogno, I. (2009). *La transgender fobia en América Latina y el Caribe: un estudio en el marco de la REDLACTRANS GENDER*.
- Centro de Estudios Daia (2009). *Exclusión e inclusión. El problema de los discriminados*. Buenos Aires, Argentina.
- Comas, A., Fabro, M. y Seiffer, T. (2008). *Saberes y Estrategias de las Mujeres Trabajadoras Sexuales ante el VIH/SIDA y otras ITS*. Equipo Multidisciplinario de Investigaciones en Género y Trabajo (EMIGT) y Centro de Estudios e Investigaciones Laborales - Programa de Investigaciones Económicas sobre Tecnologías, Trabajo y Empleo (CEIL-PIETTE/CONICET), Ubatec SA, Buenos Aires.
- Comisión Global sobre el VIH y la Ley (2012). *Riesgos Derechos y Salud*. Ginebra, Suiza.
- Cutuli M. (2010). *Apuntes para el análisis de los cambios y las continuidades en las formas de organización social y política de travestis y transgender exuales en Argentina*. Fazendo Género, 9. Florianópolis, Brasil.
- Dirección de Sida y ETS del Ministerio de Salud de Argentina (2007). *Atención de la salud de personas travestis y transgender exuales*. Buenos Aires, Argentina.
- Dirección de Sida y ETS del Ministerio de Salud de Argentina (2007). *Estudio sobre seroprevalencia de VIH en personas transgender (travestis/transgender exuales/transgender géneros) y su asociación a prácticas de riesgo*. Buenos Aires, Argentina.

- dos Ramos Farías MS, Pando MA, García MN, Sosa J, Reynaga E, Romero M, Gallo Vaulet ML, Griemberg G, Rodríguez Fermepín M, Fernández Toscano M, Rey J, Marone R, Ávila MM. *High prevalences of HIV, HCV, HBV and Treponema pallidum in male and transgender sex workers from Argentina*. AIDS Vaccine Conference. París. Francia. 19 - 22 de octubre. 2009 (Abstract P 06-02).
- Fracchia, P., Rapisardi F. et al. (2011). *Identidad y expresión de género: cuestión de derechos humanos* (en *Ley de identidad de género. Por el derecho a ser quien cada uno y cada una es. Por el derecho a todos los derechos*). Buenos Aires, Argentina.
- Gasparini, L. et al. (2009). *Recent trends in income inequality in Latin America*. ECINEQ: Society for the Study of Economic Inequality. La Plata, Argentina.
- Gil Domínguez, A. (2012). *Derecho a la no discriminación y ley de identidad de género*. La Ley. Suplemento especial mayo.
- IESSDEH, REDLACTRANS GENDER , Miluska Vida y Dignidad, UNFPA (2009) *Informe final de mapeo encuesta sociodemográfica del trabajo sexual en cuatro ciudades del Perú*. Lima, Perú.<sup>48</sup>
- IESSDEH, REDLACTRANS GENDER , UNFPA (2009). *Lineamientos para el trabajo multisectorial en población transgender , derechos humanos, trabajo sexual y VIH/sida*. Lima, Perú.<sup>49</sup>
- INADI - INDEC (2012). *Primera Encuesta sobre Población Transgender 2012: Travestis, Transgender exuales, Transgender géneros y Hombres Transgender* . Buenos Aires, Argentina.
- INADI. *El disciplinamiento social de la sexualidad: informe federal sobre discriminación en los códigos de faltas y contravencionales*. Buenos Aires, Argentina.
- INADI (2005). *Hacia un plan nacional contra la discriminación: la discriminación en Argentina*. Buenos Aires, Argentina.
- Instituto Gino Germani (2011-2012). *De cómo vender sexo y no morir en el intento. Fronteras encarnadas y tácticas de quienes trabajan en el mercado sexual*. Grupos de Estudios sobre Sexualidades, Universidad de Buenos Aires, *Revista Latinoamericana de Estudios sobre Cuerpos, Emociones y Sociedad*, N° 7, año 3, diciembre 2011-marzo 2012, pp. 17-28.
- Liberatori, E. (2012). *El derecho a la identidad de las personas no heterosexuales*. La Ley. Suplemento especial mayo.

<sup>48</sup> Disponible en <http://www.iesddeh.org/usuario/ftp/COMBIINFORME.pdf>

<sup>49</sup> Disponible en <http://www.iesddeh.org/usuario/ftp/COMBILINEAMIE.pdf>



- Nasif Salum, A. y Rachid, M. *Legal issues facing transgender people in Latin America*. Inédito: expuesto en la conferencia organizada por el Comité LGBTI de la International Bar Association (IBA) en el marco de su Conferencia Mundial en Tokyo (2014).
- Observatorio de Derechos Humanos para Grupos Vulnerabilizados, Transgender Siempre Amigas (TRANSGENDER SA) y Comunidad de Trabajadoras Sexuales Transgender y Travestis Dominicana (COTRAVETD) (2014). *Reporte*. República Dominicana.
- OIT (2010). *Recommendation Concerning HIV and AIDS and the World of Work (No. 200)*, citado por PNUD en *Global Commission on HIV and the Law: Riesgos, Derechos y Salud*, Nueva York, Julio 2012, pp. 138.
- ONUSIDA (2007). *Atención de la salud de personas travestis y transgender exuales*. Buenos Aires, Argentina.
- ONUSIDA (2013). *Informe mundial: ONUSIDA, informe sobre la epidemia mundial de sida 2013*. pp. 20-22 y 78-81.
- OPS/OMS - ONUSIDA (2008). *Salud, VIH/sida y sexualidad transgender*. Buenos Aires, Argentina.
- Overs, C. y Leoff, B. (2013). *Toward a Legal Framework That Promotes and Protects sex Workers' Health and Human Rights*, Health and Human Rights, Vol. 15 N°1, Junio 2013, pp. 186-196.
- Paulón, E. (2011). *Derecho a la identidad. Un derecho, todos los derechos (en Ley de identidad de género. Por el derecho a ser quien cada uno y cada una es. Por el derecho a todos los derechos)*. Buenos Aires, Argentina.
- Pecheny, M. y Petracci, M. (2006). *Derechos humanos y sexualidad en la Argentina*. Horizontes antropológicos. vol.12 no. 26.
- PNUD (2012). *Global Commission on HIV and the Law: Riesgos, Derechos y Salud*. Nueva York, Julio 2012, p. 42.
- PNUD (2013). *Discussion Paper. Transgender gender Health and Human Rights*. Nueva York, EEUU.
- PNUD (2014a). *Sistematización del proceso para la aprobación de la Ley de Identidad de Género en Argentina*.<sup>50</sup>
- PNUD (2014b). *Guía de incidencia política para conseguir una ley de identidad de género*.<sup>51</sup>

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<sup>50</sup> Disponible en <http://www.regionalcentrelac-undp.org/images//Communications/Sistematizaci%C3%B3n%20del%20proceso%20de%20la%20Ley%20de%20Identidad%20de%20G%C3%A9nero%20en%20Argentina%20Final.pdf>

<sup>51</sup> Disponible en <http://www.regionalcentrelac-undp.org/images/Communications/Gu%C3%ADa%20de%20Inciden->



- Rachid, M. (2011). *El derecho a la identidad. De qué se trata* (en *Ley de identidad de género. Por el derecho a ser quien cada uno y cada una es. Por el derecho a todos los derechos*). Buenos Aires, Argentina.
- Rapisardi F. y Modarelli A. (2000). *Fiestas, Baños y Exilios. Los gays porteños en la última dictadura*. Buenos Aires, Argentina.
- REDLACTRANS GENDER - Alliance, what's preventing. (2012) *La noche es otro país: impunidad y violencia contra mujeres transgénero defensoras de derechos humanos en América Latina*.<sup>52</sup>
- REDLACTRANS GENDER - ONUSIDA - Internacional HIV/AIDS Alliance (2012). *Construyendo una realidad de derechos*. Buenos Aires, Argentina.
- Relatoría sobre los Derechos de las Personas Lesbianas, Gays, Bisexuales, Transgender e Intersex (LGBTI) (2014) - Comisión Interamericana de Derechos Humanos. *Una mirada hacia la violencia contra personas LGBTI*.<sup>53</sup>
- USAID/PASDCA Centroamérica (2012). *Estigma y Discriminación asociados al VIH, Encuesta de Opinión Pública*.<sup>54</sup>

## Otros documentos

- Convención Interamericana contra toda forma de Discriminación e Intolerancia<sup>55</sup>
- Decreto 1086/2005, Presidencia de la Nación, Argentina, que oficializa el Plan Nacional contra la Discriminación.
- Resoluciones de la Asamblea General de la Organización de Estados Americanos AG/RES. 2435 (XXXVIII-O/08), AG/RES. 2504 (XXXIX-O/09), AG/RES. 2600 (XL-O/10), AG/RES. 2653 (XLI-O/11), AG/RES. 2721 (XLII-O/12) y AG/RES. 2807<sup>56</sup> (XLIII-O/13) "Derechos humanos, orientación sexual e identidad de género".

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cia%20Pol%C3%ADtica%20para%20Conseguir%20una%20Ley%20de%20Identidad%20de%20G%C3%A9nero%20Final.pdf

<sup>52</sup> Disponible en <http://www.onusida-latina.org/es/regional/383-violencia-e-impunidad-contra-las-mujeres-transgender-defenso-ras-de-los-derechos-humanos-en-américa-latina.html>

<sup>53</sup> Disponible en <http://www.oas.org/es/cidh/lgtbi/docs/Anexo-Registro-Violencia-LGBTI.pdf>

<sup>54</sup> Disponible en [http://www.pasca.org/sites/default/files/REGION\\_EYD\\_2011\\_ENE\\_2013.pdf](http://www.pasca.org/sites/default/files/REGION_EYD_2011_ENE_2013.pdf)

<sup>55</sup> Disponible en [http://www.oas.org/es/sla/ddi/tratados\\_multilaterales\\_interamericanos\\_A-69\\_discriminacion\\_intolerancia.asp](http://www.oas.org/es/sla/ddi/tratados_multilaterales_interamericanos_A-69_discriminacion_intolerancia.asp)

<sup>56</sup> Disponible en <http://scm.oas.org/ag/documentos/Index.htm>

- Mapa interactivo del observatorio de personas transgener asesinadas, 2008 a diciembre de 2013.<sup>57</sup>
- Observación General N°20 del Comité DESC.<sup>58</sup>
- Principios de Yogyakarta.<sup>59</sup>

## 7.2. Referentes de organizaciones regionales encuestadas

1. Asociación de Travestis Transgender exuales y Transgender de Argentina, Luisa Lucía Paz, ARGENTINA
2. ALFIL, Rashell Erazo, ECUADOR
3. RED TREBOL BOLIVIA, Rayza Torriani, BOLIVIA
4. SINDICATO INDEPENDIENTE NACIONAL DE TRABAJADORAS SEXUALES TRANSGENDER  
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5. ASOCIACIÓN SOLIDARIA PARA IMPULSAR EL DESARROLLO HUMANO ASPIDH,  
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6. COLECTIVO UNIDAD COLOR ROSA, Gabriela Redondo, HONDURAS
7. REDTRANSGENDER -NICARAGUA, Silvia Rosibel Martinez,  
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8. ASOCIACIÓN TRANSGENDER URUGUAY, Gloria Alvez Mariños,  
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9. ASOCIACIÓN PANAMEÑA DE PERSONAS TRANSGENDER , Venus Tejada,  
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11. RED MEXICANA DE MUJERES TRANSGENDER A.C., Paty Betancourt,  
MEXICO
12. ASOCIACIÓN PANAMBI, Hirene, PARAGUAY

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Disponible en [http://www.transgender-respect-transgender-phobia.org/es\\_ES/tvt-project/tmm-results/all-tmm-reports-since-2008.htm](http://www.transgender-respect-transgender-phobia.org/es_ES/tvt-project/tmm-results/all-tmm-reports-since-2008.htm)

Disponible en [http://www2.ohchr.org/english/bodies/cescr/docs/E.C.12.GC.20\\_sp.doc](http://www2.ohchr.org/english/bodies/cescr/docs/E.C.12.GC.20_sp.doc)[http://www2.ohchr.org/english/bodies/cescr/docs/E.C.12.GC.20\\_sp.doc](http://www2.ohchr.org/english/bodies/cescr/docs/E.C.12.GC.20_sp.doc)

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bodies/cescr/docs/E.C.12.GC.20\_sp.doc

<sup>59</sup> Disponibles en [http://www.oas.org/dil/esp/orientacion\\_sexual\\_Principios\\_de\\_Yogyakarta\\_2006.pdf](http://www.oas.org/dil/esp/orientacion_sexual_Principios_de_Yogyakarta_2006.pdf)

## 8. APORTES Y HERRAMIENTAS PARA COMPARTIR

8.1. Mapa regional sobre países con Ley de Identidad de Género

8.2. Encuestas a referentes

8.3. Encuestas territoriales

8.4. Informe de situación y sistematización

