

Report Committee on Economic, Social and Cultural Rights pre-session

1. Prejudice against Trans people create barriers to access and remain in the education system

The Colombian State fails its duty to guarantee access and permanence in the education system to Trans population. Although there are no formal measures against the access of Trans people, prejudice against this group and lack of pedagogies that fight against discrimination within the education institution, create de facto barriers that prevent Trans people from exercising their right to education or force them to desert before fulfilling their education cycle. Some of the main access barriers are: 1. Violence and discrimination against Trans people in the education system, 2. Lack of prevention, protection and complaining mechanisms, 3. Lack of implementation of non-discrimination policies by the national government.

1.1 Violence and discrimination against Trans people in the education system

According to a survey conducted by Colombia Diversa and Sentiido¹ to students in school education institutions, 54.8% felt unsafe because of how he/she expresses his/her gender identity. The expression of gender identity and sexual orientation are amongst the main reasons for discrimination within schools in Colombia, creating a hostile climate for students to successfully participate in their educative spaces. 34.7% of students surveyed informed that always or very often they heard negative expressions against Trans people. Some of the main spaces they evade for considering them highly hostile to their gender expression are: bathrooms, locker rooms and changing rooms. This environment of threat also negatively affects their academic success because it is common that students that feel threatened stop assisting lessons. When asked about this matter, 22.3% answered they haven't assisted to at least one lesson during the last month because they felt unsafe, 21.4% answered they didn't attend school for a day because of the same reason. According to the survey the main forms of violence are: verbal abuse (3 in every 4), sexual abuse (4 in every 10) and cyberbullying (4 in every 10). Fellow students but also teachers were reported to conduct discriminative actions against students with diverse gender expressions, according to the survey 37.2% of students felt abused by teachers or school staff during the last year.

A specific type of violence encounter by Trans students is the lack of institutional support for their gender transit. Although the Constitutional Court has previously expressed institutional support for Trans students that wish to use the uniform that expresses their gender identity, based on the right

¹ Colombia Diversa & Sentiido “Mi Voz Cuenta: experiencia de jóvenes lesbianas, gays, bisexuales y trans en el ámbito escolar. Encuesta de clima escolar en Colombia, 2016”

to free personal identity, as seen in previous cases², institutions still deny the right to education to students who wish to use the uniform or the name that expresses their gender identity by expelling them from lessons or the institution and it is only with the interference of higher Courts that their right to education and free personal identity are protected³.

1.2 Trans students lack effective protection and complaining mechanisms against discrimination in education spaces, adding to school desertion and suicide

Education institutions lack access routes to guaranteeing the right to education and free personal identity to Trans students, exposing them to conditions of vulnerability and aggravating their experience as they lack institutional support to prevent, safeguard from and investigate complaints of violence. This is made evident by the lack of student trust to complaint against incidents of transphobic violence, as 60% of students surveyed by Colombia Diversa and Sentido answered they never complaint against it to school staff or their families⁴.

Such mistrust can be explained by: 1. Fear of revealing their gender identity, 2. Complaints are not effective to prevent or protect their rights. 52% of students answered that the school staff response was not useful and 26.5% answered that their family didn't do anything to safeguard their rights. Discrimination and violence against Trans students, adding the lack of institutional and family support for their transits and to prevent transphobic violence, has dreadful consequences in their education and life projects. As mentioned above, school desertion is high amongst Trans students when they experience repeated levels of violence against their gender identity and when uncontrolled, this situation can lead to suicide as students feel vulnerable, excluded and lonely⁵.

In March 2013, the Colombian Congress approved the 1620 Law that created the National System for School Cohabitation for the education on the exercise of human rights and the prevention and mitigation of school violence. However, the implementation of this law has been deficient.

² El Espectador “lecciones de un colegio que permitió a una transgénero llevar falda como uniforme” <http://www.elespectador.com/noticias/educacion/lecciones-de-un-colegio-permitio-una-transgenero-llevar-articulo-648454>

³ Revista Semana, “La Transexual que le ganó una batalla a un colegio público” <http://www.semana.com/gente/articulo/la-transexual-que-gano-una-demanda-para-ir-al-colegio-de-falda/379475-3>

⁴ Colombia Diversa & Sentido “Mi Voz Cuenta: experiencia de jóvenes lesbianas, gays, bisexuales y trans en el ámbito escolar. Encuesta de clima escolar en Colombia, 2016”

⁵ Organización de las Naciones Unidas para la Educación, la ciencia y la cultura (UNESCO). Buenas políticas y prácticas para la educación en VIH y Salud: Respuestas del Sector Educación frente al Bullying Homofóbico. Cuadernillo 8, p. 24. [En línea]

<http://unesdoc.unesco.org/images/0022/002229/222918S.pdf>

1.3 The National Government has not implemented measures that eradicate violence and discrimination in school institutions

Among the main factors that contribute to the lack of implementation of the 1620 Law is the pressure of conservative political and religious groups. In July 2016, the Santander Department Assembly, had a debate about applying the 1620 Law and the Constitutional Court order to abide by State obligations to eradicate discrimination against sexual orientation and gender identity. Nevertheless, the Congress woman Ángela Hernández argue this meant the colonization of academic spaces by foreign interests⁶.

A further debate on the National Congress for the scrutiny of the Minister of Education’s, Gina Parody, distribution policy of anti-discrimination booklets in schools revealed the level of reluctance of congress men and women to discuss and implement policies to protect the rights of LGBT people within the education system.

2. The exclusion of the education system and the lack of employment opportunities, expose Trans people to work in highly criminalized economies, where they are more vulnerable to violence and death

Although the Constitutional Court ordered the T-476/14⁷, to express the right to sexual and gender identity and the protection against discrimination that prevents people from having a worthy life, the access barriers for the education system contribute Trans people to have low education levels, which prevent them from having better employment opportunities. The result is the higher presence of Trans people in marginalized and highly criminalized economies, such as sex work or to criminal activities. According to the Inter-American Commission on Human Rights (ICHR), there is a correlation between exclusion, poverty and violence. Discrimination against Trans population from very early ages contribute to higher poverty rates, homelessness and food insecurity⁸. According to the report: “LGBT persons are expelled from their families and schools and in some instances cannot even obtain jobs paying minimum wage. As a result, LGBT persons often face poverty, social exclusion, and high rates of homelessness. This pushes them into the informal economy or into criminal activity. Some LGBT persons in such situations engage in sex work, or in survival sex, which is the exchange of sex for money, food, shelter, or other material goods needed for survival. As a result, LGBT persons living in poverty are vulnerable to police profiling and harassment, and

⁶ El Colombiano “Diputada de Santander propuso crear colegios exclusivos para niños LGBTI” en: <http://www.elcolombiano.com/colombia/educacion/diputada-angela-hernandez-reclamo-que-se-impongan-normas-lgtbi-en-colegios-de-santander-FE4633520>

⁷ Corte Constitucional “Sentencia T-476/14 Derecho a la identidad sexual y de género” <http://www.corteconstitucional.gov.co/RELATORIA/2014/T-476-14.htm>

⁸ ICHR “Violence against LGBTI Persons” <http://www.oas.org/en/iachr/reports/pdfs/violencelgbtipersons.pdf>

consequently to higher rates of criminalization and imprisonment.”⁹ Which means a higher risk of violence for Trans sex workers. According to Colombia Diversa, the killing of Trans sex workers with low education levels was high in 2015¹⁰, meaning that discrimination against them pushed them to highly criminalized and dangerous economies, facing higher risks of violence and impunity.

According to the ICHR: “Exclusion of trans persons from income-generating opportunities and social welfare programs results in high rates of poverty and unemployment, which frequently causes Trans persons to turn to sex work. According to information received by the IACHR, 90% of trans women in Latin America and the Caribbean are engaged in sex work as their only means of subsistence and thereby face direct or indirect criminalization.”¹¹ Another risk is that many sex workers work in areas controlled by armed groups that traffic illegal psychoactive drugs, meaning that they have to pay extortion prices to allow them to work within controlled areas¹².

Questions to be included in the list of issues for the Government:

To Ministry of National Education:

What has been done to strengthen the reach of the 1620 Law of 2013 in national and regional territory?

Have school manuals been revised and altered to ensure the principles of the 1620 Law of 2013 and the 1965 Decree, as also the multiple calls by the Constitutional Court to ensure zero gender discrimination spaces?

Is there a working system, such as the proposal of the Unified Information System from the 1620 Law of 2013, which detect which schools are reiteratively discriminating and abusing school population to enforce actions against them and prevent future cases of school violence?

Have Decrees being enforced about the reasonable concessions education institutions must make to strengthen the access and permanence of Trans population? Such as allowance of wearing uniforms or using names that reflect their gender identity without previous pathologization processes.

⁹ ICHR “Violence against LGBTI Persons”, p.200

<http://www.oas.org/en/iachr/reports/pdfs/violencelgbtipersons.pdf>

¹⁰ Colombia Diversa (2016) “Cuerpos excluidos, rostros de impunidad. Informe de violencia hacia personas LGBT en Colombia”

¹¹ ICHR “Violence against LGBTI Persons”, p.201

<http://www.oas.org/en/iachr/reports/pdfs/violencelgbtipersons.pdf>

¹² Defensoría Delegada para la Prevención de Riesgo de Violaciones de Derechos Humanos y DIH. Sistema de Alertas Tempranas, Informe de Riesgo núm. 008-13

Are opportunities given to Trans people that previously deserted the education system to complete their education while respecting their gender identity?

To the Ministry of Work and Pensions:

What opportunities are given to Trans people who deserted the education system due to discrimination and/or poverty to find a job which guarantees them safety, social security and permanence?

Is the Ministry providing training courses on various jobs for Trans population that lack preparation?