

Latin America, April 2, 2020



Respected Commissioner  
Mrs. Flávia Cristina Piovesán  
Rapporteur on the rights of LGBTI people  
Inter-American Commission on Human Rights  
Organization of American States  
Washington D.C., USA

Respected President  
Mrs. Janet Camilo Hernández  
Inter-American Commission of Women  
Organization of American  
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Washington D.C., USA

Respected Executive Secretary,  
Señor Paulo Abrão  
Inter-American Commission on Human Rights  
Organization of American  
States  
Washington D.C., USA

Respected Commissioner of the IACHR,  
Mrs. Flávia Cristina Piovesán,

Respected President of the CIM,  
Mrs. Janet Camilo Hernández,

and Respected Executive Secretary of the IACHR,  
Mr. Paulo Abrão:

As it has been known for more than a month, humanity faces one of the most challenging threats of recent years in the face of the appearance of COVID -19, a virus that generates ghastly effects on human health. The insidious ease of its transmission has forced us to create and implement strategies aimed at



blunting the force and reducing the speed with which it has infected more than a million people around the world. These strategies have ranged from our personal decisions, such as distancing ourselves from other people and, to the best of our abilities, washing our hands frequently, to decisions by the state of general quarantines, social isolation and humanitarian actions for people most affected.

These policies, many aimed at reducing contagion, also have dangerous consequences for several groups. Importantly, hundreds of women and feminist groups have warned about the increases that will occur in cases of domestic violence against women, the lack of access to goods and services, including those essential for living, for those whose economic livelihood is earned by working the streets, the particularly serious risks experienced by people in houseless situations and those who are incarcerated, among many others. In this letter, taking into account your mandate, we respectfully request that you make a statement to all OAS States regarding the problems that trans or non-binary people are experiencing. The socially-assigned-at-birth-based-on-the-genital-sex of the person, whose legitimacy as the basis for gender identity the IACHR has already been denounced in numerous pronouncements.

Therefore, in accordance with your stipulations, we list some of the situations that are already beginning to occur and that affect trans people differently and much more lethally:

1. Many trans people carry out sex work, so the measures taken for social isolation and quarantine leave them without their means of subsistence.

For reasons already known by the IACHR, many trans women are in this compromised condition and are currently facing enormous difficulties in accessing housing, food, or personal hygiene items that allow them to survive quarantine.

In Guyana, because of the lack of sex work due to the public curfews, trans women are unable to earn money to purchase food and cleaning supplies to guard against COVID-19.

During the pandemic, LGBTQ+ people are one of the vulnerable groups that is severely affected because of their socio-economic circumstances due to discrimination. In Guyana, SASOD has been distributing first aid and food items, hygiene and cleaning



products to the most vulnerable communities, specifically, who are in dire need and cannot afford to purchase these 'everyday items' at this time. Approximately 20% of the beneficiaries are migrants, including migrant trans and gay sex workers.

Because of deep-rooted societal prejudices, a significant section of LGBTQ+ community rely predominantly on the informal economy as sex workers and therefore have no other means of survival during the pandemic.

Additionally, trans persons continue to face discrimination and violence in public transportation services. Further compounded by the present pandemic, trans persons find it even more difficult to use public transportation to travel to supermarkets and other places to purchase essential items.

2. States, through their officials, discriminate against trans people.

States, based on policies, regulations, or practices, have discriminated against trans people. This discrimination has occurred in many manifestations, from lack of socioeconomic opportunities to inaccessibility to justice because of obstacles and difficulties in reporting. This appears as lack of access to education, healthcare and other socioeconomic benefits. At this time, it is urgent that every measure taken has a specific approach that guarantees the rights of trans people, taking into account the many different risks they experience as a consequence of discrimination and violence.

3. Intra-family violence, sexual violence and torture against trans people in their homes due to their gender identity.

The quarantines and orders of distancing and social isolation that the different States have decreed have forced many trans people to return to live with their families or to have to spend more time with them. Many, as recognized by the IACHR, have been and are victims of domestic violence, psychological and sexual violence, abuse and torture within these families and homes. States must offer timely, immediate, and appropriate responses to guarantee the rights of trans people while they live in quarantine with their families and that this does not become a new scenario of discrimination and violence.



4. The quarantine schedules or partial restrictions on freedom based on the "sex/ gender" of citizens do not recognize, in many cases, the gender identity of trans people.

There are likely fewer documented cases because incidents of violence do not occur daily, and they are rarely reported, but we are already seeing examples of abuse. Aside from the fact that these decrees based on gender could be arbitrary or illegitimately restrict a fundamental right recognized by international treaties and national constitutions, these decrees also lack a scientific basis, and discriminate unfairly against the trans community.

In countries like Panama, we have witnessed the first cases of trans people who have been punished and detained for going out at the wrong times, according to the authorities. The police authorities not recognizing gender identity is finally beginning to be reported. For example, Bárbara Delgado, a Panamanian trans woman who was abused by the police, who was fined and detained for several hours, was subjected to humiliating treatment for being a trans woman. The above not only ignores her gender identity, but also subjects her to an even greater risk than COVID-19, which, as we detail below, is police brutality.

Peru is applying the same measures as Panama, and it is probable that other nations will follow, which is why it is urgent that the response to these events is immediate.

5. The public authorities violate the civil rights of trans people and quarantine increases the risks because it diminishes the protections of normally guaranteed rights.

The public authorities, meaning the police or army, have historically, repeatedly, and in multiple countries, violated the rights of trans people. This is indisputable, taking into account numerous human rights reports that reflect that these military institutions have often been responsible for crimes committed against LGBT people, especially trans people.

At the moment, the States, according to the logic that we are at war with COVID-19, are increasing the powers of the public authorities and expanding their margin of power and decision making. It is in these moments where state authority increases its actions of police violence, sexual violence, torture, arbitrary arrests, and even feminicides and homicides, against trans people, taking advantage of the situation that gives them greater



powers and simultaneously diminishes civil rights protections. For example, while the justice systems have the majority of officials working from home, the public force is in the streets “imposing control”, abusing the power conferred.

Cases of arbitrary and selective arrests of trans people have already been documented, as well as discrimination in guaranteeing the right of people to go to clinics, access daily healthcare regimens, and to obtain essential supplies during quarantine, which further worsens the crisis for trans people. In this case, it is IMPERATIVE to ensure that the Public Force are controlled and have specific guidelines to ensure the rights of trans people.

6. Denial of medical services consistent with their gender identity.

Many trans people are on hormone replacement treatments and cannot access their regimens due to the prioritization of COVID-19 treatment. This puts at risk the continuity of medical services for which they have had to fight for years and also interferes with medical processes whose continuity is essential to guarantee many of their fundamental rights.

7. The safe provision of medicines for trans people living with HIV.

Based on innumerable known cases and the bibliography produced, the IACHR knows the risks with which trans people live and the high rates of HIV prevalence in this population group. In times of quarantine, it is necessary to ensure that the medications used by trans people living with HIV is received in a timely way, in places that do not expose them to risks to their lives or infection with COVID-19, and that they are supplied in sufficient quantities to enable them to count on them throughout the quarantine. Partial or periodic delivery of medicines that must be used daily during this quarantine is unjustified and there is a risk of opening bottles that are sealed for delivery directly to the final consumer.

8. The authorities, and even other detainees, violate the rights of trans people who have been detained.



The quarantines decreed in different countries are forcing the examination of the prison systems of many of these countries, where incarcerated people live in conditions of overcrowding and violation of their fundamental rights. Trans people who are in these conditions experience other additional violations, such as ignorance of or non-recognition of their gender identity. The State has placed trans women in jails for men, subjected them to sexual violence by authorities and other detainees, discrimination based on their gender identity and the denial of conjugal visits. These incidents of human rights violations are now exacerbated by the imposed quarantines. For example, they prevent people from having family visits and generate environments of tension and fear due to the high risks of massive contagion that exist in prisons and detention centers, as a consequence of the overcrowded conditions and lack of access to health supplies and cleaning products and services in which they are forced to live. This may be motivation for the occurrence of riots, as is already happening in Chile and Colombia. Again, in these discrimination scenarios, trans women experience greater risks.

9. States make decisions discriminating against people who are in transit, generating enhanced risk for trans people.

The States are closing their borders and imposing controls of the civil authorities on the official points of crossing between the countries, however, this does not prevent migratory transit through other places. Citizens from all over the world are called to cross borders between countries in seeking a better quality of life or fleeing from situations that violate their rights, as is the case of many trans people. In these transits, trans people have been victims of discrimination and violation of their rights many times by authorities, as well as by other individuals and armed groups who have territorial control of border zones. The closure of borders will not stop all migratory traffic, but people put in place to enforce closures will employ arbitrary and subjective controls, increasing the risks that trans people experience as victims of violations of their rights.

However, this does not end in transit. Beyond the ordinary discrimination to which trans people in transit are subjected due to misogyny, transphobia and xenophobia, national and regional governments are making decisions in quarantine without taking immediate actions to ensure the rights of people in human