



Violations of Economic, Social and Cultural Rights of Persons with Diverse Sexual Orientations and Gender Identities in the Dominican Republic

Submitted for consideration at the
59th Session of the Committee on Economic, Social and Cultural Rights
Geneva, September-October 2016

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Global Initiatives for Human Rights

August 2016

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I. Introduction

This shadow report is submitted to the Committee on Economic, Social, and Cultural Rights (“Committee”) in anticipation of the Committee’s upcoming review of the Dominican Republic’s compliance with the International Covenant on Economic, Social, and Cultural Rights (“Covenant”).¹ The report is submitted by the following organizations: Diversidad Dominicana,² FUNCEJI,³ REVASA,⁴ Colectiva Mujer y Salud,⁵ the Center for International Human Rights of Northwestern Pritzker School of Law, and Global Initiatives for Human Rights of Heartland Alliance for Human Needs & Human Rights.

The purpose of this report is to direct the Committee’s attention to serious and ongoing violations of the Covenant rights of persons with diverse sexual orientations and gender identities in the Dominican Republic. The information provided in this report is relevant to Issue No. 9 in this Committee’s List of Issues for the Dominican Republic:

“Please provide information on the impact of the measures taken by the State party to combat discrimination against persons with disabilities and persons living with HIV/AIDS, as well as discrimination on the grounds of gender identity and/or sexual orientation, particularly with respect to the exercise of economic, social and cultural rights.”⁶

¹ International Covenant on Economic, Social, and Cultural Rights, 16 Dec. 1966, 993 U.N.T.S. 3 [hereinafter “Covenant”].

² **Diversidad Dominicana** is a non-governmental organization, founded in October of 2012, legally established in April 5 of 2016, with its headquarters located in the Dominican Republic, with the main purpose of defending the human rights of LGBTQI individuals in the Dominican Republic. Diversidad Dominicana works at the domestic and international levels to change public policies to make them more inclusive of LGTBQI individuals, conducts ongoing education on sexual diversity and sexual and reproductive human rights, and provides legal counseling and assistance in legal processes to victims of violence motivated by sexual orientation.

³ **FUNCEJI** is an NGO with headquarters in the Dominican Republic. Its purposes are to teach and promote human rights; to promote a generation of young Dominican leaders who have responsibility towards our world and a spirit of cooperation; and to ensure that the Dominican State complies with its role as guarantor of the fundamental rights of all individuals.

⁴ **REVASA** is a network of gay men that works to increase the visibility of the LGBT community, making political impact in several spheres of the Dominican State in order to secure the full exercise of citizenship of LGBT individuals in the Dominican Republic.

⁵ **Colectiva Mujer y Salud** (“Women and Health Collective”) is an NGO headquartered in the Dominican Republic, with the mission of promoting the integral health of women in every stage and condition of their lives, through the defense of their human rights, particularly their sexual and reproductive rights.

⁶ Committee on Economic, Social, and Cultural Rights, *List of issues in relation to the fourth periodic report of the Dominican Republic*, ¶ 9, U.N. Doc. E/C.12/DOM/Q/4 (24 Mar. 2016), available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/063/47/PDF/G1606347.pdf?OpenElement>.

In particular, this report will focus on the Dominican Republic's violation of its obligation to guarantee the enjoyment without discrimination on the basis of sexual orientation and gender identity of the following rights, in accordance with ¶ 32 of General Comment No. 20:

1. The right to health (article 12), including the right to sexual and reproductive health;
2. The right to work (articles 6 and 7); and
3. The right to education (article 13).

This report will conclude with suggested recommendations to be made in this Committee's Concluding Observations.

II. Violations of the Right to Health

Article 12 (1) of the Covenant confirms the right of every individual to the "enjoyment of the highest attainable standard of physical and mental health."⁷ States parties are obliged to guarantee the exercise of this right "without discrimination of any kind,"⁸ including discrimination on the basis of sexual orientation⁹ and gender identity. As this Committee has recently emphasized in its General Comment No. 22,¹⁰ the right to health includes the right to sexual and reproductive health. This includes not only access to quality and affordable healthcare, but also access to healthcare that is free from "coercion and discrimination" and instead is based on dignity and respect.¹¹

The right to sexual and reproductive health also includes the right to protection from the State against violence and discrimination, particularly violence and discrimination targeting vulnerable groups like persons with diverse sexual orientations and gender identities.¹² Persons with diverse sexual orientations and gender identities have the right to be "fully respected for their sexual orientation, gender identity and intersex status."¹³ States parties therefore have an "obligation to combat homophobia and transphobia."¹⁴

The Dominican Republic has failed to meet its obligations with respect to the right to health. Persons with diverse sexual orientations and gender identities face discrimination in obtaining equal access to health care services (see Section IIA). More broadly, they are denied respect for

⁷ Covenant, *supra* note 1, Art. 12(1).

⁸ *Id.*, Art. 2(2).

⁹ Committee on Economic, Social and Cultural Rights, *General Comment No. 14 (2000) on the Right to the Highest Attainable Standard of Health (Article 12 of the International Covenant on Economic, Social and Cultural Rights)*, ¶ 18, U.N. Document E/C.12/2000/4 (2000).

¹⁰ Committee on Economic, Social and Cultural Rights, *General Comment No. 22 (2016) on the Right to Sexual and Reproductive Health (Article 12 of the International Covenant on Economic, Social and Cultural Rights)*, U.N. Doc. E/C.12/GC/22 (2 May 2016).

¹¹ *Id.* at ¶ 5.

¹² *Id.* at ¶ 59.

¹³ *Id.* at ¶ 23.

¹⁴ *Id.*

their sexual orientation and gender identity and are confronted with pervasive violence and discrimination (see Section IIB).

A. Discrimination in Access to Health Care Services and Discriminatory Treatment by Health Care Providers

The right of people in the Dominican Republic with diverse sexual orientations and gender identities to equal access to quality health care is violated in two ways: First, by the lack of adequate attention to their particular health needs and the failure to adequately train health care providers to address these needs; and second, by discriminatory practices of health practitioners in hospitals, medical centers, and clinics.

1. Inadequate attention to the health needs of persons with diverse sexual orientations and gender identities and failure to train health providers to address these needs

Healthcare providers violate the right to health of persons with diverse sexual orientations and gender identities by not attending to them in a manner that meets their particular health needs. Health care establishments do not provide the necessary services and health care providers lack the appropriate information and training to attend to their health requirements. For example, when lesbians seek medical care, doctors do not consider that a lesbian's risk and manner of exposure to sexually transmitted diseases, HIV/AIDS, Human Papilloma Virus (HPV), and other diseases can differ from the situation of heterosexual women. This can lead to inappropriate treatment or a lack of treatment, which, in turn, can cause heightened complications, greater risks, and an overall lower standard of health for lesbians as compared to the general population.

People in the Dominican Republic with diverse sexual orientations and gender identities do not have sufficient access to the information they need to protect their health and prevent infections and sexually transmitted diseases (STDs). Lesbian, bisexual, and transgender women lack adequate information on the prevention, detection and treatment of breast and uterine cancer.¹⁵ There are no government campaigns or public services that provide adequate information for this population in order to prevent these diseases.

Similarly, lesbians do not have adequate access to reproductive health services, including techniques of medically assisted reproduction, provided by public and private health care providers. The State has failed to develop and implement any mechanisms or programs to ensure the availability of these services to lesbians, thus denying lesbians the right to motherhood.

A very profound form of violence and discrimination in the health care sector is the continuing practice of “conversion” therapy. Under the false premise that homosexuality is an illness or mental deviation that can be treated and cured, “conversion” therapy purports to “cure” people of

¹⁵ Coordinadora Lésbica, Heartland Alliance for Human Needs and Human Rights, International Human Rights Clinic, Human Rights Program, Harvard Law School, La Alianza GHT, *Report presented to the United Nations Human Rights Committee on the Situation of the lesbian, gay, bisexuals and transgender people in the Dominican Republic* (*Informe alterno presentado al Comité de Derechos Humanos de las Naciones Unidas sobre la Situación de los Derechos Humanos de las personas lesbian, gay, bisexuales y transgéneras en la República Dominicana*), ¶24 (March 2012) [hereinafter “Report to Human Rights Committee”].

their homosexuality.¹⁶ Very often the victims of this practice are young people. This widely-discredited “therapy” has caused severe suffering to its victims, leading some to suicide.¹⁷ The Ministry of Health has failed to prohibit or regulate this practice in any way.¹⁸

The State has not developed a health policy or trainings for health providers to promote the inclusion of persons with diverse sexual orientations and gender identities and the improvement of health services for this vulnerable group. This failure violates Article 12, as the State is not fulfilling its positive obligation to ensure that the right to health of these individuals is effectively protected, promoted, and enforced.

2. Discriminatory practices of health care practitioners in hospitals, medical centers, and clinics

The right to health of persons in the Dominican Republic with diverse sexual orientations and gender identities is violated through prevalent discriminatory practices in health centers that hinder access to health services and therefore constitute a violation of Article 12. When individuals try to go in for a medical consultation or when they are received in an emergency room, they are frequently discriminated against, bullied, and subjected to verbal abuse by medical staff. In a 2012 survey conducted in the capital city of Santo Domingo, 16% of persons with diverse sexual orientations and gender identities reported having suffered discrimination by the health care system.¹⁹ Lesbians and transgender women are humiliated by OB-GYN doctors and are not able to receive the kind of services they require.²⁰ Transgender individuals have been subjected to mockery and bullying by the attending physicians, and gay men tend to receive harsh treatment from medical workers, who often refuse to provide them services.²¹ Despite the existence of a law prohibiting discrimination against youths on the grounds of sexual orientation,²² young men arriving at health centers too often are rejected or denied service because of the stigma around the practice of same-sex sexual relations. Clearly, this law is not being respected and the right to health of these youth continues to be violated.

¹⁶ See, e.g., José Dunker, *Dr. Dunker maintains that the homosexual preference is an addiction that has a cure* (*Dr. Dunker sostiene que la preferencia homosexual es una adicción que tiene cura*), Acento (June 18, 2014), available at <http://acento.com.do/2014/opinion/8149799-dr-dunker-sostiene-que-la-preferencia-homosexual-es-una-adiccion-que-tiene-cura/>.

¹⁷ Juan Enrique Tavárez, *Unsuccessful practice in the country, “curative therapy for homosexuality”* (*Practican sin éxito en el país, “terapias curativas de la homosexualidad”*), 7 días, (May 18, 2015), available at http://www.7dias.com.do/portada/2015/05/15/i188589_practican-sin-exito-pais-terapias-curativas-homosexualidad.html#.V7Z-HJMrLR0.

¹⁸ Diversidad Dominicana, Fucejei, Revasa, Amigos Siempre Amigos, Gariflags, GayP, *Report on the Situation of the rights of the LGBT people in the Dominican Republic* (*Informe Situación de los derechos de las personas LGBT en la República Dominicana*), p. 33 (October 23, 2015) [hereinafter “Situation Report”].

¹⁹ *Id.* at p. 3.

²⁰ *Id.* at p. 33.

²¹ *Id.*

²² National Congress of the Dominican Republic, *General Youth Law No. 49 – 2000* (*Ley General de Juventud No. 49 - 2000*) (“Article 27: Gender equality. All young Dominicans as presented in the Law shall not be discriminated against because of his or her sex and or sexual orientation. It is considered contrary to the present Law that any form of prejudice or discrimination be founded in a sexual condition or that takes into account the sexual life of these people, which is considered private to the person. The State shall make available the resources and mediums necessary to permit the exercise of this right.”), available at http://prejal.lim.ilo.org/prejal/docs/bib/200803110002_4_2_0.pdf.

A 2014 survey of healthcare workers, administrators and support staff in three hospitals disclosed extremely disturbing attitudes towards men who have sex with men (“MSM”). Nearly a third of the respondents considered MSM sexual conduct to be immoral, and 29.8% indicated that they would prefer not to provide services to men who engage in same-sex sexual conduct.²³

The following examples illustrate the discrimination against individuals with diverse sexual orientations and gender identities in the health care sector:

In January 2013, a transgender woman was denied appropriate medical care after being referred to the public hospital Moscoso Puello with symptoms of cholera. Despite the seriousness of her condition, she was not attended to by any of the medical staff for nine hours after her arrival at the hospital. She was ignored by the doctors and nurses on duty and eventually was sent home with a prescription medication without having been given a medical examination or any kind of medical tests.²⁴

In 2010, a young gay man who had been shot was denied adequate medical care at the Cabral and Baez Hospital in Santiago. Because of a policy against blood donation by homosexuals, the victim’s gay companions were not allowed to donate blood to save his life.²⁵

The demeaning and stigmatizing treatment people with diverse sexual orientations and gender identities so often experience in the health care sector results, too often, in a complete denial of access to health services. As a recent study concluded, “Many LGBT Dominicans – and transgender people in particular – do not visit hospitals and health centers given prior experiences of ridicule and stigmatization by healthcare professionals and administrative staff.”²⁶

B. Failure to Protect Against Violence, Discrimination, Homophobia and Transphobia

Persons in the Dominican Republic with diverse sexual orientations and gender identities face the constant threat of violence, discrimination and harassment, as a result of the pervasive climate of homophobia and transphobia and the failure of the State to promote tolerance and to prohibit, prosecute and punish acts of violence and discrimination. In its 2012 Concluding Observations to the Dominican Republic, the Human Rights Committee expressed concern “at reports of discrimination, bullying, homicide, ill-treatment, torture, sexual aggression and sexual harassment against persons because of their sexual orientation or gender identity.”²⁷ That Committee also

²³ Human Rights First, *Hope Will Prevail: Advancing the Human Rights of LGBT People in the Dominican Republic*, p. 6 (Dec. 2015), available at

<http://www.humanrightsfirst.org/sites/default/files/HRFRReportLGBTinDR.pdf> [hereinafter “Hope Will Prevail”].

²⁴ Information provided by a client of Diversidad Dominicana in May, 2013.

²⁵ Karla Pimentel, *LGBT Collective reported that 60% of its members are rejected by their employers. (‘Colectivo LGBT denuncia 60% de miembros son rechazados por empleadores’)*, Acento, (March 6, 2014).

²⁶ Hope Will Prevail, *supra* note 23, at p. 1.

²⁷ Human Rights Committee, *Concluding Observations of the Human Rights Committee on the Dominican Republic*, ¶ 16, U.N. Doc. CCPR/C/DOM/CO/5 (27 Mar. 2012) available at

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fDOM%2fCO%2f5&Lang=en.

expressed its regret over “the lack of information on the effective investigation and punishment of such acts.”²⁸

Unfortunately, these problems continue. A 2015 study of human rights violations in the Dominican Republic by the NGO Human Rights First found “systematic violence and discrimination against LGBT Dominicans,” and concluded that “LGBT Dominicans face a range of human rights concerns including violence, discrimination, hate crimes, lack of access to justice, impunity for perpetrators, and societal homophobia and transphobia.”²⁹

Transgender people, who have often been forced into sex work by the absence of other employment opportunities, are particularly vulnerable to violence. Since 2006, there have been at least 33 murders of transgender people.³⁰ Law enforcement authorities have rarely prosecuted these crimes and, indeed, have themselves targeted transgender individuals. Only three of the 33 murders of transgender people have led to convictions of the perpetrators.³¹ A local NGO has documented 17 cases of police violence or discrimination against transgender women who work as sex workers just during the period from December 2013 to October 2014.³² These cases include instances of arbitrary arrest (sex work is not illegal in the Dominican Republic), police violence, and extortion. Transgender women detained by the police have been forced to remove their clothing and their wigs; in some cases, the police have cut off their hair as a form of humiliation.³³ While transgender people are particularly vulnerable to violence, gay men, lesbians and bisexual individuals have also been the victims of hate crimes. Their own family members may react with violence when they learn of the person’s sexual orientation.³⁴ Lesbians have experienced harassment, violence, death threats and rape, including rape intended to “correct” their sexual orientation.³⁵ Gay men have been attacked on the streets by people yelling homophobic slurs and throwing stones.³⁶

The Dominican Republic has failed to meet its positive obligation to protect individuals with diverse sexual orientations and gender identities from violence and discrimination. It has failed to amend its Constitution and enact laws that specifically and comprehensively prohibit

²⁸ *Id.*

²⁹ Hope Will Prevail, *supra* note 23, at p. 1.

³⁰ *Id.* at p. 5-6.

³¹ *Id.* at p. 8.

³² Observatorio de Derechos Humanos para Grupos Vulnerabilizados, Trans Siempre Amigas (TRANSSA) and Comunidad de Trabajadoras Sexuales Trans y Travestis Dominicana (COTRAVETD), *Discrimination and violence towards transgender women in the Dominican Republic* (*‘Discriminación y Violencia contra Las Mujeres Trans en la República Dominicana’*), p. 6, (27 Oct. 2014), available at <http://www.observatoriodhgv.org/wp-content/uploads/2015/11/Informe-Trans.pdf> [hereinafter “Discrimination and Violence”].

³³ *Id.*

³⁴ Diversidad Dominicana, Coordinadora Lésbica, Revasa, Trans Siempre Amigas (TRANSSA), Gente Activa y Participativa (GAYP), Heartland Alliance for Human Needs and Human Rights, Fucejil, HUB de El Caribe Latino (CARIFLAGS), *Report of the Coalition LGBTTI (CLGBTTI) of the Dominican Republic* (*‘Informe de la Coalición LGBTTI de la República Dominicana’*), at ¶ 23 (2013), available at <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=440&file=SpanishTranslation> [hereinafter “Report of the Coalition”].

³⁵ *Id.* at ¶¶ 31-32; Hope Will Prevail, *supra* note 23, at p. 6.

³⁶ *See, e.g.*, Report of the Coalition, *supra* note 34, at ¶ 30.

discrimination on the basis of sexual orientation and gender identity and that adequately address the problem of hate crimes.

- * There is no law in the Dominican Republic that comprehensively prohibits discrimination on the basis of sexual orientation and gender identity.
- * When the Constitution was amended in 2010, activists urged the Government to amend the equality provision of the Constitution, Article 39, to specifically include sexual orientation and gender identity among the grounds upon which discrimination is forbidden. Although Article 39 was amended to guarantee equality without regard to “social and personal condition,” which is an improvement, the Government refused to specifically include sexual orientation and gender identity.³⁷
- * The non-discrimination provision of the Labour Code does not include sexual orientation and gender identity among the grounds upon which discrimination is prohibited.³⁸ Nor does this law include any general “other” category upon which discrimination is prohibited, which could be used to challenge employment discrimination on the basis of sexual orientation or gender identity.³⁹
- * Although an effort was made in 2015 to amend the Penal Code to criminalize discrimination on the basis of “sexual preference or orientation,” the new law would not have criminalized discrimination on the basis of gender identity. Moreover, this amendment to the Penal Code was struck down by the Constitutional Court in December 2015 on procedural grounds. Although this proposed amendment remains under discussion, even if it is properly enacted into law, it will not protect against discrimination on the basis of gender identity.
- * There is no hate crimes law, under which the commission of a crime based on the victim’s sexual orientation or gender identity would be an aggravating factor.

In view of the extensive evidence of violence and discrimination against persons with diverse sexual orientations and gender identities, it is particularly important that the Dominican Republic adopt legislation against violence and discrimination on the basis of sexual orientation and gender identity. The adoption of such laws must be followed by vigorous enforcement and by an educational campaign teaching the principles of equality, equity, and respect for sexual differences.

³⁷ National Revisory Assembly of the Dominican Republic, *Dominican Republic Constitution of 2010* (*‘Constitución de la República Dominicana de 2010’*) (“Art. 39: Persons are born free and equal before the law, they receive the same protection and treatment from the institutions, authorities and other persons and enjoy the same rights, freedoms and opportunities, without any discrimination for reasons of gender, color, age, disability, nationality, family ties, language, religion, political or philosophical opinion, and social or personal condition.”), *available at* https://www.constituteproject.org/constitution/Dominican_Republic_2010.pdf; *see also*, Report of the Coalition, *supra* note 34, at ¶ 3.

³⁸ Situation Report, *supra* note 18, pp. 31 and 39.

³⁹ *Id.*

III. Violations of the Right to Work

Under articles 6, 7 and 2(2) of the Covenant, the Dominican Republic has the obligation to protect persons with diverse sexual orientations and gender identities from employment discrimination.⁴⁰ Unfortunately, the Dominican Republic has not complied with this obligation. Although the Labour Code of the Dominican Republic prohibits employment discrimination on various grounds, it does not cover discrimination on the basis of sexual orientation and gender identity.⁴¹ The State directly discriminates in employment by considering it a violation of the disciplinary code for persons serving in the national police force to engage in consensual adult same-sex sexual relations. Additionally, employment discrimination in the private sector is widespread.

The National Police Force discriminates in two ways against persons with diverse sexual orientations and gender identities. It maintains an official policy prohibiting them from becoming police officers, and it imposes criminal sanctions on police officers who engage in same-sex sexual conduct. Article 210 of Law 285-66 of the Code of Justice of the National Police states that: “sodomy consists of sexual intercourse between persons of the same sex and will be punished when officers are involved with a penalty of six months to two years of prison.”⁴² In 2014, National Police Chief Manuel Castro publicly declared that, consistent with Law 285-66, homosexuals were not accepted in the National Police Force.⁴³ Persons with diverse sexual orientations and gender identities who do serve on the National Police Force cannot openly express their sexuality, and they live in fear of abuse, harassment, humiliation and removal from the force.⁴⁴

Overall employment discrimination against persons with diverse sexual orientations and gender identities is widespread. In a 2012 survey of persons with diverse sexual orientations and gender identities in Santo Domingo, approximately 30% reported having experienced employment discrimination.⁴⁵ Similarly, a survey on unemployment or underemployment of activists with diverse sexual orientations or gender identities, conducted in Santo Domingo, revealed that over 60% of them do not hold permanent jobs.⁴⁶ Together with the individual examples of employment discrimination to be set forth below, such high rates of under or unemployment reflect a system of

⁴⁰ Covenant, *supra* note 1, Arts. 2(2), 6 and 7; Committee on Economic, Social and Cultural Rights, *General Comment No. 18 (2005) on the Right to Work (Article 6 of the International Covenant on Economic, Social and Cultural Rights)*, U.N. Doc. E/C.12/GC/18 (6 Feb. 2006).

⁴¹ National Congress of the Dominican Republic, *Law No. 1692 of 1992-Labor Code (‘Ley No. 1692 de 1992 – Código de Trabajo’)*, (May 29, 1992) (“Principle VII. Any discrimination, exclusion or preference based on sex, age, race, color, national extraction, social origin, political opinion, trade union activism or religious belief is prohibited, except as otherwise provided by law for protection of the employee. Any distinction, exclusion or preference based on the inherent requirements of a particular job are not included in this prohibition.”), *available at* <http://www.ilo.org/dyn/natlex/docs/WEBTEXT/29744/64852/S92DOM01.htm>.

⁴² National Congress of the Dominican Republic, *Law 285-66 of the Code of Justice of the National Police (‘Ley 285-66 del Código de Justicia de la Policía Nacional’)*, Artículo 210 ; *see also*, Situation Report, *supra* note 18, at p. 35.

⁴³ Discrimination and Violence, *supra* note 32, at p. 5; *see also*, Maria Teresa Moral, *Castro Castilla says that the Police don’t allow homosexuals (‘Castro Castilla dice la Policía no permite homosexuales’)*, El Caribe, (June 12, 2014), *available at* <http://www.elcaribe.com.do/2014/06/12/jefe-dice-esa-institucion-permite-homosexuales>.

⁴⁴ Information supplied to Diversidad Dominicana by some members of the National Police Force.

⁴⁵ Situation Report, *supra* note 18, at p. 39.

⁴⁶ Survey conducted by the network of volunteers of Amigos Siempre Amigos (RevASA) in March 2013.

labor exclusion that directly marginalizes people with diverse sexual orientations and gender identities.

As stated by the Executive Director of the NGO Amigos Siempre Amigos, Leonardo Sanchez: “We are trying to fight for equality with the heterosexual community. Because, you know, gay [people] could lose their jobs if they show themselves as an openly gay person. If you are an openly gay person, maybe you cannot get the job you are in capacity to find. It is because of the stigma and discrimination.”⁴⁷

Mr. Sanchez went on to explain that the encouraged custom in the Dominican Republic is for people to feel ashamed of and hide sexual preferences, especially in the workplace.⁴⁸ He commented on the many unwritten norms that are imposed by custom, and as an example he stated that managerial positions in the national bank, by custom, are generally held by heterosexual married individuals with families.⁴⁹

In July 2012, a twenty-year-old homosexual man informed the NGO Diversidad Dominicana that he was fired from a private sector job on the grounds that his “sexual behavior” and personality could affect the other employees in the workplace.⁵⁰

Similarly, a young lesbian woman informed Diversidad Dominicana that she repeatedly experienced harassment and humiliation by some of her coworkers who knew about her sexual orientation. She explained that they regularly commented on how “bad” it was seen by society to be a lesbian, on the need only for a man to cure her lesbianism, and on the promiscuity associated with lesbians. She acknowledged that she had considered quitting her job for fear that these incidents of verbal, emotional, and mental harassment could one day escalate to something more violent or physical.⁵¹

In another instance, on March 15, 2011, a young lesbian was fired from the Department of Administration in the Clinic of La Altagracia in Santo Domingo because of her sexual orientation. According to this woman, she was let go two weeks after having reported discriminatory behavior by a coworker to her supervisor. An employee from human resources informed her she was being fired per the instructions from her supervisor. The human resources employee told her: “You know people here are moralists, and not everyone accepts people with other preferences, and I will have to fire you.” The woman who was being fired was so outraged that she asked: “Because I am a lesbian you fired me?” The human resources employee responded: “Yes, but when you leave this office leave with your chin up, because I know it is an unjust discrimination.”⁵²

People with HIV/AIDS also regularly experience employment discrimination. Although testing or screening employees for HIV is prohibited by law, “Human Rights Watch, AI, and the

⁴⁷ Jared Greenhouse, *What Gay Life is Like in the Dominican Republic*, Huffington Post, (July 27, 2015), available http://www.huffingtonpost.com/entry/what-gay-life-is-like-in-the-dominican-republic_us_55b24da4e4b0224d8831e6cb.

⁴⁸ *Id.*; see also, Report to Human Rights Committee, *supra* note 15, ¶ 13.

⁴⁹ *Id.*

⁵⁰ Information supplied to Diversidad Dominicana by social network users.

⁵¹ *Id.*

⁵² Report to Human Rights Committee, *supra* note 15, ¶14.

International Labor Organization (ILO) reported that workers in various industries faced obligatory HIV testing.”⁵³ The report further states that employees were at times tested without their consent or knowledge. Furthermore, many of the employees that were found to have HIV/AIDS were not hired, were fired, or were denied adequate health care.⁵⁴

A survey conducted in 2013 by the NGO REVASA revealed that transgender people currently experience the highest level of unemployment, due to their lack of access to permanent work. Most of the informal employment opportunities available to transgender people involve work as sex workers.⁵⁵ Many transgender women, in particular, feel forced into sex work because of the absence of any other employment opportunities, due to the stigma associated with their gender identity.⁵⁶ One of the respondents in the REVASA survey, a transgender man with a college degree, spoke of his frustration in being unable to find a permanent job in his chosen career due to the discrimination and stigma associated with his gender identity.⁵⁷ The survey also describes the struggles of a young transgender college graduate with a degree in accounting who was unable to find permanent employment in either the public or private sectors, despite her best efforts and her college degree.⁵⁸ Another recent study examined the experiences of 90 transgender sex workers in Santo Domingo and Santiago found that “42% of respondents had been verbally abused on the streets while they worked.”⁵⁹ As one example, “one passerby said to an interviewee, ‘Someone bring me a gun to kill this bird’ (an insult used to refer to homosexuals in the country).”⁶⁰ These stories reflect the larger problem of discrimination and lack of employment opportunities for people in the Dominican Republic with diverse sexual orientations and gender identities.

IV. Violations of the Right to Education

Persons with diverse sexual orientations and gender identities in the Dominican Republic also experience discrimination in education, in violation of their right to education under article 13 of the Covenant. The 2012 survey of persons with diverse sexual orientations and gender identities in Santo Domingo found that 45% of respondents have been rejected by schools or universities or have experienced other discrimination in education.⁶¹

One example of this discrimination involves a young gay man who wanted to study for a technical career at an educational institution in the city of Azua. In June 2016, the student was denied access

⁵³ United States Department of State - Bureau of Democracy, Human Rights and Labor, *Dominican Republic 2014 Human Rights Report*, p. 38 (2014), available at <http://www.state.gov/documents/organization/236896.pdf>.

⁵⁴ *Id.*

⁵⁵ Survey conducted by the network of volunteers of Amigos Siempre Amigos (RevASA) in March 2013.

⁵⁶ Hope Will Prevail, *supra* note 23, at p. 1.

⁵⁷ Survey conducted by the network of volunteers of Amigos Siempre Amigos (RevASA) in March 2013.

⁵⁸ *Id.*

⁵⁹ Guillermo Peña, *How do gay rights look in your country? Dominican Republic*, CNN (June 26, 2015), available at <http://www.cnn.com/2015/06/22/opinions/lgbt-rights-around-world/>.

⁶⁰ *Id.*

⁶¹ CONAVIHSIDA, *Table GTH7: Violence, stigma and discrimination according to province of residence* (*Tabla GTH7: Violencia, estigma y discriminación según provincia de residencia*), at p. 54, 2012, cited at Diversidad Dominicana, Funceji, Revasa, Amigos Siempre Amigos, Gariflags, GayP, *Report on the Situation of the rights of the LGBT people in the Dominican Republic* (*Informe Situación de los derechos de las personas LGBT en la República Dominicana*), at p. 3, (October 23, 2015).

to the school's facilities on the grounds that the director of the program did not want to have any gay students at the school. The director refused a request to meet with this young man and five other gay students to discuss this new school policy.⁶²

Homophobia, transphobia and discrimination in the schools have serious consequences for students with diverse sexual orientations and gender identities. They damage the victims' self-esteem, and they can lead to lower grades and a high rate of dropping out of school. Indeed, a recent study reported that only 34% of transgender women had completed middle school.⁶³ The injury to self-esteem and the lack of a complete education both contribute to the high rate at which transgender women end up working as sex workers.

V. Suggested Recommendations for the Dominican Republic

We respectfully urge this Committee to make the following recommendations to the Dominican Republic:

The Committee recommends that the State party adopt comprehensive anti-discrimination legislation in line with article 2, paragraph 2, of the Covenant, taking into account the Committee's general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights. It also recommends that the State party repeal or amend all legislation (or administrative resolutions) that result or could result in discrimination, persecution and punishment of people because of their sexual orientation or gender identity or expression. The Committee further recommends that the State party take all the necessary steps to combat and prevent discrimination and violence against persons of diverse sexual orientations and gender identities and expressions, and ensure their enjoyment of all the rights enshrined in the Covenant, including in particular the rights to health, education, work, and safety.

⁶² Information reported to REVASA by victim (June 18, 2016).

⁶³ "39 Claims of Human Rights Violations against the LGBT Community Registered by Observatory" ("Observatorio registro 39 denuncias de violacion de derechos humanos en la comunidad GLBT") 7 días, (November, 2014), available at http://www.7dias.com.do/portada/2014/11/27/i177403_observatorio-registro-denuncias-violacion-derechos-humanos-comunidad-glb.html#.V7aXTZMrLR0.