



## Economic, Social and Cultural Rights Situation for trans persons (*travestis*<sup>1</sup>, transgender and transsexuals) in Costa Rica

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This Report is submitted by

- TRANSVIDA<sup>2</sup>, a Costan Rican non-governmental organization
- Red Latinoamericana y del Caribe de Personas Trans (REDLACTRANS)<sup>3</sup>
- Akahatá - Equipo de Sexualidades y Géneros<sup>4</sup>
- Heartland Alliance for Human Needs & Human Rights<sup>5</sup>

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<sup>1</sup> In its study on "Sexual Orientation, Gender Identity and Gender Expression: Some Terminology and Relevant Standards", the Inter-American Commission on Human Rights (IACHR) defined *travestis* as a term used in South America for "persons who express their gender identity -either on a permanent or temporary basis-by wearing articles of clothing and adopting the deportment and mannerisms of the gender opposite to the one socially and culturally associated with their biological sex. This may or may not include body modifications".

<sup>2</sup> TRANSVIDA es una asociación de mujeres trans para mujeres trans. Ubicada en San José de Costa Rica, es la primera organización no gubernamental que lucha por los derechos de la población trans desde hace 6 años. Su misión es la lucha contra la violencia de género a partir de acciones de incidencia política desde una perspectiva de los derechos humanos para garantizar a la población trans una mejor calidad de vida.

<sup>3</sup> REDLACTRANS es una red integrada por personas trans de América Latina y el Caribe. Trabaja con el propósito de hacer efectivo el cumplimiento y ejercicio de los derechos humanos desde y hacia la población trans a través de estrategias de incidencia política, visibilización, participación y fortalecimiento de nuestras organizaciones en acciones de salud, educación, educación, trabajo y justicia

<sup>4</sup> AKAHATÁ - Sexualities and Genders' Team, brings together human rights advocates working on gender, sexualities and rights' issues, from a perspective that includes social, cultural, economic and legal aspects. Akahatá advocates for a notion of 'sexual rights' based on gender equity, freedom and diversity, excluding all forms of coercion and abusive use of power.

<sup>5</sup> Heartland Alliance for Human Needs & Human Rights es una organización no gubernamental en Chicago, EEUU, cuya Global Initiatives for Human Rights tiene el propósito de apoyar la promoción y protección de los derechos humanos de todas las personas, sin importar su orientación sexual o identidad de género.

TRANSVIDA, REDLACTRANS, Akahatá-Espacio de Sexualidades y Género and Heartland Alliance for Human Needs and Human Rights, are honoured to assist the Committee on Economic, Social and Cultural Rights in preparing the List of Issues to review the implementation of the International Covenant on Economic, Social and Cultural Rights by Costa Rica.

## **SUGGESTED ISSUES**

### **Violations of the right to education. School harassment. Discrimination in the school system.**

#### **Right to education (Articles 2, 3 and 13)**

1. In Costa Rica, the right to education is protected by the Political Constitution of the Costa Rican Republic ("Constitution") in its Section VII<sup>6</sup>.
2. Law No. 2160 - Basic Law on Education<sup>7</sup>- regulates the right of all inhabitants to education and the State obligation to provide educational services in the widest and most adequate manner possible. Its Article 2 states the goals of education in Costa Rica, as follows:
  - a) Educating citizens to love their Homeland, be aware of their duties, rights and fundamental freedom, develop a deep sense of responsibility and respect for human dignity; b) Contribute to the full development of human personality; c) Prepare citizens for a democracy in which individual interests are balanced with those of the community; d) Encourage solidarity and human understanding; and e) Preserve and expand cultural heritage by teaching about the history of man, great literary works and key philosophical notions.
3. Costa Rican culture has a strong *machista* and patriarchal bias reflected in violent acts against women and those whose gender identity and/or sexual orientation differs from the hegemonic ones, with a particular focus against trans women. The educational system in Costa Rica follows the same logic, as sexual harassment based on sexual orientation and gender identity or expression is one of the main problems to be faced by trans persons in order to access the educational system.
4. A key factor affecting trans persons' access to education is the lack of recognition of the right to a gender identity. Costa Rica still lacks a Gender Identity Law allowing trans

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<sup>6</sup> Constitución Política de Costa Rica. Available at <http://pdba.georgetown.edu/Parties/CostaRica/Leyes/constitucion.pdf> (in Spanish).

<sup>7</sup> Ley Fundamental de Educación. Available at: [http://www.oei.es/quipu/costarica/Ley\\_2160.pdf](http://www.oei.es/quipu/costarica/Ley_2160.pdf) (in Spanish)

- persons to adjust their personal identification documents through an administrative process that is expedite and non-pathologizing.
5. With regard to the progress made in passing such Gender Identity Bill The Inter-American Institute of Human Rights<sup>8</sup> has pointed out that the political influence of religious fundamentalisms is growing in Costa Rica, hampering the recognition of rights for trans and LGBTI persons in general. Several legal initiatives have been blocked by the strong opposition of the Catholic Church and Pentecostal Christian groups<sup>9</sup>.
  6. REDLACTRANS member organizations consider that the lack of legal recognition for trans people is one of the main reasons explaining why their basic needs are unsatisfied and why this population is excluded, marginalized and discriminated against.
  7. The recognition of the right to freely exercise one's gender identity is key to grant access to economic, social and cultural rights<sup>10</sup> . Carrying a personal identification that fails to reflect their gender identity places trans women in a serious situation of vulnerability, jeopardizing their access to basic human rights like education, work, health and housing, among others. Trans people perceive the existence of a gender identity law as a way to counteract their historical handicap in fully exercising their rights as citizens.
  8. In other Latin American countries, organizations have documented their experiences after the passing of a gender identity law, showing that even if the law does not automatically eliminated the factors contributing to the vulnerability of trans persons, its passing and implementation had a clearly positive impact in trans person's access to rights and also in their conditions and quality of life<sup>11</sup>.
  9. It is also worth mentioning that Costa Rica lacks a law that explicitly prohibits discrimination on the grounds of gender identity, along with norms addressing hate-crimes or considering the victim's gender identity as an aggravating factor in crimes against them. Public policies to protect children and adolescents that are inclusive of trans adolescents are also absent, particularly those aimed at victims of violence and expulsion by their families and/or the school system.
  10. The inability to access the basic school system maximizes the situation of vulnerability faced by trans persons and particularly by trans women in the formal labour market. Most Costa Rican trans women resort to street sex work in order to survive. Even though this

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<sup>8</sup> The IHR is an autonomous international institution of an academic nature. It was created in 1980 through an agreement signed between the Inter-American Court of Human Rights and the Republic of Costa Rica. Today it has become one of the world's leading centers for teaching and academic research on human rights, applying a multidisciplinary approach with an emphasis on the problems of the Americas. It is based in San José, Costa Rica. <https://www.iidh.ed.cr/multic/DefaultIDHEn.aspx>

<sup>9</sup> Instituto Interamericano de Derechos Humanos (IIDH), *Situación de los derechos humanos de poblaciones históricamente discriminadas en Costa Rica: un análisis desde el marco de la justicia*, 2013, p. 23

<sup>10</sup> REDLACTRANS, *Informe sobre acceso a los derechos económicos, sociales y culturales de la población trans en Latinoamérica y el Caribe*, 2014, p.11.

<sup>11</sup> See: Fundación Huésped, Asociación de Travestis, Transexuales y Transgéneros de Argentina (ATTTA), *Ley de identidad de género y acceso al cuidado de la salud de las personas trans en Argentina*, 2014. Available at: <http://redlactrans.org.ar/site/wp-content/uploads/2014/01/leyGeneroTrans.pdf>

occupation provides them with an income, it also exacerbates their marginality and subjects them to unsafe and high-risk conditions affecting their personal safety and bodily integrity, along with their exposure to HIV/AIDS.

11. TRANSVIDA and REDLACTRANS have received several reports of discrimination and harassment against trans women in the school system<sup>12</sup> mainly committed by school teachers and principals. The documented cases show that school harassment based on gender identity and expression is one of the main problems every trans woman who wants to access the school system must face. These organizations have received several complaints about situations in which school teachers and principals are responsible for situations of emotional violence by refusing to call young trans women by the social names they have decided to use and using instead the (masculine) names assigned to them at birth.
12. In the absence of a gender identity law, the name assigned at birth is the (only) legal name a person has. However, schools have the option to adopt internal norms that uphold the principle of equality and non-discrimination and contribute to keeping students in the system. In Argentina, before the Gender Identity Law<sup>13</sup> was passed, schools had already passed norms to guarantee non-discrimination, inclusion and respect for the student's gender identities.<sup>14</sup>
13. One example is that of L.P.<sup>15</sup>, a young trans women who had started her hormone treatment and was discriminated by the staff in the school she attended. Her peers had a positive attitude towards her by the school director refused to address her by her social name, and always employed the (masculine) name assigned to her at birth. L.P. used all internal complaint mechanisms available to demand that her gender identity be respected, but the director persisted in his discriminatory attitude. The degree of discrimination and harassment escalated in such a way that she dropped out of school. Now TRANSVIDA is supporting her to complete secondary school.
14. A similar case involves M.I., a young trans women who in her last year of technical school was subjected to permanent harassment and ridicule by one of her teachers. In her complaint, M.I. referred that once her transition started, her peers and most teachers were supportive, with the exception of one female teacher that, on purpose, continued to address her by her (masculine) assigned name, failing to respect her gender expression

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<sup>12</sup> During 2015 and in collaboration with REDLACTRANS, TRANSVIDA has developed a documentation and systematization Registry on "Human Rights Violations against the Trans Community in Costa Rica".

<sup>13</sup> Ley 26.743 (May 23, 2012). Argentina. Available at <http://www.infoleg.gov.ar/infolegInternet/anexos/195000-199999/197860/norma.htm>

<sup>14</sup> Universidad de Buenos Aires. Argentina. Resolución (CD) N° 680. July 20, 2010. Available at: [http://filo.uba.ar/contenidos/secretarias/asuntosacademicos/cont/res\\_680/res\\_680.pdf](http://filo.uba.ar/contenidos/secretarias/asuntosacademicos/cont/res_680/res_680.pdf); Universidad Nacional de Córdoba. Ordenanza 9/11. Available at: <http://www.unc.edu.ar/extension/vinculacion/genero/acciones-realizadas/2009-2012/ordenanza-identidad-de-genero/ohcs-9-2011.pdf>

<sup>15</sup> The cases included in this report summarize complaints shared by the victims. To protect their identities, their names have been omitted as well as any other data that could lead to identify them.

and identity. To tackle this situation, the young women conducted a media campaign that took her even to the mass media to expose the abuses and discrimination she had suffered<sup>16</sup>.

15. Another documented case shows how Y., a trans woman who was unable to complete secondary school as an adolescent due to the violence and harassment she had suffered because of her gender identity and expression, is currently studying at an adult education center. She reported harassment from the principal who ordered her to tie her hair and stop wearing make up. A factor compounding the situation is that Y. has lost a leg in an accident and she makes a living as a street food seller. She asked the school permission to sell her merchandise in the school or right outside it but the principal refused with the argument that having a trans woman selling food would be detrimental to the school image.
16. These cases show the lack of human rights training and expertise on the part of school teachers and principals, as well as their lack of sensitivity towards and awareness of the issues faced by the trans community in Costa Rica.
17. The Curricula on Holistic Education for Emotional Intelligence and Sexuality<sup>17</sup>, implemented by the Costa Rican Ministry of Public Education since 2013 is to be acknowledged. It was designed for and implemented at the third cycle of General Basic Education and developed by a multidisciplinary team of professionals. The Curricula marked progress in terms of human rights by promoting values like freedom, equality and diversity.
18. However, the Constitutional Chamber of the Costa Rica Supreme Court issued a verdict by which sexuality education became an optional subject, giving parents the capacity to decide if to send their children to sexuality education lessons or not, in the case it affects their religious beliefs or the values they wish to promote. The verdict was a reaction to more than 2000 appeals submitted by Evangelical and Catholic families against sexuality education lessons in schools.
19. This verdict discriminates against and excludes certain girls, boys and adolescents from accessing scientific information about sexuality and contravenes international agreements signed by Costa Rica<sup>18</sup> as well as national laws<sup>19</sup>. It could also be seen as a violation of

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<sup>16</sup> See crhoy.com "Estudiante "trans" exige que le llamen por el nombre que escogió, no con el que se registró". March 4 2015. Available at <http://www.crhoy.com/estudiante-trans-exige-que-le-llamen-por-el-nombre-que-escogio-no-con-el-que-se-registro/>

<sup>17</sup> Educación para la Afectividad y Sexualidad Integral. Ministerio de Educación Pública. 2012. Available at: <http://www.mep.go.cr/programa-estudio/educacion-para-afectividad-sexualidad-integral-0>

<sup>18</sup> First Meeting of Ministers of Health and Education to stop HIV and STIs in Latin America and the Caribbean, held in Mexico in 2008. Ministerial declaration: preventing through education. Available at: [http://data.unaids.org/pub/BaseDocument/2008/20080801\\_minsterdeclaration\\_en.pdf](http://data.unaids.org/pub/BaseDocument/2008/20080801_minsterdeclaration_en.pdf)

Article 12 of the Covenant, as the Committee interpreted in its General Comment 14: "The Committee interprets the right to health, as defined in article 12.1, as an inclusive right extending not only to timely and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information, including on sexual and reproductive health" (underlined ours)<sup>20</sup>. International treaties and covenants ratified by Costa Rica enjoy constitutional status in the country. Also, the UNESCO's International Technical Guidance on Sexuality Education highlights the importance of "addressing the reality of young people's sexual lives: this includes some aspects which may be controversial or difficult to discuss in some communities. Ideally, rigorous scientific evidence and public health imperatives should take priority".<sup>21</sup>

20. The organizations producing this report celebrate Ordinance DM-024 issued by the Costa Rica National Ministry of Public Education on May 8, 2015<sup>22</sup> implementing the Ministry's "Statement declaring the Ministry as a space free of discrimination based on sexual orientation and gender identity". This Statement acknowledges the Ministry's obligations to guarantee equality and non-discrimination on the grounds of sexual orientation and gender identity in the Ministry itself and in all school facilities across the country. It is clear that the right to education must be guaranteed without any kind of distinctions, and that all forms of discrimination must be prevented and eradicated.

## Suggested questions

- 1) **How will Costa Rica guarantee the implementation of those principles stated in Ordinance DM-024 so trans girls, boys and adolescents are not subjected to harassment in the school system because of their gender identities and expressions?**
- 2) **What policies will Costa Rica implement for those trans persons who have not been able to complete their basic studies to be included in the educational system, respecting their gender identities and social names?**

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Montevideo Consensus on Population and Development. ECLAC, September 2013. Available at: <http://www.cepal.org/en/publications/montevideo-consensus-population-and-development>

<sup>19</sup> The Children and Adolescents Code refers to the importance of accessing comprehensive sexuality education in its articles 55.c, 58.a, 58.d, 58.e and 58.f.

<sup>20</sup> Committee on Economic, Social and Cultural Rights, General Comment 14, The right to the highest attainable standard of health (Twenty-second session, 2000), U.N. Doc. E/C.12/2000/4 (2000). Para. 11

<sup>21</sup> UNESCO international Technical Guidance on Sexuality Education, 2010: <http://www.unesco.org/new/en/hiv-and-aids/our-priorities-in-hiv/sexuality-education/international-technical-guidance-on-sexuality-education/> (p.7)

<sup>22</sup> Ordinance DM-024, May 8, 2015, from the Ministry of Public Education. Available at: [http://www.mep.go.cr/sites/default/files/descargas\\_etica/circular\\_DM\\_024\\_Declaración\\_del\\_MEP\\_como\\_espacio\\_libre\\_de\\_discriminación\\_por\\_orientación\\_sexual\\_e\\_identidad\\_de\\_género..pdf](http://www.mep.go.cr/sites/default/files/descargas_etica/circular_DM_024_Declaración_del_MEP_como_espacio_libre_de_discriminación_por_orientación_sexual_e_identidad_de_género..pdf) (in Spanish)

- 3) **What mechanisms will Costa Rica implement to train and raise awareness among the school system staff about the issues faced by trans students?**
- 4) **How will the State guarantee basic and comprehensive sexuality education from a human rights and sexual diversity perspective in Costa Rica?**

**Violations of the right to health. Lack of adequate services guaranteeing trans women's right to health. Discrimination by health practitioners. Arbitrary and expulsive treatment by the health system places trans population at risk.**

### **Right to health (Articles 2, 3 and 12)**

21. Article 33 of the Political Constitution of the Costa Rica Republic<sup>23</sup> guarantees the right to equality and non-discrimination. Also Article 3 of the Health Law (Law No. 5395) indicates that

All inhabitants have a right to health services in the manner determined by relevant laws and regulations, as well as the duty to preserve their good health and support their families and communities to do the same<sup>24</sup>.

22. As stated earlier, Costa Rica lacks legislation explicitly forbidding discrimination based on gender identity. Article 48 of Law 7771, the only law explicitly forbidding discrimination against LGBT persons (General Law on HIV/AIDS)<sup>25</sup> refers just to "sexual option" without addressing gender identity as a protected category against discrimination.<sup>26</sup>

23. While developing the National Policy on Sexuality (2010-2012), the Costa Rica Ministry of Health published the "Situational Analysis: Purposes, Approaches, Critical Issues and Intervention Areas for the Policy on Sexuality"<sup>27</sup>. The Analysis identifies critical issues in order to guarantee the right to engage in a safe, informed and responsible sexuality,

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<sup>23</sup> Constitución Política de Costa Rica. Available online at: <http://pdba.georgetown.edu/Parties/CostaRica/Leves/constitucion.pdf> (in Spanish)

<sup>24</sup> Ley General de Salud No. 5.395, art. 3. Available at: [http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm\\_texto\\_completo.aspx?param1=NRTC&nValor1=1&nValor2=6581&nValor3=96425&strTipM=TC](http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=6581&nValor3=96425&strTipM=TC).

<sup>25</sup> Ley General sobre VIH-SIDA, Ley 7.771. Available at: [http://www.asamblea.go.cr/sil\\_access/ver\\_ley.aspx?Numero\\_Ley=7771](http://www.asamblea.go.cr/sil_access/ver_ley.aspx?Numero_Ley=7771).

<sup>26</sup> Article 48 of Law 7.771 says: "Quien aplique, disponga o practique medidas discriminatorias por raza, nacionalidad, género, edad, opción política, religiosa o sexual, posición social, situación económica, estado civil o por algún padecimiento de salud o enfermedad, será sancionado con pena de veinte a sesenta días multa. El juez podrá imponer, además, la pena de inhabilitación que corresponda, de quince a sesenta días." [Whoever applies, disposes or incurs in discriminatory measures on the grounds of race, nationality, gender, age; political, religious or sexual option; economic status, civil status, any health ailment or illness, will be punished with a fine equivalent to 20-60 days of her/his salary. The judge is entitled to also declare disqualification for a period between 15 and 60 days]

<sup>27</sup> Ministerio de Salud de Costa Rica, 1st Edition, 2011. Available at: <http://www.ministeriodesalud.go.cr/index.php/sobre-ministerio/politicas-y-planes-en-salud/politicas-en-salud/1039-politica-nacional-de-sexualidad-2010-2021-parte-ii/file> (in Spanish)

including stigma and discrimination against non-hegemonic sexualities, LGBTI persons and sexuality as a whole as significant flaws in the health system.

24. The report mentions the lack of sexual health care that takes into account the specific needs of different populations and lacks differentiated tools to respond to them, as well as barriers linked to health practitioners' personal values and moral beliefs and the lack of a comprehensive, intersectorial strategy for sexuality education.
25. In this context, Costa Rica does not guarantee non-discrimination in the health system for trans persons. This legal gap affects trans women in particular who experience high degrees of violence and stigma, as well as LGBTI in general. It is worth mentioning that in 2011 the CEDAW Committee expressed its concern for the lack of guarantees to fulfil trans women's right to access health care and also for the abuses and mistreatments by health service providers.<sup>28</sup>
26. This is compounded by the fact that Costa Rica lacks comprehensive public policies to guarantee access to health for trans persons including, among other services, training programmes for health practitioners' teams addressing health, gender identity, human rights and comprehensive health care for trans persons.
27. REDLACTRANS received several complaints showing how the administrative and professional staff in the Costa Rican health service is not trained or sensitized on human rights in general and specifically on trans persons' rights<sup>29</sup>. Public policies aimed at including the trans population in the health system and securing their access in the same conditions as the rest of the population are also lacking. In several cases that REDLACTRANS has documented, health service providers and staff - both from public and private facilities - rejected trans women and denied them basic care and services only on the grounds of their identities as trans women. Those rejections were often accompanied by verbal abuse, stigmatized expressions and/or different kinds of humiliations invoking their gender identities.
28. This leads to most trans women going through the process of adjusting their gender expression to their gender identity without the support of relevant health practitioners that could accompany and follow-up the process in order to guarantee their physical and emotional integrity. This lack of access forces trans women to use bodily altering techniques without proper supervision, in deficient conditions of hygiene, often using implants or substances that jeopardize their health and even their lives. This is

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<sup>28</sup> Convention on the Elimination of All Forms of Discrimination against Women. CEDAW/C/CRI/CO/5-6. Concluding observations: Costa Rica. July 2011, para.40 Available at: <http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-CRI-CO-5-6.pdf>.

<sup>29</sup> All cases reported here were documented during 2015 by REDLACTRANS in collaboration with TRANSVIDA while developing the documentation and systematization registry called "Human Rights Violations against the Human Rights of the Trans Community in Costa Rica".

compounded by the fact that when they finally resort to a health facility because of the complications resulting from these procedures, the staff discriminates against them and stops them from accessing basic (and emergency) health care.

29. A fifth of all complaints received by TRANSVIDA and REDLACTRANS are serious incidents of discrimination in health services. These complaints show that the Costa Rican health service lacks trained human resources, technical capacity and infrastructure as well as strategies for inclusion to guarantee the right of comprehensive health care to its trans population. Thus, Costa Rica is failing to comply with international human rights treaties and covenants ratified by the State that have been incorporated to the national legal framework, such as the United Nations' International Covenant on Economic, Social and Cultural Rights<sup>30</sup> ratified by Costa Rica in 1968.
30. In one documented case, Z., a trans woman, resorted to an injection of what is called "avion fuel" (a biopolymer) in her breasts, as she lacked the economic capacity to access silicone implants. The oil caused her strong pain, so she went to a public health care facility, where she was discriminated by the doctors and denied medical care only for being a trans woman. She was instructed to go and "complain to the person who had injected her with the substance".
31. A similar case is that of M.E., who also had injected herself with oil instead of using safe implants for lack of economic resources to pay for medical treatment. She went to a public hospital because of strong pains in the injected area and the doctor who took care of her said the only solution he could think of was to amputate her breasts because "men have no breasts".
32. In a third case, L., a trans woman, was a victim of malpractice during surgery. The Medical Directorate and the Ombudsman office recommended that she approached Dr. Marcial Fallas de Desamparados Health Care Center, in search of comprehensive health care to overcome the damage caused by the malpractice. She asked at reception to meet with the Center's Director. Without even reading the documents she presented, the receptionist said that she could only receive psychiatric and psychological treatment in the facility. Feeling humiliated, L. left the facility without having been able to access health care.
33. A positive development is the Counselling Guide on Sexual and Reproductive Health for the staff taking care of adolescents, with emphasis on HIV/AIDS developed by the Medical Division of Costa Rica's Social Security Fund<sup>31</sup>. Even though it has not been shared with all

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<sup>30</sup> International Covenant on Economic, Social and Cultural Rights, Article 12. Available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>

<sup>31</sup> Caja Costarricense De Seguro Social. Gerencia De División Médica. Segunda edición Septiembre 2005. Disponible en: <http://www.binasss.sa.cr/adolescencia/manualadulto.pdf>

service providers in the health care sector, it still constitutes significant progress in terms of guaranteeing the right to health. The Guide supports health professionals to understand human gender identities, including the differences between the biological, psychological and social dimensions. It also briefly introduces the notions of "sexual identities" and "gender identities".

34. Women from the trans community were involved in the drafting of the Guide. But unfortunately incidents of discrimination are never far from trans persons' experiences: while engaged in this work at the Social Security Fund's offices, trans women report to have been subjected to ridicule and discriminatory comments based on their gender identity by the security guards when trying to use the bathrooms. As in most public places, bathrooms are gender-segregated; this leads to trans people often being unable to use them when, out of bias and ignorance about trans realities, other users react negatively to their presence.
35. The information documented and systematized by TRANSVIDA and REDLACTRANS shows that discrimination against the trans community does not only happens in public health facilities. R. M., a trans woman who had a stable job and medical insurance by the Costan Rican Social Security Fund was discriminated when requesting hormone treatment. The doctor refused to provide the service because, in his view, she was a man and he considered that "men should be men". He added that hormone treatments for sex adequation were "against nature".
36. A key issue in trans women's right to health is the high HIV/AIDS prevalence documented among this population. In the context of developing a documentation and systematization registry on "Human Rights Violations against Trans Women in Costa Rica", TRANSVIDA and REDLACTRANS documented the deaths of at least 4 trans women in 2015, for not having being able to acces proper treatment, because a health facility refused to hospitalize them or stopped providing care at the first sign of improvement in their health.
37. This situation is linked to how the HIV/AIDS epidemic is conceptualized in Costa Rica. A study conducted in 2010 shows that the epidemic is concentrated in the gay, bisexual and trans population, with a prevalence of 10,9 % among 'men who have sex with men (MSM)<sup>32</sup>. However, this information is partial and damaging for trans women. Their gender identity is not taken into account and they are placed in the MSM group, rendering their specific needs invisible and making it harder to design public policies aimed at reducing their significant vulnerability with regard to the epidemic<sup>33</sup>. It is clear that this biased approach hinders the implementation of specific and life-saving actions and strategies to tackle the suffering of trans persons.

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<sup>32</sup> Based on the 2010 MSM Prevalence Study that employed the RDSAP methodology.

<sup>33</sup> This classification has been identified as one of the key problems with regard to information and effective response actions to stop the epidemic. Informe Nacional sobre los avances en la lucha contra el Sida 2010-2011- Ministerio de Salud de Costa Rica.

38. Costa Rica's General Law on HIV/AIDS was amended in 2015 with an aim to strengthen comprehensive health care services free from stigma and discrimination, guarantee the rights of persons living with HIV and incorporate an approach and terminology consistent with today's trends in terms of respecting individual dignity. As the amendments are very recent, we are unable to assess how they will be implemented in practice.

### **Suggested questions**

- 1) **What specific measures is Costa Rica planning to implement to guarantee access to the right to health and to comprehensive health services for trans persons, taking into account their particular situation of vulnerability?**
- 2) **What public programmes will Costa Rica implement to prevent and eliminate discrimination based on sexual orientation, gender identity and expression in the health care system?**
- 3) **What measures will Costa Rica take to carry on effective HIV/AIDS prevention campaigns, increase the level of adherence to treatment and improve specific HIV/AIDS healthcare systems for the trans population, taking into account their specific features and needs?**
- 4) **How and when will Costa Rica train health practitioners' teams on trans women's health, gender identity, human rights and specific health care needs?**
- 5) **How will the State guarantee sexuality education from a secular and human rights perspective for girls, boys and adolescents in such a way that they are empowered and made aware of their rights and obligations, and also as a contribution to eradicate bias against non-hegemonic sexual orientations and gender identities that leads to stigma and discrimination?**