



## PANAMA

Situation of lesbian, bisexual, transsexual, and transgender women in Panama in relation to discrimination.

### Shadow Report

November 2009

**Recognition:**

Asociación Panameña de Personas Trans (APPT – Panamanian Association of Trans People)

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**Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)**

**45th session, 18 January to 5 February 2010**

## **EXECUTIVE SUMMARY**

**In Panama, the Human Rights of transgender women are violated every day, but no document exists to prove it. The ill-treatment to our community is palpable, even if everyone turns a blind eye: everyone is aware of the problem but no one does anything for us. This is why the APPT is spreading the word not by taking a document to some government court but by fighting for visibility and for the opportunity to lead fulfilling lives.**

**In Panama, the average woman still suffers from inequality in terms of security and rights. Discrimination and violence have a large impact on lesbian, bisexual, transsexual, and transgender women, who have to conceal their true identities for their personal safety, for their jobs, and for their education. Transsexual and transgender women who are sex workers are particularly vulnerable to violence by individuals and the police as well as arbitrary arrest by police.**

**There is no law in Panama to protect sexual diversity from stigma and discrimination, nor is there a state-led initiative to support those of us whose social, economic, and working development has been stunted.**

## INTRODUCTION

**The Panamanian Association of Transgender Persons (APPT) started work in 2007 with transgender women, in order to combat the various violations against us in all areas of life. In these two short years, we have seen that we are considered a social blight and that our human rights are being violated. We consider these rights to be innate because we are all born with them, and yet we are mistreated, discriminated against, and stigmatized.**

**Unfortunately in Panama there is no culture of whistle-blowing that would allow for an efficient way of keeping track of the rights violations that occur to transgender people. This is why we are presenting our unfortunate information about what happens to us in Panama.**

**On a positive note, the APPT is organizing itself with an eye to educating transgender women on various topics that affect them so that they learn that if their rights are threatened they should go to their courthouse, where they can file a complaint in order to set a precedent against the injustice with which we are faced. After all, that which has no name cannot exist.**

## **PRINCIPAL VIOLATIONS OF THE ARTICLES OF THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN**

### **Violations of the structural principals of the Convention: Equality, anti-discrimination and state obligations.**

#### **Articles 1-4, 7, 8 : Discrimination against women in all its forms**

**In the social field**, lesbian, transsexual, bisexual, and transgender women still receive unequal treatment because of our sex, our sexual orientations, and our gender identities.<sup>1</sup> We encounter discrimination during our education and when we go to public places, whether to ask for services or media attention. When we go to clothing stores, the salespeople keep us waiting, as they do in recreational places such as casinos, straight night clubs and restaurants. Additionally, a proposed law that would establish and protect human rights, sexual and reproductive health, and promote education, care, and information on sexual and reproductive health, without discrimination based on sexual orientation could help educate young people and reduce social discrimination, but it was voted down in 2008.<sup>2</sup>

**In the economic field**, no one takes into consideration our intelligence and skills. When lesbian, transgender, transsexual and bisexual women look for a job, we are not even given the chance to have an interview, because we are seen as lower class citizens, and we are told that the position has already been filled. The classifieds online and in newspapers were not made for us: they almost always ask for attractive, tall, elegant, well-dressed women under 35. If we forced ourselves to follow these recommendations to get the job, we would be giving up our right to free expression. These ads seem to have been written by male chauvinists to whom only physical appearance matters. We have no opportunities; we are invisible here.

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<sup>1</sup> Immigration and Refugee Board of Canada, *Panama: The situation of homosexuals, including societal attitudes, police treatment and state protection*, 14 May 2009, PAN103158.E, available at: <http://www.unhcr.org/refworld/docid/4a7040af23.html> (hereinafter, *Panama: The situation of homosexuals, including societal attitudes, police treatment and state protection*)

<sup>2</sup> Proyecto de ley No. 442 Sexualidad y Salud reproductiva.

**In the political process** you rarely see a lesbian, transsexual, bisexual or transgender woman who publicly admits her sexual orientation or identity. If she did, she would automatically be discriminated against by her macho colleagues, she would immediately be stigmatized and her political career would become more difficult. Her achievements would be generally overshadowed by her orientation until she lost her reputation, and then eventually her career would be over.

**In law**, Article 19 of the Panama Constitution prohibits privilege or discrimination based on race, birth, disability, social class, sex, religion or political ideas, but does not include sexual orientation,<sup>3</sup> There are no laws in Panama that prohibit discrimination based on sexual orientation or gender identity, or for a lesbian, bisexual, transgender, or transsexual identity. The only anti discrimination law, of 16 April 2002, regulates the right to be admitted to public institution and provides some measure to prevent discrimination on the basis of race only, and is complex, expensive and slow to redress related harm.<sup>4</sup>

Lesbian women face significant discrimination on the basis of their sexual orientation and their gender. Lesbians who are incarcerated are particularly vulnerable to unequal treatment by prison officials.<sup>5</sup> Additionally, in Panama, same-sex couples do not receive the legal recognition that non-married different-sex couples receive after living together for 5 years. In addition, same-sex couples are not permitted to adopt children.<sup>6</sup>

**We ask the Honorable Committee that they advise the state of Panama to:**

- **Enact laws that benefit our community in terms of equal rights and discrimination based on sexual orientation and gender identity.**

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<sup>3</sup> Constitución Política de la República de Panamá, Artículo 19.

<sup>4</sup> Ley No. 16 de Abril de 2002, Que regula el derecho de admisión en los establecimientos públicos y Dicta medidas para evitar la discriminación (that regulates the right of admission to public establishments and dictates measures to avoid discrimination).

<sup>5</sup> See, Global Rights, IGLHRC, University of Virginia School of Law, "Violations of the Rights of Lesbian, Gay, Bisexual and Transgender Persons in Panama Under the International Covenant on Civil and Political Rights." *A Shadow Report for the Human Rights Committee Submitted in Conjunction with Panama's (Third Periodic) Report*. 17 March 2008, p. 5-6. Available at [http://www.globalrights.org/site/DocServer/Shadow\\_Report\\_Panama.pdf?docID=9824](http://www.globalrights.org/site/DocServer/Shadow_Report_Panama.pdf?docID=9824) (hereinafter *Shadow Report to the Human Rights Committee 17 March 2008*)

<sup>6</sup> *Panama: The situation of homosexuals, including societal attitudes, police treatment and state protection.*

- **Take any means necessary to pass the Sexual and Reproductive Health law so that our schools will no longer teach us from a young age to be objects of discrimination in our homes.**
- **Guarantee that no one will be fired for making public their sexual orientation and that no one will be barred from holding public office because of their sexual orientation or gender identity.**

**Article 3: Guaranteeing the exercise and enjoyment of basic human rights and fundamental freedoms.**

Panama has yet to take any measures in the political, social, economic, and cultural fields that would guarantee the full development and advancement of lesbian, transsexual, bisexual or transgender women, in order to guarantee them the exercise and enjoyment of human rights and fundamental freedoms, all things being equal.

Transsexual and transgender women are prevented from having a job, much less a salary, and the state of Panama has not considered including them in government. As for heterosexual and lesbian women, there is wage discrimination no matter what level of academic instruction they have had. No matter what degree they have earned, women never equal men much less surpass them in terms of average salary.

Transsexual and transgender women are also targeted by the police and arrested arbitrarily and physically abused because of their gender identity and gender expression. Furthermore, these abuses happen in a culture of hatred in which transsexual and transgender people face individual violence, unpunished by the police. Such impunity is so prevalent that one trans individual who survived being stabbed in the Las Mananitas sector of Tocumen was reluctant to report the incident to the police at all.<sup>7</sup>

**We ask the Honorable Committee that they advise the state of Panama to:**

- Establish methods of sanctioning those people who impede the enjoyment of human and civil rights by lesbian, transsexual and transgender women, be it financial integrity, security, the administration of justice, freedom of expression, or freedom of movement.
- Protect lesbian, transsexual and transgender women from discrimination in the workplace and establish appropriate measures to ensure equal pay for all women, so that they are not paid less than their male colleagues performing the same job.

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<sup>7</sup> *Shadow Report to the Human Rights Committee 17 March 2008*, p. 6.

- Guarantee all women the enjoyment of fundamental freedoms and recognize that they are owed rights by the simple fact of being a person, regardless of their gender identity or sexual orientation.

### **Article 5: Elimination of prejudices and stereotypes of men and women.**

Being a transsexual or transgender woman is related to one's gender identity. There are people who feel they are a gender (man or woman) that does not correspond with their biological sex (male or female), i.e. they feel like a woman in a man's body or a man in a woman's body. We should be able to live according to the gender that we feel in our hearts, we should respect this decision made by each person, and just pay attention to appearances. In this way we can eliminate prejudices and stereotypes based on our sexual identities.

It has always been said that God created man and woman, but transgender women have existed from the beginning of time. The socio-cultural standards for men and women teach us to believe that we are not acting according to established societal norms, and this is why we are vulnerable and not accepted by society.

Because we are transgender women, we are faced with obstacles in the fields of work, health, and education, just because the way we dress doesn't correspond with our given names. We are thrown out of the places we go to until we learn to conform to our biological identity. We are discriminated against because of how we express ourselves.

### **We ask the Honorable Committee that they advise the state of Panama to:**

- **Legislate all necessary measures of eliminating discrimination and stigmatization for LBGT women.**
- **Legislate, in particular, all necessary measures to allow us access to written and televised press without discrimination based on sexual orientation or gender identity so that we can express ourselves freely and so that we can all be people with the same rights and who benefit from the same respect. Let no one be worth more than anyone else and let us all be equal before the Law and before God.**

### **Article 6: Traffic of women and exploitation of prostitution of women.**

In Panama there are bars and canteens where foreign women take a medical test once a week and perform sex work. The people who exploit these women take away their documentation (passport, identity card, etc) so that they are forced to work for them as long as necessary, without having to pay business owner fees.

In the case of transgender women, they are most often condemned to sex work on the streets. We have seen an increase in the number of these women, including minors, because transsexual and transgender women do not enjoy the exercise of dignified work in Panama because the state does not allow it. Our rights are compromised by the clients and the police who have become the “**tax pimps**” of transgender women: the policemen who arrest them usually do **not** take them to the competent authorities but take their money in exchange for letting them go. The transgender women who refuse to hand over the money are taken to judges to be convicted.<sup>8</sup>

Transgender women find themselves with compromised legal and constitutional rights. Even though Panama has no law saying that clandestine prostitution is a crime, it also does not define what it is. The correctional competent authorities apply against transgender women accused of prostitution, the Ministry of Labor and Public Health Article 12 of decree #149 of May 20, 1949, which criminalized sodomy, even though this law was repealed by article 1 of July 29, 2008. The government must protect the human rights of transgender women who perform sex work, without discrimination based on sex, sexual orientation, or gender identity.

**We ask the Honorable Committee that they advise the state of Panama to:**

- **Carefully observe and abide by the mandate of article 1 of July 29, 2008, which repeals article 12 of decree #149 of May 20, 1949.**
- **Put into place laws that will penalize those who harm women who perform sex work.**
- **Ensure that all women, including transgender and transsexual women, have the right to work, and can have access to education, public health, and lodging.**
- **Respect, protect and ensure the human rights of all sex workers regardless of sexual orientation or gender identity.**

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<sup>8</sup> *Shadow Report to the Human Rights Committee 17 March 2008*, p. 6.