

Report by the Coalition LGBTTI (CLGBTTI) of the Dominican Republic

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Recommendation that enjoyed the support of the State during the 13th period of sessions of the Human Rights Council, during the exam of the UPR.

25. Take all necessary measures to put an end to discrimination against gays, lesbians and transsexuals (France).

Executive Summary

1. 2009 to 2013 has been a period of advance for the Dominican State regarding the recognizing of Human Rights in the Dominican Republic; with the approval of the new Constitution. Nevertheless, the rights of Lesbians, Gays, Bisexuals, Transsexuals, Transvestites, and Intersexuals (LGBTTI)ⁱ fails to be recognized.
2. The violations of rights faced by the LGBTTI is embarked in the inequality of gender, the lack of public politics, violence, police abuse, harassment in schools, incitement to violence against LGBTTI by powerful sectors, deficiencies in health care sectors, the lack of legislations on the discrimination against LGBTTI, and the lack of same sex marriage.
3. An example of the issues being raised is the promulgation of the new Constitution of January 26, 2010; without recognizing the role the State plays in the discrimination explicitly due to sexual orientation. Even though the LGBTTI community, as civil society, had requested the inclusion of this term; which in turn was not included due to pressure from powerful sectors and thus became changed into the term: *whatever personal condition* to make the words *sexual orientation* invisible and thus equalizing the population.ⁱⁱ
4. There is a high amount of violence within families of the LGBTII, since they suffer from psychological violence, physical violence, and in many cases suicide is attempted or succeeded.
5. Homosexuality is seen as a disease by professionals in the Dominican Republic. They talk about it on radio shows and write about it in the media, exposing their critiques and ideologies; contrary to the World Health Organization. Additionally they exercise practices to cure homosexuality under reparation therapies and electroshocks. All of this happens without regulation of the competent State organs. *“The preference for homosexuality damages the individual, hurts their families, and is costly for public health care, for it ought to be recognized as an abnormal conduct...”*ⁱⁱⁱ

a) Costs and Risks of the visibility and militancy

6. The discrimination against the LGBTI is expressed in different forms in both the private as the public spheres, which supposes the violations of other human rights; impeding upon the enjoyment of a life integrated in the principle of equality.
7. It has become a common practice on Dominican territory that persons who identify themselves as lesbians, gays, bisexuals, transsexuals and intersexuals expelled from their work, suffer from some type of harassment by their superiors or colleagues at work, suffer from abuse or harassment by military and police personnel, domestic violence, harassment and homophobia in schools, inadequate attention in healthcare centers, and constant discrimination in other sectors of authority.
8. Data recollected in an opinion poll on un- and underemployment of persons registered with LGBTII organizations in the city of Santo Domingo, showed that over 60% are without steady jobs. This high rate is associated with a system of labor exclusion that directly affects the marginalization of those with a different sexual orientation than the majority.^{iv}
9. An opinion poll showed the major unemployment of transgenders. They do not have access to formal employment and generally find their informal work in sex work. For instance there is the case of a transgender who finished his studies in bio analysis; however he could not find employment despite of showing his CV to different laboratories. The reason for this is because he is a transgender.
10. There is the reference of a transgender youngster who graduated from university as accountant. Despite her efforts she could not find a noteworthy job, neither in the public nor the private sector, matching her studies.
11. A young homosexual of 20 years, was denied to work at a firm under the pretenses that his sexual conducts and his form could affect other employees. This occurred in July 2012.
12. Another young lesbian encounters humiliation and harassment by her colleagues at work who know about her sexual orientation. They refer to how “bad” it looks to be lesbian, how promiscuous lesbians, and that they need a man who will cure them from being lesbian. She has often considered quitting her job out of fear that one day the harassment will become violence. As is the case with other cases, this one could get to a violent conclusion due to the lack of public politics and laws against homophobia.^v
13. According to Leonardo Sánchez, executive director of Amigos Siempre Amigos (ASA), due to customs it is often seen that homosexuals have to feel ashamed, or hide their sexual orientation; above all on the labor market. In many companies they incite a homosexual or a lesbian to marry in order to be able to allow them into the company. At the National Bank the management positions are preferably given to married individuals with a family. There are many unwritten norms that are imposed by use or custom.^{vi}
14. Those LGBTTO who are part of the Dominican military or police forces are unable to openly express their sexuality at work, because they will run the risk of being violated, humiliated, or even fired because of their sexual orientation. There exist strict policies in the country on the entrance of homosexuals in the military corpse.^{vii}

c) Abuse and Harassment of LGBTTI soldiers and policemen

15. Members of the National Police and the military illegally arrest, extort and sexually violate LGBTTI. As seen in the following cases:
16. In March 2012 a young transgender from Santo Domingo North, was arrested on a street in the sector of Villa Mella by the National Police, under the allegation that he was attacking the morale and the good customs.^{viii}
17. Two female transgenders were arrested in June 2012, while entering public transportation in Villa Mella. The authorities did not justify the arrest with and allegation, yet these individuals were detained for 24 hours.^{ix}
18. Transgenders workings as sex workers are being extorted and sexually violated by members of the National Police. However up until this day there has not been a single agent punished for these actions.
19. Representatives of LGBTTI organizations have frequently encountered threats and harassments from State organs, such as the National Police. In June 2012, the right to expression of patriotism was denied when it was not allowed to carry the national flag in the traditional gay pride parade. Police men forcefully interfered and stopped participants from the use of the flag in the activity. The interference was done under the allegations of an attack on the respect for this patriotic symbol, the morale and the good customs.^x
20. Another violation from the State occurred when government official of the municipality of Santo Domingo East, denied the license^{xi}, allowing the traditional gay pride parade 2012 to walk through important street, based upon unfair allegations and bad grounds, since the National District had already given the license.
21. On June 27th 2010, a lesbian activist was assaulted on the George Washington avenue in Santo Domingo. She was assaulted by a group of police officers after the Pride Parade of the LGBTTI Santo Domingo 2010. While the activist was on her way out with her friends, “the police officers present at the scene, enclosed the group and violently yelled at them to move; insulting and yelling vulgar words”. Eventually, the police struck various times and forcefully tried to pull her out of her car; until other participants of the parade approached. Even though the activist initiated a legal procedure against the National Police and her aggressors, in collaboration with a constitutional lawyer; after almost two years her case was closed.^{xii}
22. In 2009, the authorities photographed members of various LGBTTI organizations and threatened to share them in the public opinion. The photo’s were taken while the activists were celebrating the LGBTTI Pride in the Duarte Parc. The authorities states the names of the activists accompanied by pictures of them while they were arrested illegally. As a result, many of the activists immediately lost their employment. Afterwards, the police denied the right to the LGBTTI community to legally gather in the Duarte Parc; even though the LGBTTI groups has requested permission.

c. Domestic Violence

22. Within the family, violence is exuberant when a person shows conducts associated with the homosexuality or openly declares his sexual orientation. They will receive beatings from their family members, face expulsion from their homes, as well as economic restrictions, desintegration from their family, sexual violations, abandonment from their homes, scholastic desertion, and in some cases they will intent to commit suicide. This is a product of upbringing and cultural stigmas due to there being no public politics created, nor laws against the crimination based on sexual orientation and thus the stigmas convert into violence towards the community with sexual diversity.

23. In the psychotherapeutic support center of the Asociación Amigos Siempre Amigos (ASA) there we five cases of domestic violence against homosexuals reported between 2011 and 2012. These actions are related towards the intention of family members to desire to change the sexual orientation of the individuals.

d. Harassment in schools due to sexual orientation

24. In schools homophobia is exercises towards the LGBTTI. This is sees in the low qualifications of the LGBTTI and often in the desertions; as is the case with transgenders who become sexual workers because the have been unable to finish school as a result of the homophobia they were submitted to.

f) Uncompassionate health care services

25. The absence of public politics creating services with compassion towards homosexuals and the sensibilization of people working in health care centers ought to be the measure to avoid discrimination on the grounds of sexual orientation. The lack of these politics enable the apparition of cases where the rights of LGBTTI patients in public and private hospitals are being violated. As was the case with a transgender women who was referred to the public hospital Moscoso Puello in January of this year. She came from the interior of the country with symptoms of cholera and during the first nine hours after the got to the hospital, she was not taken care of; they did not pay attention to the requests of her friend to help her, the doctors and nurses on shift in the emergency room omitted the case and sent her home stating that she should simple take the prescribed medication: without medically examining her or doing analysis in the laboratory.^{xiii}

26. In 2010 a gay youngster was shot in the city of Santiago. He was brought to the hospital Cabral y Báez, where he was not given the adequate attention, and his homosexual friends were impeded to donate the blood he needed to save his life. The argument given by the authorities was that homosexuals are not allowed to be blood donors.

27. In health care centers lesbians are not treated with proper dignity; because of their sexual orientation the medical staff do not pay the proper attention according to the necessities of the patent to the aforementioned. During the medical consultation, doctors do not ask whether the patient is lesbian, nor do they realize that the possibility exists, and simply assume the patient to have sexual relations with a man or to have children. While in reality many lesbians never even had sexual relations with a man, nor do they have children. Furthermore, the way lesbians get a Sexually Transmitted Disease (STD), HIV/AIDS, the human papillomavirus, and so on, is different to the way heterosexual women contract any of these conditions.

f) General discrimination in the living environment

28. Persons identified as homosexuals, suffer from social discrimination in their direct living environment; people make fun of them on the street because of their sexual orientation, and in some cases it even goes as far as physical violence and death threats with fire arms.
29. In April 2013 a homosexual was attacked by people living a street close to his house, which he frequently passed. The variously yelled at him that he was a 'maricón' (a negative word for gay) and threw stones at him in order for him to leave the street. While this was happening he would tell them to leave him alone. After various aggressions and without protection of the State authorities, the young gay felt obliged to draw a gun.^{xiv}
30. Harassment committed by heterosexual men and suffered by lesbians, usually occurs close to sites frequently visited by the lesbian in question. The harassment is so severe, it gets to a point where the women lives in a constant fear that physical violence or sexual aggression might occur at any moment.
31. There have been reports on cases of violence, sexual violence and even death threats toward lesbians. These conducts are not being reported to the corresponding State departments, because the judicial system of the Dominican Republic imposes various obstacles that impede LGBTTI to access the resources and benefits of Justice, additionally their right to confidentiality is being violated.
32. The discrimination in the Dominican Republic has become the daily lives of the LGBTTI population, since it is difficult to get around in their living environments due to their sexuality; impeding upon the free development of their human personality, as is stated in our constitution.^{xv}
33. In the city of Santiago, various gays were violently taken out of a restaurant being suspected of being thieves. In this same city, the Gay community is daily attacked by the National Police in the Duarte parc; where they are being expelled and many times illegally arrested.
34. When a homosexual couple decides to live together as a family; it is very difficult for them to find a home since they are being discriminated by those renting or selling a house. Even when they are already living together they often encounter expulsion from their homes, when the landlord finds out the couple is gay. Often the couples give in to the motion of the landlord as to not disturb their lives any further, since the neighbors are already pressuring them to move.^{xvi}
35. In the Dominican Republic transvestite sexual workers are being assassinated every year; without the authorities effectively solving the cases. The Dominican laws do not sentence hate crimes, and the term hate crime is not found amongst the categories of murder in the Dominican judicial laws. Much less will there be terms found for the perpetrators who committed the crime for reasons of sexual orientation and/or gender identity; as is frequently the case.^{xvii}

9) Equality of children in families with homo-parents

36. One of the major expressions of discrimination against LGBTTI in the country, constitutes the constitutional prohibition of same sex marriage,^{xviii} established in express form during the

last constitutional reforms. This tacit disposition establishes the legal exclusion of this population and the discrimination against their right to form a family. This is a devaluating message of the legal norm towards the population in general.

37. There is insufficient legislation in relation to the recognition of the children of same sex couples. This is due to homophobic actions in power structures that are against the individuals excelling due to legal changes and modifications at the national level that directly influence public politics. Others use their political power to remove these changes from the public agenda.

h) Lack of antidiscrimination laws on sexual orientation and gender identity.

38. The Dominican Republic does not have an antidiscrimination law; the only law is article 11 of the 2005 Penal Procedure Code on discrimination because of sexual orientation and article 27 of the Law on Youths which establishes discrimination because of sexual orientation. Law 24-97, the modification of the Penal Code, establishes the tipification and sanctioning of discrimination in its article 336. Nevertheless, it does not contemplate discrimination because of gender orientation of sexual orientation, it does not even establish: "...for whatever other condition". This situation favors conditions of discrimination and its impunity.

39. In the Dominican Republic there is no law on gender identity. In the constitutional text there is not even spoken of discrimination on grounds of gender identity; transgenders are completely unprotected in the national system. They are unable to change their name and even though law 659 on the acts of the Civil State allow name change, transgenders are unable to do so because name changes are only allowed for exceptional reasons and because the identification of gender is limited to male and female and transsexuals are not identified. Thus, they have to bear a name that does not identify the person, damaging their free personal development, and they will have to use the names given by their parents at the moment they were born, although unwillingly.

40. With the lack of this legislation the way has been paved for homophobic individuals with political power to incite hate and violence, as has been publicly expressed by some. The Cardinal, evangelic pastors, politicians, journalists, health care professionals, and various personalities in Dominican social life have expressed themselves publicly, promoting incitement to hate and putting at risk rights enjoyed by every person. Amongst these rights is the right to life and by inciting hate, violence, and discrimination they have glossed over the defense of traditional values.^{xix}

41. All forms of violence against homosexuals will continue to be a serious problem to organizations working with, for, and from the LGBTTI population.

Recommendations

- a) The Dominican State should proclaim an antidiscrimination law where discrimination on the grounds of gender identity and sexual orientation is included. The necessary legislative measures have to be adopted with the end to include the prohibition of discrimination on the grounds of gender identity, expression of identity and sexual orientation in the legal framework. A law on Sexual health, reproduction, and the protection of sexual diversity should be approved. The Dominican State should create public politics including the LGBTTI community in all spheres of national life.

- b) Education in the Dominican Republic should be secondary and unreligious, and the Educational Program Sexual Affection of the Ministry of Education should be included and in this program the terms related to sexual diversity should be included.
- c) Public politics that tackle the necessities of sexual health and reproduction of the LBT women as well as trans men living in the country. Additionally they should tackle the issue of compassionate health care services for the LGBTTI population.
- d) The State ought to contemplate the mandates on guarantee and respect of the human rights of the LGBT population within the drafts of the laws that modify their principle codes.
- e) The creation of a law on gender identity, where transgenders are allowed to develop their lives without violence and the current imposition of society.
- f) The State ought to design a campaign at the national level, on the prevention of violence against the LGBT population and with a special focus on the peculiar violence suffered by transgenders in the country. There should be effective sanctioning of violence against this violations as well as sanctioning of the deaths.
- g) Include anti-discriminatory measures in the politics on employment, as well as in the purses.
- h) The State should design a national campaign on the prevention of the violence against LGBTTI; with a special focus on the violence particularly suffered by transgenders in the country. Effectively sanctioning the violence directed towards this groups and the resulted deaths.

Endnotes

ⁱDominican Constitution, January 26 2010, Fundamental Rights art. 37 through 75.

ⁱⁱDominican Constitution, art. 39 Right to Equality: All persons are born free and equal before the law, they will receive the same protection and treatment by institutions, authorities and others. They enjoy the samen rights, liberties and opportunities, without any form of discrimination for reasons of gender, color, age, disability, nationality, family ties, language, religion, political views or philosophies, social or personal conditions...

ⁱⁱⁱwww.hoy.com.do/opiniones/2012/4/17/476325/Cinco-mitos-sobre-preferencia-homosexual, written by Dr. José Dunker.

^{iv}Uplifting was realized by the network of volunteers of Amigos Siempre Amigos (RevASA) in March 2013.

^vInformation supplied to Diversidad Dominicana by social network users.

^{vi}See report on the human right situation of lesbians, gays, bisexuals, and transgenders in the Dominican Republic, March 2012, par.

13.<http://www.alianzagth.org/contenido/documentos.php>

^{vii}Information supplied to Diversidad Dominicana by some members of the military and the National Police.

^{viii}Information supplied by REVASA.

^{ix}Information supplied by REVASA.

^x<http://www.youtube.com/watch?v=SzeaB5Ga4pY>

^{xi}Despite of the Dominican constitution establishing the liberty of movement and expression, it has become a custom to notify the authorities when a public manifestation will be held. It is the aim to sent agents to organize transport and security, but the impedent on the manifestation is an arbitrary act violating the human rights.

^{xii} See report on the human rights of Lesbians, Gays, Bisexuals, and Transgenders in the Dominican Republic, March 2012, par. 30.

^{xiii} Information supplied by an user of Diversidad Dominicana in May 2013.

^{xiv} Information supplied by an user of Diversidad Dominicana in May 2013.

^{xv} Article 43 of the Dominican Constitution: Right to the free development of personality, every person has the right to free development of their personality without more limitations than those imposed by law and the rights of others.

^{xvi} Cases reported to Diversidad Dominicana in 2010.

^{xvii} See report on the human rights of Lesbians, Gays, Bisexuals, and Transgenders in the Dominican Republic, March 2012, par. 28.

<http://www.alianzagth.org/contenido/documentos.php>

^{xviii} Article 55-3 of the Constitution: the State will promote and protect the institution of the family based upon matrimony between a man and a woman. The law will establish the requirements to contract, the formalities to celebrate, the personal and patrimonial consequences, the grounds for separation or divorce, the regime of goods, and the rights and duties between husband and wife.

^{xix} http://www.7dias.com.do/index.php/noticias/141060/Cardenal_felicita_a_la_ilustrisima_jueza_y_la_pandillas_que_andan_repartiendo_cuarto_para_hacer_lo_que_les_parece#.UZ6YNqJKY8r , <http://www.sdboysclub.com/2012/01/el-cardenal-dominicano-nicolas-de-jesus-lopez-ataca-otra-vez-los-homosexuales/>